CITY OF MUSKEGON

CITY COMMISSION MEETING

NOVEMBER 22, 2005

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 22, 2005.

Mayor Warmington opened the meeting with a prayer from Commissioner Clara Shepherd 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 Bill Larson, Commissioner Chris Carter, Kevin Davis, Stephen Gawron, Clara Shepherd, and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Gail Kundinger.

2005-106 HONORS AND AWARDS: Vice Mayor Bill Larson presented a plaque to Cindy Kody in honor of the late Bill Kody who saved the lives of the duck hunters on Muskegon River from drowning.

2005-107 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the November 7th Community Relations Committee and Commission Worksession, and the November 8th Regular Commission Meeting.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Sale of an Unbuildable Vacant Lot at the Rear of 2371 Crozier. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of a vacant unbuildable lot at the rear of 2371 Crozier to Union Federal Bank of Indianapolis, 7500 W. Jefferson Blvd., Fort Wayne, IN. The property is being offered to Union Federal Bank of Indianapolis, to help clear the property title, for $100. According to the County Treasurer, the property taxes for the lot went unpaid from 1994 – 1999. The property went up for tax sale and the City obtained the lot in 2000 from the State. A local title office issued a warranty deed for the property and included the City owned portion in the deed in 2001. After that, the properties were combined, even though there were two different property owners. This will remove the City's name from the property and clear the title.

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 in order to clear this up.

C. <u>Nine Month Extension to Complete Construction of Home.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve a nine-month extension to allow Bill Ingalls time to complete the construction of a single-family home on Harrison Court. Mr. Ingalls purchased the property to construct four single-family homes on it and has completed three of them. The City has customarily granted extensions to parties who have shown that they are dedicated to completing construction and contributing to the beautification of the City's residential areas. Mr. Ingalls has worked with staff to submit an alternative plan to complete construction of a home on the property and feels that the nine month extension will allow enough time for this plan to be completed. Mr. Ingalls is working with Tom Blake of Nexes Realty to market the property.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of the time extension, as well as authorization for both the Mayor and the Clerk to sign the resolution.

D. <u>Approval of a Neighborhood Enterprise Zone Certificate for 476 W. Muskegon Avenue.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: An application for a Neighborhood Enterprise Zone (NEZ) certificate has been received from Jessica Elsey to rehabilitate a home in the Nelson neighborhood at 476 W. Muskegon Ave. The home is located in a Neighborhood Enterprise Zone. The application states that the estimated cost for rehabilitation will be $5,000. The replacements of all windows, vent and repair roof, and remodel the front porch. The applicant has met local and state requirements for the NEZ certificate. Approval or denial by the City Commission is required within 60 days of the application date and must be forwarded to the State Tax Commission.

FINANCIAL IMPACT: Taxation will be 50% of the State average for the next six years.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve issuance of the NEZ certificate.

E. Amendment to the Purchase Agreement for 1259 Marquette. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the amendment of the purchase agreement for the sale of a vacant buildable lot at 1259 Marquette St. (Parcel #24-611-000-0482-00) to Garry & Earnestine Gaines, 881 Getty St., Muskegon, and MI. The lot is being offered to Garry & Earnestine Gaines for $9,000. Garry & Earnestine Gaines will be constructing a two-story, 3 bedroom, single-family home with an attached garage, which will comply with the City's Policy for Sale of City-Owned Residential Property. The True Cash Value (TCV) for the property listed in the Assessor's office is $12,000, and our price is set at $9,000 which is 75% of that amount. The closing of the property must take place before or on January 13, 2006 and the seller will not be held liable for any real estate commissions claimed by a realtor in connection with this transaction. The amendment is needed because the buyers are no longer working with a realtor. They are also working with a new builder for the construction and financing of the home.

FINANCIAL IMPACT: The sale of this lot for construction of one new home will generate additional tax revenue for the City and will place the property back on the City's tax rolls thus relieving the City of continued maintenance costs.

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.

F. FIRST READING: Rezoning Request for Property Located at 2170 Beidler and 714 W. Hackley Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone properties located at 2170 Beidler St. and 714 W. Hackley Ave., from R-1, One Family Residential to B-2 Convenience and Comparison Business.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their 11/10 meeting. The vote was unanimous with J. Aslakson and T. Michalski absent.

G. FIRST READING: Rezoning Request for Properties Located at 599, 545, 925, and 635 Ottawa Street; and 535, 575, and 630 E. Western Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the properties located at 599, 545, 625, Ottawa and 535, 575 and 630 E. Western Ave., from B-4, General Business to WM, Waterfront Marine.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their 11/10 meeting. The vote was unanimous with J. Aslakson and T. Michalski absent.

H. <u>FIRST READING: Rezoning Request for Property Located at 896 Home Street.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the properties located at 896 Home St. from R-1 One Family Residential to RM-3 High Density Multiple-family Residential.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends denial of the request due to lack of compliance with the future land use map, Master Land Use Plan and zoning district intent.

COMMITTEE RECOMMENDATION: The Planning Commission voted to recommend denial of the request at their 11/10/05 meeting. The vote was unanimous with J. Aslakson and T. Michalski absent.

I. <u>SECOND READING: Defined Contribution Retirement Plan for New Hires (Fire, Non-Union).</u> FINANCE

SUMMARY OF REQUEST: The City Commission has previously approved a contract with the firefighters union that includes provision for new hires to be members of a defined contribution retirement program in lieu of membership in the defined benefit police and fire retirement system. The new fire DC plan calls for a fixed city contribution of 10% and an employee contribution of 6% of wages. Present employees may also join the DC plan on an elective basis during a window period.

We are also recommending at this time implementation of a similar plan for new non-union employees. The outline of the program is the same except for lower contribution rates (6% city; 3% employee) reflecting the fact that these employees are covered by social security (fire employees are not).

Approval of the resolutions and ordinance amendments is the final step in putting in place the mechanics of these new programs.

FINANCIAL IMPACT: Moving to a defined contribution plan will help stabilize and better define the city’s annual pension costs. We are negotiating similar arrangements for other employee groups.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Approval.

Motion by Commissioner Carter, second by Commissioner Davis to approve the

Consent Agenda as read.

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

Nays: None

MOTION PASSES

2005-108 PUBLIC HEARINGS:

A. <u>Request for an Industrial Facilities Exemption Certificate – ADAC Plastics.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974 as amended, ADAC Plastics, 1801 Keating, has requested the issuance of an Industrial Facilities Exemption Certificate for the property located at 1801 Keating, Muskegon. The total capital investment is approximately $666,454.00 in personal property and $33,409.00 in real property. This request qualifies ADAC Plastics for a term of twelve (12) years for real property and nine (9) years for personal property.

FINANCIAL IMPACT: The City will capture certain additional property taxes generated by the expansion.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the resolution granting an Industrial Facilities Exemption Certificate for a term of twelve (12) years for real property and nine (9) years for personal property.

The Public Hearing opened at 5:45 p.m. to hear and consider any comments from the public. Comments were heard from Jackie Darnell, Muskegon County NAACP President, 541 E. Hackley.

Motion by Commissioner Spataro, second by Commissioner Gawron to close the Public Hearing at 5:50 p.m. and approve the request for an Industrial Facilities Exemption Certificate for ADAC Plastic.

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

Nays: None

MOTION PASSES

B. <u>Spreading of the Special Assessment Roll for Fifth Street, Campus to Merrill.</u> ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the spreading of the special assessment for Fifth St., from Campus Ave. to Merrill Ave., and to adopt the resolution confirming the special assessment roll.

FINANCIAL IMPACT: A total of $49,344 would be spread against the twenty-seven (27) parcels abutting the project.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the special assessment roll and adopt the resolution.

The Public Hearing opened at 5:51 p.m. to hear and consider any comments from the public. No comments were heard.

Motion by Commissioner Gawron, second by Commissioner Shepherd to close the Public Hearing at 5:54 p.m. and approve the spreading of the special assessment roll for Fifth Street, Campus to Merrill.

ROLL CALL: Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, and Spataro

Nays: None

MOTION PASSES

C. <u>Spreading of the Special Assessment Roll for Ireland Avenue, Franklin to Davis.</u> ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the spreading of the special assessment for Ireland Ave., Franklin to Davis St. and to adopt the resolution confirming the special assessment roll.

FINANCIAL IMPACT: A total of $25,995.57 would be spread against the twenty-nine (29) parcels abutting the project.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the special assessment roll and adopt the resolution.

The Public Hearing opened at 5:55 p.m. to hear and consider any comments from the public. No comments were heard.

Motion by Commissioner Davis, second by Commissioner Carter to close the Public Hearing at 5:57 p.m. and approve the spreading of the special assessment roll for Ireland Avenue, Franklin to Davis.

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

Nays: None

MOTION PASSES

D. <u>Spreading of the Special Assessment Roll for Franklin Street, Laketon to Ireland.</u> ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the spreading of the special assessment for Franklin St., Laketon to Ireland and to adopt the resolution confirming the special assessment roll.

FINANCIAL IMPACT: A total of $19,645.76 would be spread against the eleven (11) parcels abutting the project.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the special assessment roll and adopt the resolution.

The Public Hearing opened at 6:00 p.m. to hear and consider any comments from the public. No comments were heard.

Motion by Commissioner Spataro, second by Commissioner Carter to close the Public Hearing at 6:02 p.m. and approve the spreading of the special assessment roll for Franklin Street, Laketon to Ireland.

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

Nays: None

MOTION PASSES

2005-109 UNFINISHED BUSINESS:

A. <u>Concurrence with the Housing Board of Appeals Notice and Order to Demolish 765 Washington.</u> 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 structure located at 765 Washington – Area 12 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.

FINANCIAL IMPACT: General fund.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Spataro, second by Commissioner Gawron to concur with the Housing Board of Appeals notice and order to demolish the structure at 765 Washington.

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

Nays: None

MOTION PASSES

2005-110 NEW BUSINESS:

A. <u>Resolution Supporting Regional Collaboration.</u> CITY MANAGER

SUMMARY OF REQUEST: To approve a resolution that supports regional collaboration efforts. This resolution is necessary for One Muskegon to pursue state funding through the Centers for Regional Excellence for our local efforts.

FINANCIAL IMPACT: Collaborative efforts may save the City money in the future.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution.

Motion by Commissioner Gawron, second by Commissioner Shepherd to approve the resolution supporting regional collaboration.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, Warmington

Nays: None

MOTION PASSES

B. Move of Non-Union Employees to Municipal Employees' Retirement System of Michigan. FINANCE

SUMMARY OF REQUEST: MERS (Municipal Employees' Retirement System of Michigan) is a statewide intergovernmental cooperative established for the purpose of providing cost-effective pension plan administration. The City's pension boards have explored moving to MERS on two separate occasions in the last few years, but could not reach consensus. At this time staff is proposing, that effective January 1, 2006, pension administration and management of pension-plan assets for current non-union employees (51 employees) be moved to MERS.

FINANCIAL IMPACT: Staff believes that MERS offers the most cost-effective alternative for pension administration. We expect to achieve administrative savings by moving the non-union employees to MERS and the potential is for greater savings should other employee groups opt to switch to MERS. The computed first year (2006) contribution rate for the MERS program is 5.71%, which compares favorably to the budgeted contribution rate of 7.86%

BUDGET ACTION REQUIRED: None. As noted, the computed contribution rate for MERS is within the budgeted cost for pension expense for the affected employees.

STAFF RECOMMENDATION: Approval.

Motion by Vice Mayor Larson, second by Commissioner Spataro to approve the move of non-union employees to Municipal Employees' Retirement System of Michigan.

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

Nays: None

MOTION PASSES

C. Amendment to Arena Operations Management Contract. FINANCE

SUMMARY OF REQUEST: Approval of an amendment to the arena management contract. The current arena operations contract with AMG did not anticipate a second major building tenant. The introduction of professional basketball last year required and amendment to reimburse the arena manager for the additional costs associated with basketball (set-up, security, etc.). This proposed amendment for the 2005-06 season is similar to last year's agreement with the exception that the maximum per game payment is reduced from $4,000 to $2,900, reflecting the fact that the basketball team has assumed responsibility for floor set-up/take-down. The overall arena management agreement is set to expire in June 2006. Addressing issues raised by a second major tenant will be an important consideration in the next contract.

FINANCIAL IMPACT: The direct impact of this agreement (and of the basketball generally) on arena financial operations will be determined by attendance figures. Over 24 home games, average attendance will need to be about 1,450 for the city to cover the cost of this contract and the ice rental loss associated with basketball. This is about the same breakeven point as last year. Staff believes having professional basketball at the arena has benefits that extend beyond arena operations (downtown activity, etc.) that make this a prudent risk for the city to take.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Approval of amendment.

Motion by Commissioner Gawron, second by Commissioner Spataro to approve the amendment to the Arena Operations Management Contract.

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

Nays: None

MOTION PASSES

D. <u>Sewer Rate Adjustment.</u> FINANCE

SUMMARY OF REQUEST: At the time the 2006 budget was adopted, staff noted that it appeared a sixteen percent sewer rate increase would be needed to offset the impacts of the Sappi downsizing. Based on the additional information that has become available since budget adoption, it still appears that a sixteen percent increase is needed. Historical and projected financial data for the sewer fund indicates the need for the 16% percent increase to take effect January 1, 2006. The rate adjustment will move residential sewer rates from $1.32/hcft to $1.53/hcft and commercial/industrial rates from $1.66 to $1.93. The impact on a typical household using 15,000 gallons of water will be an additional $4.20/month $12.60/quarter).

FINANCIAL IMPACT: The sewer rate adjustments will generate an estimated $672,000 additional full-year revenue for the city's sewer fund.

BUDGET ACTION REQUIRED: None at this time. Adoption of these fee adjustments will help the city attain its 2006 budgeted revenue estimates.

STAFF RECOMMENDATION: Adoption of the fee adjustment resolution.

Motion by Commissioner Spataro, second by Commissioner Gawron to approve

the sewer rate fee increase.

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

Nays: None

MOTION PASSES

E. <u>Sale of Water to Idlewild Resort in Norton Shores.</u> PUBLIC WORKS

SUMMARY OF REQUEST: Nugent Sand Company (NSC) has requested permission to purchase water from the City of Muskegon via the City of Norton Shores on a temporary basis.

FINANCIAL IMPACT: The City of Muskegon will be paid an annual readiness to serve fee of $1,600 (with allowance for future adjustments) plus a water rate based on 1.35 of the water used. These provisions will be in place until such time as the City of Norton Shores builds their own system to handle this water demand.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends that the City of Muskegon City Commission approve the documents for the temporary sale of water to Idlewild Resort.

Motion by Vice Mayor Larson, second by Commissioner Spataro to approve the sale of water to Idlewild Resort in Norton Shores.

ROLL VOTE: Ayes: Davis, Gawron, Larson, shepherd, Spataro, Warmington, and Carter

Nays: None

MOTION PASSES

F. <u>Consideration of Bids: Street Lights along Shoreline Drive.</u> ENGINEERING

SUMMARY OF REQUEST: As per your directions, bids were solicited and received to install approximately twenty (20) street lights along Shoreline Dr., between Ottawa & First as well as Terrace Street between Morris & Shoreline Dr. John Howell of Lansing, Michigan submitted the lowest bid of $70,000 ($3,500 per light). Windemuller (Montague, MI) submitted the only other bid of $94,000. Your authorization to enter into a contract with John Howell is requested should it be your desire for the City to be the owner of those lights.

FINANCIAL IMPACT: The installation cost of $70,000 plus any direct expenses to Consumer Energy to provide the energy source which is estimated at $5,000.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Authorize staff to enter into a contract with John R. Howell.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the bid and enter into a contract with John R. Howell for street lights along

Shoreline Drive and Terrace.

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

Nays: Larson

MOTION PASSES

G. <u>Concurrence With the Housing Board of Appeals Notice and Order to Demolish 209 & 211 Merrill, 235 Monroe, 642 McLaughlin – Garage, and 1120 Jefferson.</u> 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 above mentioned structures are unsafe, substandard, public nuisances and that they be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of these structures and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDGB Funds.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Spataro, second by Commissioner Shepherd to concur with the Housing Board of Appeals decision to demolish 209 & 211 Merrill, 235 Monroe, and 642 McLaughlin – garage only.

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

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Commissioner Shepherd to concur with the Housing Board of Appeals decision to demolish 1120 Jefferson.

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

Nays: None

MOTION PASSES

2005-111 ANY OTHER BUSINESS:

a. Letter to Nugent Sand.

Motion by Commissioner Davis, second by Commissioner Carter to request staff to write a letter in opposition of additional sand mining of 23 acres of land.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Carter, and Davis

Nays: None

Absent: Warmington (stepped out of the room)

MOTION PASSES

b. Solid Fuel Heating Appliance.

Motion by Commissioner Spataro, second by Commissioner Gawron to direct staff to not take any applications and let the Planning Commission come up with regulations.

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

Nays: None

MOTION PASSES

2005-112 PUBLIC PARTICIPATION: Various comments were heard.

ADJOURNMENT: The City Commission Meeting adjourned at 7:10 p.m.

Respectfully submitted,

Gail A. Kundinger, MMC
City Clerk