

CITY OF MUSKEGON

CITY COMMISSION MEETING

NOVEMBER 22, 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, November 22, 2022, 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.

Present: Mayor Ken Johnson, Commissioners, Rebecca St.Clair, Rachel Gorman, Michael Ramsey, Interim City Manager LeighAnn Mikesell, City Attorney John Schrier, and City Clerk Ann Meisch.

Absent: Vice Mayor Willie German, Jr., Commissioners Eric Hood and Teresa Emory

HONORS, AWARDS, AND PRESENTATIONS:

A. Years of Service Award/Recognition

The Mayor and Commissioners congratulated and thanked city employees for various levels of years of distinguished, loyal service. Certificates of Appreciation were presented to those employees that were in attendance.

PUBLIC COMMENT ON AGENDA ITEMS: Public comments were received.

2022-99 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the October 25, 2022 Regular Meeting.

STAFF RECOMMENDATION: To approve the minutes.

B. Sale – 522 Ottawa Planning

SUMMARY OF REQUEST: City staff is seeking authorization to sell the City owned unbuildable vacant lot to West Urban Properties, LLC.

West Urban Properties LLC would like to purchase the City owned unbuildable lot to join with the property adjacent to it in order to construct

commercial structure(s) on the lots (once combined) within eighteen (18) months. The property is zoned B-4 (General Business). The buyer made an offer of \$5,625 which is less than 75% of the True Cash Value (TCV). If this were a buildable lot; then the asking price would be \$11,250. There has been no interest in developing this property. The City has owned this property since 1983. There are easements on this property for the vacated Giddings Avenue as well as a telephone company easement.

STAFF RECOMMENDATION: To authorize the Code Coordinator to work with the developer and complete the sale of the City-owned buildable lot as described and to have the Mayor and Clerk sign the purchase agreement and deed.

C. Sale – 754 Leonard Planning

SUMMARY OF REQUEST: City staff is seeking authorization to sell the city-owned home at 754 Leonard in Jackson Hill to Nicole R. Blackshire.

The city is constructing a single-family detached home as part of our ARP infill housing program with Mr. Rubin Briggs and LRS Enterprises. Our contract to construct six homes was for \$1.5 million, and the estimated finished costs of this home will be \$235,000. We also anticipated \$10,000 in sales commissions. The accepted purchase price is \$220,000, and the incurred sales commissions are \$10,000. The City will not contribute funds toward closing costs outside of seller's agent commission.

STAFF RECOMMENDATION: To authorize the Code Coordinator to complete the sale of 754 Leonard Street, as described in the purchase agreement and for the Mayor and Clerk to sign the deed.

D. CSX Rail Line Acquisition City Manager

SUMMARY OF REQUEST: Staff is requesting that Commission authorize an extension to the closing deadline for the acquisition of the CSX Rail Line Property.

CSX is working on their contracted due diligence period for the closing of the Rail Line property and has requested an extension. The City Attorney's Office has prepared the attached amendment that has been mutually agreed upon.

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

E. Stormwater Maintenance Agreements Public Works

SUMMARY OF REQUEST: Staff seeks authorization to enter into stormwater maintenance agreements with two recent property owners, Newkirk Electric and Pioneer Resources, in accordance with the recently adopted stormwater ordinance.

The recently adopted stormwater ordinance requires that private developers subject to the rules enter into an agreement with the City. The agreement requires them to maintain their private stormwater system in perpetuity, because it connects to the City's system and good maintenance of the private system ensures problems do not migrate downstream and become the City's problems. Previously, developers subject to the rules were required to enter into these agreements with the County Drain Commissioner's Office; as a part of taking over management of our own stormwater ordinance, the City must now be a party to the agreements. We are required to enter into these agreements as a part of our responsibilities to the Michigan Department of Environment, Great Lakes and Energy (EGLE).

Two developments have gone through reviews under the City's rules during the transition process, and now seek to close out their stormwater permitting by completing the agreements. They are Newkirk Electric located at the corner of Roberts and Laketon, and Pioneer Resources, located at the corner of Roberts and Wesley.

The agreements, if approved, will be recorded at the County Register of Deeds and include requirements to make sure the property owner maintains the system and provides records of that maintenance to the City. EGLE will audit the City occasionally to make sure the maintenance and records are according to procedure.

Staff also seeks guidance as to whether the Commission would like these agreements to continue to come to Commission for approval, or if staff should develop a policy that authorizes an appropriate staff member to be designated to enter into these agreements on behalf of the City.

STAFF RECOMMENDATION: To authorize staff to enter into stormwater maintenance agreements with Newkirk Electric and Pioneer Resources in accordance with the recently adopted stormwater ordinance.

G. Amendment to Marihuana Overlay District – Drive Thru/Signs 2nd Reading Planning

SUMMARY OF REQUEST: Staff-initiated request to amend Section 2331 of the zoning ordinance to reduce signage restrictions on marihuana businesses and to allow drive-thru marihuana facilities under certain conditions.

After discussing the proposed ordinance at the Planning Commission meeting, the board decided to slightly modify the proposal and request that all drive thru's require a special use permit. The final language approved in the motion is as follows:

Section 2331:

B. Grower, Excess Grower, and Processor Requirements:

1. Signage. Signage shall follow the regulations set forth by the underlying zoning district.

C. Provisioning Center, Retailer, Microbusiness and Designated Consumption Establishment Requirements:

1. Signage. Signage shall follow the regulations set forth by the underlying zoning district.
4. Curbside/Drive Thru. Curbside delivery is allowed at all retail sale locations with an approved site plan that does not impede traffic or pedestrian safety. Drive thru's are allowed as a special use permitted under the following conditions:
 - a. The underlying zoning designation must be B-2, B-4, MC, I-1, I-2 or any Form Based Code designation/building type that allows for drive thru businesses.
 - b. Drive-thru windows must be located on private property. Streets and alleys may only be used for the movement of traffic and may not be used for drive-thru vehicular stacking.
 - c. A traffic study must be performed showing anticipated number of stacking spaces and where they would be located on site.

STAFF RECOMMENDATION: To approve the request to amend Section 2331 of the zoning ordinance to reduce signage restrictions on marihuana businesses and to allow drive-thru marihuana facilities with the conditions listed as proposed.

Motion by Commissioner Ramsey, second by Commissioner Gorman, to accept the consent agenda as presented, minus item F.

ROLL VOTE: Ayes: Johnson, Ramsey, Gorman, and St.Clair

Nays: None

MOTION PASSES

2022-100 REMOVED FROM CONSENT AGENDA:

F. MDNR Conversion Assistance Public Works

SUMMARY OF REQUEST: Staff requests authorization to enter into a Professional Services Agreement with Ramboll for assistance in resolving the conversion of several grant-encumbered recreation properties throughout the City.

The Adelaide Pointe and Hartshorn Village projects are going to impact grant-encumbered recreation properties in the form of Hartshorn Marina and the Lakeshore Trail. As those development projects progress, the city will need to

work with the MDNR and the National Park Service to ensure that the impacts to those and other encumbered properties are properly mitigated.

The MDNR manages this process on the state level and terms this as a “conversion,” wherein an area that is encumbered for public outdoor recreation is *converted* into another use. The encumbered area that is converted into non-recreation space must be replaced by an equal or greater value area that is newly dedicated to public outdoor recreation.

The MDNR allows for multiple conversions to be resolved concurrently. As such, we have requested assistance with other potential conversion properties, such as the Third Street Wharf, Fisherman’s Landing and Mid-Michigan Railroad Muskegon Lake south spur properties so that we may reach a more complete resolution that mitigates the possibility of future conversions.

No one on city staff has experience working through the multi-step process proscribed by the MDNR, so we have requested solicit proposals from interested firms to provide us technical assistance and experience in navigating the complex process.

Upon reviewing the proposals, it was clear that the first half of the MDNR-proscribed process is quite different from the second half. The first half involves identifying potential candidate new recreation properties and discussing their value with the MDNR, while the second half involves detailed appraisals and environmental work on properties that have been determined good candidates. To that end, staff recommends award only of the first half of the process at this time. This will help to ensure expensive appraisal and environmental services are only invested in good candidates, and will allow staff to more accurately budget for the second half of the process in the next fiscal year.

Staff is requesting to award the services for the first half of the process to Ramboll, the highest scoring firm. Staff scored the proposals using Qualifications Based Selection criteria to ensure we were selecting the best partner for this important project. The scoring showed Ramboll as the leading firm, and staff recommends contracting with them based on their proposal and their history of service. Ramboll has provided engineering services for partner organizations in the past, including award-winning service to WMSRDC for the Amoco Fish and Wildlife Habitat Restoration Project near the west end of Laketon Ave, which included repairs to the Lakeshore Trail from high water damage.

As was noted in July when the RFP for these services was presented to the Commission:

- This item was not included in the FY22-23 budget due to the unknown timelines for the development of the Adelaide Pointe and Hartshorn Village properties. With development now moving forward quickly, the

properties are already considered to be under conversion by the MDNR, and this process needs to move forward to begin to resolve them.

- Entering into the conversion process will effectively eliminate the City from consideration for most MDNR grant programs until such time that the conversion is satisfactorily resolved. This does not include the Spark grant program, which does not have scoring implications for being in an active conversion.

The conversion process is expected to take at least a year to complete as some of the impacted properties are encumbered through the National Park Service and require federal concurrence.

AMOUNT REQUESTED: \$58,501

FUND OR ACCOUNT: 101-770 (Parks Maintenance)

STAFF RECOMMENDATION: Authorize staff to enter into a Professional Services Agreement with Ramboll for assistance in resolving the conversion of several grant-encumbered recreation properties throughout the city.

Motion by Commissioner St.Clair, second by Commissioner Gorman, to authorize staff to enter into a Professional Services agreement with Ramboll for assistance in resolving the conversion of several grant-encumbered recreation properties throughout the city.

ROLL VOTE: Ayes: Gorman, St.Clair, Johnson, and Ramsey

Nays: None

MOTION PASSES

2022-101 NEW BUSINESS:

A. First Quarter Budget Reforecast Finance

SUMMARY OF REQUEST: At this time staff is asking for approval of the 1st Quarter Budget Reforecast for the FY2022-23 budget year.

Staff has prepared the 1st Quarter Budget Reforecast memo outlining some of the highlights is attached and supporting documentation.

STAFF RECOMMENDATION: To approve the 1st Quarter FY 2022-23 Budget Reforecast as presented.

Motion by Commissioner Ramsey, second by Commissioner St.Clair, to approve the 1st Quarter FY 2022-23 Budget Reforecast as presented.

ROLL VOTE: Ayes: Gorman, St.Clair, Johnson, and Ramsey

Nays: None

MOTION PASSES

ANY OTHER BUSINESS:

Commissioner St.Clair recognized the clerk and staff as well as other city staff that helped with the election. Mayor Johnson expressed the commission's appreciation to Interim City Manager, LeighAnn Mikesell, as this will be her last meeting as Interim.

Mayor Johnson invited all to the house swearing-in ceremony for Jonathan at 9:00 a.m. with light refreshments. The Mayor also invited all to participate in the Christmas Tree Lighting on Saturday, November 26, 2022 at 5:15 at Hackley Park.

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

ADJOURNMENT: The City Commission meeting adjourned at 6:46 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk