

CITY OF MUSKEGON

CITY COMMISSION MEETING

NOVEMBER 10, 2009

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ CALL TO ORDER:
- ❑ PRAYER:
- ❑ PLEDGE OF ALLEGIANCE:
- ❑ ROLL CALL:
- ❑ HONORS AND AWARDS:
- ❑ INTRODUCTIONS/PRESENTATION:
- ❑ CONSENT AGENDA:
 - A. Approval of Minutes. CITY CLERK
 - B. Clean Indoor Air Regulation Policy. CIVIL SERVICE
 - C. Water Rate Adjustments. FINANCE
 - D. Consideration of 2010 COLA for Retirees. FINANCE
 - E. Control System Annual Software Support. WATER FILTRATION
 - F. Request to Deny Acceptance of Three Vacant Lots that were not Sold During the Tax Sale for 2009. PLANNING & ECONOMIC DEVELOPMENT
 - G. Request for Encroachment Agreement for 1983 Lakeshore Drive – Marine Tap Room, Inc. ENGINEERING
 - H. Engineering Services to Muskegon Heights. ENGINEERING
- ❑ PUBLIC HEARINGS:
- ❑ COMMUNICATIONS:
- ❑ CITY MANAGER'S REPORT:
- ❑ UNFINISHED BUSINESS:
- ❑ NEW BUSINESS:
 - A. Laketon Township Intergovernmental Sewer System Maintenance Agreement. PUBLIC WORKS
 - B. Madison Street Fire Station Purchase Request. PLANNING & ECONOMIC DEVELOPMENT

**C. Acquisition of Property for a Right Turn Radius through Eminent Domain
Portion of 1813 S. Getty Street. PLANNING & ECONOMIC DEVELOPMENT**

❑ ANY OTHER BUSINESS:

❑ PUBLIC PARTICIPATION:

- ***Reminder: Individuals who would like to address the City Commission shall do the following:***
- Fill out a request to speak form attached to the agenda or located in the back of the room.
- Submit the form to the City Clerk.
- Be recognized by the Chair.
- Step forward to the microphone.
- State name and address.
- Limit of 3 minutes to address the Commission.
- (Speaker representing a group may be allowed 10 minutes if previously registered with City Clerk.)

❑ CLOSED SESSION:

❑ ADJOURNMENT:

ADA POLICY: THE CITY OF MUSKEGON WILL PROVIDE NECESSARY AUXILIARY AIDS AND SERVICES TO INDIVIDUALS WHO WANT TO ATTEND THE MEETING UPON TWENTY FOUR HOUR NOTICE TO THE CITY OF MUSKEGON. PLEASE CONTACT ANN MARIE BECKER, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TDD: (231) 724-4172.

Date: November 10, 2009
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, October 27, 2009.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 27, 2009

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, October 27, 2009.

Mayor Warmington opened the meeting with a prayer from Pastor Jeffery Hough from the Angel Community Church 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, Commissioners Sue Wierengo, Steve Wisneski, Chris Carter, Clara Shepherd, and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

2009-87 HONORS AND AWARDS:

A. 2009 Employee Service Awards. CIVIL SERVICE

David Newsome, Civil Service Commissioner, introduced the City employees. The Mayor and Commissioners thanked them for their years of service.

2009-88 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the October 12th Commission Worksession, and the October 13th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Donation Program for 2009 Individual Income Tax Returns. INCOME TAX

SUMMARY OF REQUEST: Approval of multiple donation programs for the 2009 income tax returns. Every year our goal is to increase the number of refunds donated to our designated programs. Last year, 503 taxpayers donated their refunds to our donation programs for a grand total of \$2,540.

For 2009 the three donation programs are Lakeshore Trail Improvements, Muskegon Recreational Center, and the Downtown Main Street.

FINANCIAL IMPACT: The average amount collected each year is \$2,000. Each donated refund saves the City approximately \$1.00 in check fees.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

C. Request to Amend Encroachment Agreement #2007-23(k) – E. Western and Marquette. ENGINEERING

SUMMARY OF REQUEST: WSP on behalf of Federal-Mogul is requesting your permission to amend agreement #2007-23(k) to install two additional monitoring wells in the public R-O-W of E. Western and Marquette bringing the total to four wells at that location. The request was made through the letter dated October 9, 2009, and an encroachment agreement form.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the encroachment agreement subject to the supplemental conditions.

D. Rezoning Request for Properties Located at 400 & 410 W. Laketon Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the properties located at 400 and 410 W. Laketon Avenue, from B-4, General Business District to RM-1, Medium Density Multiple Family Residential District.

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 October 15th meeting. The vote was unanimous with T. Harryman absent.

F. Amendment to the Zoning Ordinance – Adding Wind Turbine Facilities as Special Uses in Business and Industrial Zones. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 1101, #14, of Article XI, Section 1201, #11 of Article XII, Section 1301, #13 of Article XIII, Section 1306, #6 of Article XIII, Section 1401, #7 of Article XIV, Section 1501, #5 of Article XV, to allow “Wind Turbine Facilities” as special land uses in B-2, B-3, B-4, and B-5 business zoning districts and I-1 and I-2 industrial zoning districts.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to include "Wind Turbine Facilities" as special land uses in business and industrial zones.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their October 15th meeting. The vote was unanimous with T. Harryman absent.

G. Revocation of a Neighborhood Enterprise Zone Certificate for 1709 Pine. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Sabrina Petty is in violation of Sec. 207.781 sec. 11 subsection (4) which states:

If the owner of the facility fails to make the annual payment of the neighborhood enterprise zone tax and the ad valorem property tax on the land under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, the commission by order shall revoke the certificate. However, if payment of these taxes is made before the revocation is effective, the commission, upon application of the owner, shall rescind the order of revocation. If payment of these taxes and any subsequent ad valorem property tax due on the facility is made after revocation of the certificate, the commission, upon application of the owner, shall reinstate the certificate for the remaining period of time for which the original certificate would have been in effect.

Sabrina Petty has failed to pay 2009 taxes for the property located at 1709 Pine Street whose parcel numbers are 24-205-298-0020-00 and 24-946-097-0049-00. Approval or denial by the City Commission is required and must be forwarded to the State Tax Commission. Staff sent the owner a letter informing them on September 21, 2009, giving them until October 2, 2009, to pay the taxes. A second letter was sent out on October 15, 2009, giving them until October 18, 2009, to pay the taxes or this would go before the City Commission on October 27, 2009, for revocation of the certificate. They remain unpaid.

FINANCIAL IMPACT: The property will no longer be able to take advantage of the certificate number 97-049 which allowed taxation at 50% of the State average for a stated number of years.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve revocation of the NEZ certificate and have the Mayor and City Clerk sign the resolution and submit it to the State Tax Commission.

Motion by Commissioner Carter, second by Commissioner Wisneski to approve the Consent Agenda as read minus item E.

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

Nays: None

MOTION PASSES

2009-89 ITEM REMOVED FROM THE CONSENT AGENDA:

- E. Vacation of the Southerly 159.5 feet of the Alley Bounded by W. Forest Avenue, Sixth Street, W. Southern Avenue and Fifth Street. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: Request for vacation of the southerly 159.5 feet of the alley in the City of Muskegon Revised Plat of 1903, Block 427, bounded by W. Forest Avenue, Sixth Street, W. Southern Avenue and Fifth Street.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends vacation of the alley with the condition that all utility easement rights be retained.

COMMITTEE RECOMMENDATION: The Planning Commission recommended vacation of the alley at their October 15th meeting, with the condition that all utility easement rights be retained. The vote was unanimous with T. Harryman absent.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the vacation of the southerly 159.5 feet of the alley bounded by W. Forest Avenue, Sixth Street, W. Southern Avenue and Fifth Street.

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

Nays: None

MOTION PASSES

2009-90 PUBLIC HEARINGS:

- A. Completion of Neighborhood of Choice and Blight Elimination in Downtown Muskegon CDBG Grants. FINANCE**

SUMMARY OF REQUEST: To hold a required public hearing for the purpose of receiving public comments on the completion of Neighborhood of Choice and Blight Elimination in Downtown Muskegon grants. Both grants were funded through Community Development Block Grant and were administered through Michigan Economic Development Corporation.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To hold the public hearing to provide for public comment.

The Public Hearing opened to hear and consider any comments from the public. No public comments were made.

Motion by Commissioner Carter, second by Commissioner Shepherd to close the Public Hearing and approve the completion of Neighborhood of Choice and Blight Elimination in Downtown Muskegon Community Development Block Grants.

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

Nays: None

MOTION PASSES

2009-91 NEW BUSINESS:

A. Revocation of Eight Industrial Facility Tax Exemption Certificates for Sappi Fine Paper. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, the City of Muskegon requests that the eight current Industrial Facility Tax Exemption Certificates for Sappi Fine Paper at 2400 Lakeshore Drive be revoked. The industrial activity for which the certificate was granted is no longer in production at this location.

FINANCIAL IMPACT: The business will now be charged the full tax rate.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends revocation of the IFT's.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the revocation of eight Industrial Facility Tax Exemption Certificates for Sappi Fine Paper.

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

Nays: None

MOTION PASSES

B. Revocation of Industrial Facility Tax Exemption Certificate for RC Productions. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, the City of Muskegon requests that the Industrial Facility Tax Exemption Certificate for RC Productions at 1756 Lakeshore Drive be revoked. The industrial activity for which the certificate was granted is no longer in production at this location.

FINANCIAL IMPACT: The business will now be charged the full tax rate.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends revocation of the IFT.

Motion by Vice Mayor Gawron, second by Commissioner Shepherd to approve the revocation of the Industrial Facility Tax Exemption Certificates for RC Productions at 1756 Lakeshore Drive.

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

Nays: None

MOTION PASSES

2009-92 ANY OTHER BUSINESS: Commissioner Spataro stated that the October 12th issue of Nation's Cities Weekly had an article reference the CED Committee Meeting which was held in the City of Muskegon.

Mayor Warmington requested information from staff for the December Worksession reference mutual aid for Muskegon Heights.

Attorney David Campbell spoke reference the liquor license for Walgreens at 840 W. Sherman.

Motion by Commissioner Shepherd, second by Commissioner Spataro to reconsider the liquor license request for Walgreens at 840 W. Sherman.

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

Nays: None

MOTION PASSES

Motion by Commissioner Shepherd, second by Commissioner Spataro to approve the liquor license request for Walgreen Company at 840 W. Sherman.

ROLL VOTE: Ayes: Gawron, Shepherd, and Spataro

Nays: Warmington, Wierengo, Wisneski, and Carter

MOTION FAILS

PUBLIC PARTICIPATION: Various comments were heard from the public.

ADJOURNMENT: The City Commission Meeting adjourned at 6:37 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk

AGENDA ITEM

CITY COMMISSION MEETING

November 10, 2009

TO: Honorable Mayor and City Commissioners
FROM: Karen Scholle, Civil Service Personnel Director
DATE: October 23, 2009
RE: Clean Indoor Air Regulation Policy

SUMMARY OF REQUEST:

Pursuant to the Muskegon County Clean Indoor Air Regulation, the City is required to adopt a policy prohibiting smoking in all enclosed worksites and public places as specified in Sections 1005-1007 of the Regulation.

FINANCIAL IMPACT:

Minimal.

BUDGET ACTION REQUIRED:

None. Required signage purchased from 2009 budget allocation.

COMMITTEE RECOMMENDATION:

N/A. The proposed policy meets with the City Manager's approval.

STAFF RECOMMENDATION:

Staff respectfully requests City Commission approval of the Clean Indoor Air Regulation Policy proposal.

Clean Indoor Air Regulation

Pursuant to the Muskegon County Clean Indoor Air Regulation, Sections 1005-1007, the City of Muskegon prohibits smoking as follows effective November 9, 2009.

Sec. 1005. Prohibition of Smoking in Public and Private Worksites and Public Places

Smoking is prohibited in all enclosed public and private worksites and public places within Muskegon County, including, but not limited to, the following places:

Every room, chamber, place of meeting of public assembly...under the control of any board, council, commission, committee, including joint committees, or agencies of Muskegon County or any political subdivision of the State of Michigan, to the extent such location is subject to the jurisdiction of Muskegon County.

Sec. 1006. Prohibition of Smoking in Places of Employment

Smoking is prohibited in all enclosed areas within this worksite without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms, employer-owned or leased vehicles, and all other enclosed facilities.

Sec. 1007. Prohibition of Smoking near Entrances, Windows and Ventilation Systems

Smoking is prohibited near entrances, windows and ventilation systems of all worksites and public places where smoking is banned by this regulation. A no smoking area which extends a reasonable distance from any entrances, windows and ventilation systems to any enclosed areas where smoking is prohibited shall be established to ensure that persons entering or leaving the building or facility shall not be subjected to breathing tobacco smoke and to ensure that tobacco smoke does not enter the building or facility through entrances, windows, ventilation systems or any other means. All smoking trash receptacles shall be placed outside the no smoking area in order to discourage smoking in these areas.

Enforcement of Policy

Any employee found to be in violation of this policy is subject to disciplinary action up to and including discharge in the same manner as violations of other City policies.

Complaints

Please bring employee violations of this policy to the attention of the appropriate supervisor, who is to investigate and take action to resolve the issue.

Anyone not employed by the City and seen violating this policy should be notified of the policy and asked to extinguish smoking materials or leave the premises. If the individual refuses, contact a member of management for help.

If the above initial efforts fail to result in compliance and an individual wishes to register a complaint, please contact the Risk Manager at (231) 724-6724 or contact a member of City management for assistance. Violators of this regulation investigated by the Public Health-Muskegon County are subject to fines up to \$1,000 as provided for in the regulation.

Date: November 10, 2009

To: Honorable Mayor and City Commissioners

From: Finance Director

RE: Water Rate Adjustments

SUMMARY OF REQUEST: The city intends to hold residential/commercial water commodity charges at current levels for 2010. However, staff is recommending the following minor changes to the city's water rate schedule to facilitate operational issues, including implementation of monthly utility billing:

- Set the delinquent payment penalty to 0% for the period from December 1, 2009 until April 1, 2010 to allow citizens to become familiar with the monthly billing cycle;
- Establish credits of \$0.75 (each) for participation in the City's eBill and/or Autopay programs. Customers participating in both programs will save \$18.00/year;
- Put into resolution form the longstanding practice of billing non-resident water users not covered by separate agreement at two times the City's water rate.

FINANCIAL IMPACT: The proposed water rate adjustments will facilitate implementation of monthly billing and facilitate the streamlining of operations by encouraging participation in cost-effective billing and payment programs.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Adoption of the attached fee adjustment resolution.

COMMITTEE RECOMMENDATION: None.

CITY OF MUSKEGON
RESOLUTION NO. _____

At a regular meeting of the City Commission of Muskegon, Michigan, held at the City Commission Chambers on November 10, 2009.

RECITALS

A review of the rates for water service has been accomplished by the City's staff, recommendations received, and the City Commission has determined that the following rate changes are justified. Accordingly, this resolution is made for the purpose of maintaining the financial viability of the City's water system.

THEREFORE, THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY RESOLVES:

1. Charges for residential water service shall remain at \$1.40 per 100 cubic feet;
2. Charges for commercial/industrial water service shall remain at \$1.40 per 100 cubic feet;
3. Unless there is a separate agreement specifying a different billing method, non-resident users of the city water system will be billed at a rate that is double (2x) the city rate for that class of user.
4. A monthly *credit* of \$0.75 will be provided to users who agree to receive their water bill via the internet in lieu of the City mailing a paper hardcopy.
5. A monthly *credit* of \$0.75 will be provided to users who agree to have their bill automatically paid via direct debit to a bank account or via automatic credit/debit card payment.
6. Set the delinquent payment penalty at 0% until April 1, 2010 at which time it will reset to the current 10% level.

The above changes to be effective January 1, 2010.

This resolution adopted.

YEAS:

NAYS:

CITY OF MUSKEGON

By'

STATE OF MICHIGAN COUNTY OF MUSKEGON

I hereby certify that the foregoing is a true and complete copy of a resolution adopted at a meeting of the Board of Commissioners of the City of Muskegon, Michigan, held on the 13th day of October, 2009 and that the minutes of the meeting are on file in the office of the City Clerk and are available to the public. Public notice of the meeting was given pursuant to an in compliance with Act 267, Public Acts of Michigan, 1976.

Date: November 10, 2009

To: Honorable Mayor and City Commissioners

From: Finance Director

RE: Consideration of 2010 COLA for Retirees

SUMMARY OF REQUEST: It is time to consider whether An annual cost of living adjustment (COLA) should be awarded to city retirees. Under the city's COLA program, permanent cost of living increases are made to pensioners retired five years or more. COLA payments are capped at 75% of the CPI and are payable only when investment performance exceeds estimates and the COLA is deemed affordable. In 2009, a 0.50% COLA was granted.

The collapse of the financial markets in late 2008 took a big toll on the City's pension funds as noted in the most recent actuarial valuation:

"The dramatic price declines across the world financial markets in 2008 led to volatility unlike any experienced in decades. 2009 has continued to be only somewhat less volatile....If the December 31, 2008 valuation results were based on market value on that date instead of 10-year smoothed funding value: i) the funded percent of your entire municipality would be 72% (instead of 100%); and ii) your total employer contribution requirement for the fiscal year starting January 1, 2010 would be \$4,427,460 (instead of \$1,084,944). If the investment markets do not turn around, employer contribution requirements can be expected to rise. MERS is doing everything it can to make sure that if this proves to be the case, the increases are incremental as opposed to steep."

Given the unprecedented economic and investment environment we are in and the severe market losses suffered by the City's pension funds, staff is recommending no retiree COLA be awarded for the year beginning January 1, 2010.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Commission action affirming staff's recommendation that no COLA increase be granted to City retirees in 2010.

Date: November 10, 2010
To: Honorable Mayor and City Commission
From: Water Filtration Plant
RE: Control system annual software support

SUMMARY OF REQUEST:

Renewal of the annual customer support for the Wonderware control system software at the Water Filtration Plant.

FINANCIAL IMPACT:

A one-time cost of \$9,946.76

BUDGET ACTION REQUIRED:

None. This item is budgeted.

STAFF RECOMMENDATION:

Staff requests authorization to renew the annual software customer support agreement at a cost of \$9,946.76 for 2010.



Invoice

Date	Invoice #
9/29/2009	16589

Bill To

City of Muskegon
Water Filtration Plant
1900 Beach Street
Muskegon, MI 49441
Attn: Accounts Payable

Ship To

City of Muskegon
Water Filtration Plant
1900 Beach Street
Muskegon, MI 49441
Attn: Robert Veneklasen

Terms	Rep	Due Date	Ship Via	
Net 30 Days	IS	12/30/2009	UPS	
Item Code	Description	Qty	Price Each	Amount
10-7001R	Wonderware Customer First - Standard Level - Renewal - Renewal of CS#25852 through 12/31/2010 - Includes SN#440268-9, 448537-6, 448539-6, 448540-7, 448541-6, 448542-7, 448543-6, 605928-4, 605929-4, 608118-4, 608119-4, 752316-5, 777458-0, 976222-0	1	11,279.83	11,279.83
Disc-Sup&Trn	Discount, Support & Training - Valid only if PO is received by 12/30/09		-1,025.44	-1,025.44
06-6971	CD, Wonderware Development Studio Includes: System Platform 3.1, InTouch 10.1 English, Device Integration, Active Factory 9.2, Historian Server 9.0, Information Server 3.1, HMI Reports 3.4, MS SQL Server 2005 and MS SQL Server 2005 SP2	1	0.00	0.00T
3% Discount - CF	We are offering an ADDITIONAL 3% discount for payments received by December 30, 2009.		-307.63	-307.63
WonderWorld Info	WonderWorld 2009 is evolving to become OpsManage'09, delivering even more value with hands-on training and expert advice. One of the best investments you'll make this year! For more information, complete agenda and online registration, visit http://opsmanage.wonderware.com/sites/na2009 . Register by September 30th for the early bird discount.			0.00
Remit To: Wonderware Central 8465 Keystone Crossing Suite 200 Indianapolis, IN 46240		Sales Tax (6.0%)		\$0.00
		Total		\$9,946.76
		Payments/Credits		\$0.00
		Balance Due		\$9,946.76

MEMORANDUM

10/26/09

TO: M. AL-SHATEL, DEPUTY DIRECTOR

FROM: R. VENEKLASSEN, WATER FILTRATION

**RE: WATER PLANT CONTROL SYSTEM SOFTWARE ANNUAL
SUPPORT CONTRACT**

The control system software at the Water Filtration Plant is a product by Invensys called Wonderware. This software has been the heart of the plant control system since its inclusion in the Instrumentation and Control System Improvements project in 1993. This is a robust operating platform that is still viable and has subsequently been adopted by many water plants in West Michigan and elsewhere. Wonderware operates as a layer on top of Microsoft Windows. Most importantly it interfaces seamlessly with MS Excel so we can generate reports in a spreadsheet format.

The control system software has two values; one is the cost of the operating system the second is the configuration of the software to meet the specific needs of the facility. This software has been continually improved and has added features (tools) that have enhanced the plant operation. However the configuration of the software to meet the specific needs of our facility is the greatest investment.

In order to take advantage of the improvements to the software over the years we have subscribed to the annual technical support offered by Wonderware through its representatives – currently Wonderware Central. This subscription also allows us, or our consultant, to obtain solutions to problems or guidance in configuring new aspects or applications within our system at no cost. Over the years the cost of the annual support has varied as displayed below:

Year	Annual Support Cost
2000	\$7,200.00
2001	\$6,840.00
2002	\$7,605.00
2003	\$5,036.03
2004	\$6,100.00
2005	\$7,411.25
2006	\$8,565.50
2007	\$10,186.75
2008	\$8,565.50
2009	\$10,221.23

There are various reasons for the ups and downs for the cost of this service but typically the cost increases are associated with significant improvements, or changes, in the software - especially as it relates to changes in Microsoft Windows and Microsoft Excel. For example; our system began with Windows 3.1 and has evolved through Window 95, Windows 98, Windows 2000 and is now facing Windows Vista, the latest office suite offering, and Server 2008.

The peril of not purchasing the annual support is when the need to update the Control software arises. It is more costly to purchase the upgraded software than to have maintained the support and received the updates by virtue of the support subscription. Currently the cost to upgrade the software without a support agreement is over \$35,000.00 to purchase the software package if we are in need of an update.

I have spoken with the City's IT Director, Jim Maurer who indicated that changes to the City's file server application could occur within the coming three years – requiring the expenditure to upgrade the plant operating system. I have also spoken to Gerald Caron, City of Wyoming water treatment plant about their approach to annual support. Jerry indicates they purchase annual support for the upgrades and as insurance for product updates.

With the likelihood of software changes within the upcoming three years; it is my recommendation that we continue to purchase the control system annual software support for 2008 from Wonderware Central at a cost of \$9,946.76.

Commission Meeting Date: November 10, 2009

Date: October 28, 2009
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department *CBC*
RE: Request to Deny Acceptance of Three Vacant
Lots that were not Sold During the Tax Sale for
2009

SUMMARY OF REQUEST:

The County of Muskegon held two delinquent tax auctions during 2009. There were three properties left after the last auction. According to the State's new tax laws, the City must state that they are not interested in obtaining them, otherwise the City will automatically receive them. From the list that was provided, all three parcels are vacant non buildable lots.

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

To deny acceptance of the three vacant lots and authorize both the Mayor and the Clerk to sign said resolution.

COMMITTEE RECOMMENDATION:

The Land Reutilization Committee recommended not to accept the properties at their meeting of October 27, 2009.

Resolution No. _____

MUSKEGON CITY COMMISSION

RESOLUTION TO DENY ACCEPTANCE OF TAX REVERTED PROPERTY FROM THE COUNTY TREASURER.

WHEREAS, The City may not accept the properties available under the urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709, PA 123 of 1999, MCL 211.78M(6) or for any other lawful purpose, and;

WHEREAS, the City of Muskegon does not want to acquire the three parcels;

NOW THEREFORE BE IT RESOLVED, that the City of Muskegon shall not accept the three parcels that were remaining from the tax sale.

Legal Descriptions are as Follows:

CITY OF MUSKEGON REVISED PLAT OF 1903 WLY 44 FT LOT 12 & WLY 44 FT
OF N 16 1/2 FT LOT 11 BLK 136
Parcel # 24-205-136-0012-00
307 Cross

CITY OF MUSKEGON REVISED PLAT OF 1903 W 1/2 OF N 77 FT LOT 6 BLK 370
Parcel # 24-205-370-0006-00
471 Houston

CITY OF MUSKEGON REVISED PLAT OF 1903 E 55 FT LOT 17 BLK 102
Parcel # 24-205-102-0017-10
1659 Dyson

Adopted this 10th day of November, 2009

Ayes:

Nays:

Absent:

By: _____
Stephen J. Warmington, Mayor

Attest: _____
Ann Marie Becker, MMC
Clerk

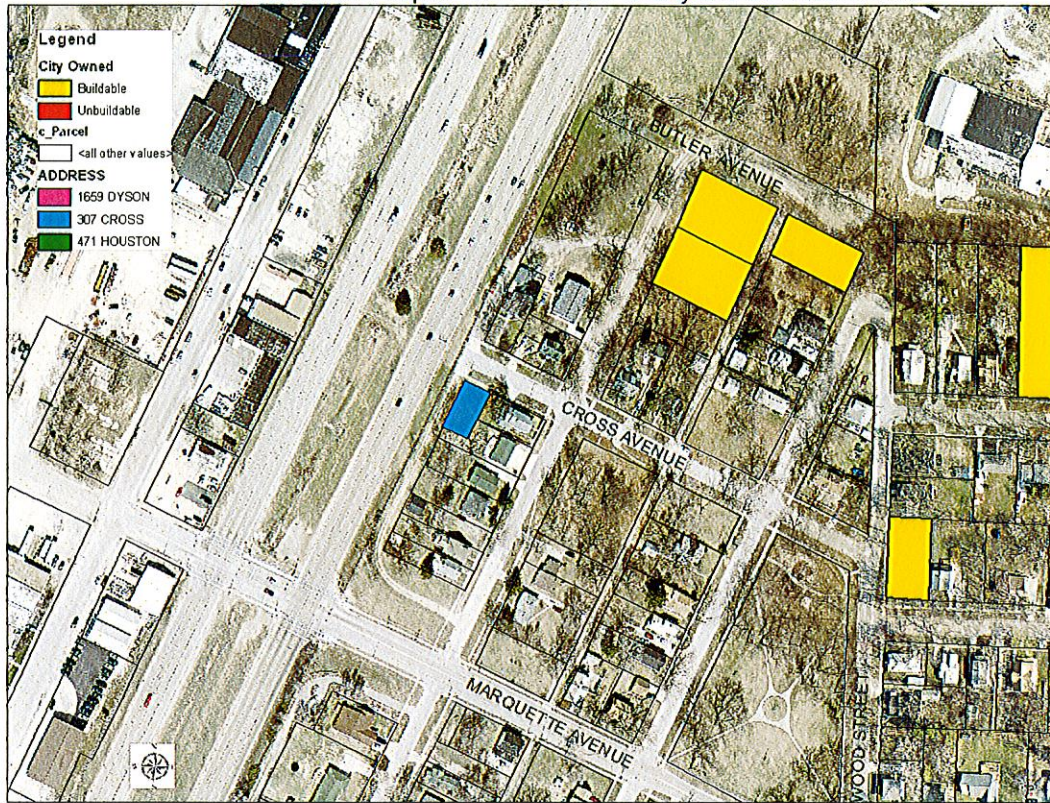
CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on November 10, 2009.

By: _____
Ann Marie Becker, MMC
Clerk

307 Cross (44 x 82):

Tax Reverted Properties in Relation to City Owned Vacant Lots

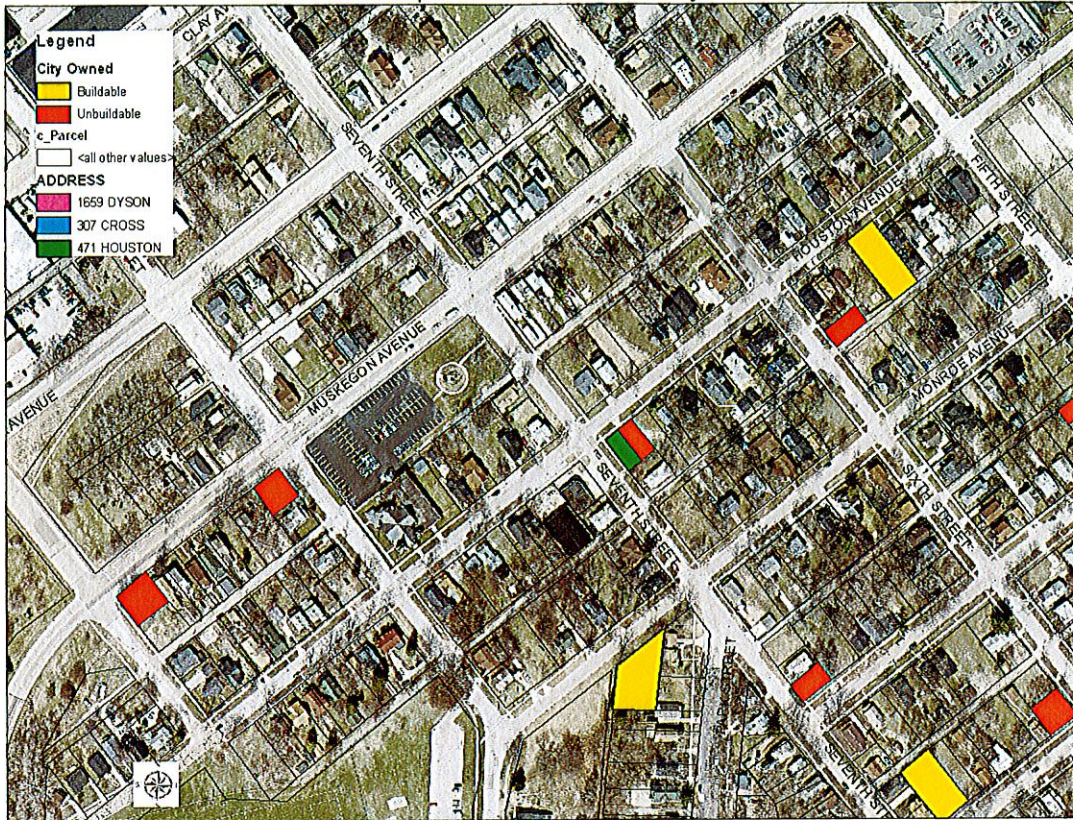


Picture:



471 Houston (33 x 77):

Tax Reverted Properties in Relation to City Owned Vacant Lots

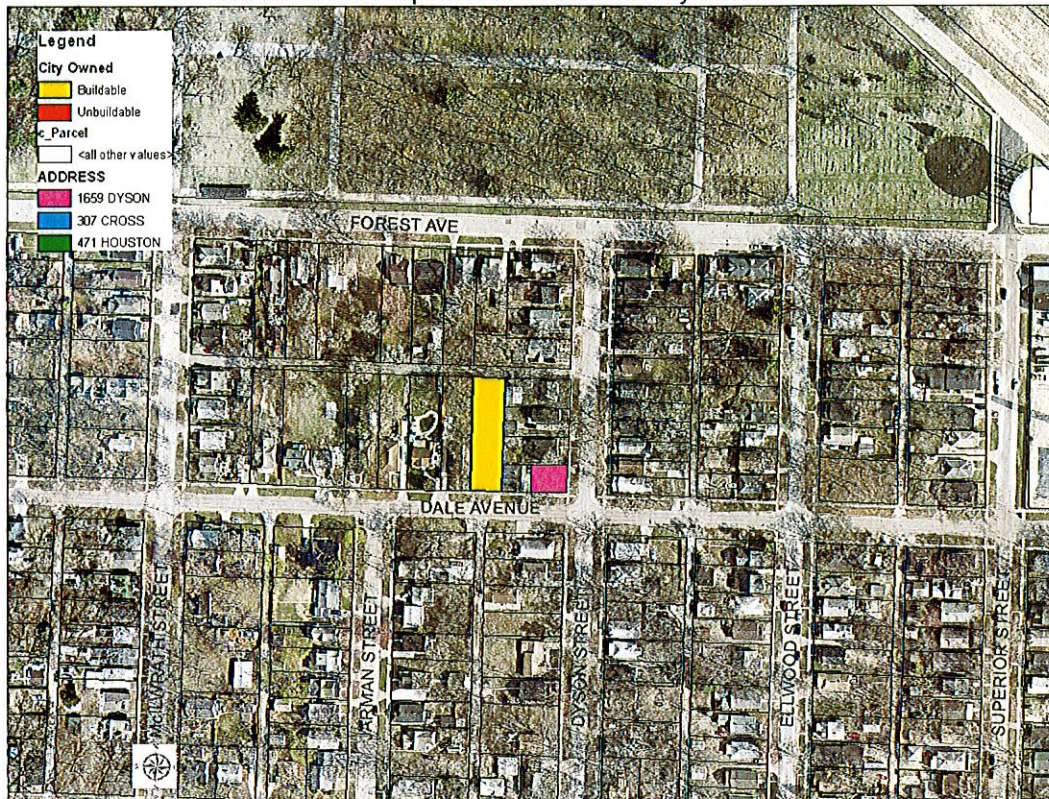


Picture:



1659 Dyson (45 x 55):

Tax Reverted Properties in Relation to City Owned Vacant Lots



Picture:



Dale side

Date: November 10, 2009
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Request for Encroachment Agreement
1983 Lakeshore Dr. – Marine Tap Room, Inc.

SUMMARY OF REQUEST:

Marine Tap Room, Inc. has submitted the attached encroachment agreement form requesting your permission to place a sign on their property which will extend over public sidewalk (see attached picture).

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the encroachment agreement with the supplemental conditions.

COMMITTEE RECOMMENDATION:

SUPPLEMENTAL CONDITIONS

- 1- The grantee shall be fully responsible for the maintenance of the encroachment(s) and any relocation that becomes necessary to facilitate other improvements within the right of way (s).
- 2- Grantee will be responsible to maintain and keep, for the duration of this agreement, a valid insurance coverage satisfactory to the City.
- 3- If approved (by the City Commission), a permit to work in the right of way must be obtained from the Engineering Department before any work begins.
- 4- Insurance: LICENSEE shall at all times carry liability insurance in such amounts as are satisfactory to the City. The provision for liability insurance set forth shall remain in full force and effect in lieu of any other insurance requirement, provided that the City shall be given thirty (30) days written notice before a change in coverage may occur.
- 5- The City and/or its agent are not responsible for any damage to the facilities.

CITY OF MUSKEGON
ENCROACHMENT PERMIT AGREEMENT

REQUEST: A one-hundred dollar (\$100.00) non-refundable fee is required for processing of request.

1. LICENSEE proposes to install, repair or maintain improvements or facilities ("the encroachment"), in or abutting a street, alley, sidewalk, park, terrace or other property controlled or owned by the City of Muskegon, the encroachment being described as: (Attach exhibits) (1 unit equals 0-99 lineal feet)

1983 Lakeshore Drive - Marine Tap Room, Inc.

2. The City-owned or controlled property (herein "property") subject to the encroachment is described as: [please insert a general description, and if required by the CITY, an accurate legal description]

sidewalk

3. The CITY is willing to grant such privilege upon the terms and conditions herein. This agreement shall constitute a permit under Chapter 74 of the Code of City Ordinances, and with all future amendments shall apply to any encroachment on public right of way or property.

PERMIT AGREEMENT:

THIS AGREEMENT is made and entered into this ____ day of _____, by and between the CITY OF MUSKEGON, a municipal corporation (hereinafter called CITY), and _____ (hereinafter called LICENSEE).

THEREFORE,

1. CITY does hereby grant unto LICENSEE the privilege of constructing, installing, maintaining, repairing and performing all necessary functions relating to the encroachment, and for that purpose to enter the property, for the term herein stated. This privilege shall be effective upon the delivery to the CITY of the required evidence of insurance coverage as outlined in paragraph 4 under this section and only after approval of this agreement by the City Commission and at which time an encroachment permit will be issued.

This grant is subject to the following special conditions: _____

2. That LICENSEE shall pay to the CITY for the privilege hereby granted the sum of _____ Dollars (\$ _____), per unit as described under Request, paragraph 1, applicable to the current Master Fee Resolution. Such payment is to be made upon the signing of this agreement to the City of Muskegon, and the privilege hereby granted shall continue for a period of five years from said date and renewal payment as set in the Master Fee Resolution to continue in five year intervals due on the first day of May unless sooner terminated as hereinafter provided.

3. INDEMNIFICATION. The LICENSEE shall indemnify and save harmless said GRANTOR of and from any liability for claims, damages, costs, expenses, or fees, including any attorney fees, or fines or awards brought against or charged to the CITY by any person, firm or corporation on account of or arising from the privilege hereby granted to LICENSEE or the activities of the LICENSEE related to the encroachment or this privilege. This indemnification obligation shall include all liabilities for environmental damage or releases of hazardous substances subject to any governmental or third party action. "Hazardous substance" is defined as any material constituting a prohibited or regulated substance under governmental law, rule, statute or regulation in force at any time, including future times.

4. INSURANCE. LICENSEE shall at all times carry liability insurance in such amounts as are satisfactory to CITY, and issued by companies acceptable to the CITY, licensed in the State of Michigan, naming CITY as an additional insured on any such policy. LICENSEE will file yearly with the CITY certificates or policies evidencing such insurance coverage. The insurance policies or certificates shall provide that the CITY shall be given thirty days written notice before a cancellation or change in coverage may occur. The types of coverage and coverage limits as required by City Engineer shall be as follows:

5. BONDING. Before this agreement permit becomes valid, LICENSEE shall file with the CITY a bond conforming to the requirements of all applicable ordinances, and to cover removal of said encroachment in part or whole, if essential for CITY to do so. This Bond shall keep same in force during the entire term of this agreement.

6. The privilege hereby granted may be canceled and revoked in part or whole by the CITY at any time upon giving said LICENSEE thirty (30) days of written notice of such cancellation and revocation, with no refund of the fee required in paragraph 2 of Permit Agreement.

7. LICENSEE may surrender up the privilege hereby granted at any time upon giving notice in writing to the CITY thirty (30) days prior to such surrender with no refund of the fee required in paragraph 2 of Permit Agreement; provided, however, that upon the voluntary relinquishment or abandonment of this privilege, or upon cancellation or revocation thereof by the CITY, the LICENSEE shall remove any structure(s) erected upon, within or overhanging the area of encroachment and restore the property at LICENSEE'S expense and in

O:\ENGINEERING\COMMON\ENCROACHMENT AGREEMENTS\Blank Encroachment Agreement and Permit.doc



Note: Dimensions and colors are approximate and subject to change pending review by Tischco Signs and Service Inc.



Project Marine Tap Room
1983 Lakeshore Drive
Muskegon MI 49441
Date 10/9/09

Designed by Terry Hancock

This design is the sole property of Tischco Signs & Services Inc
This copy should not be shown outside your firm without the
express written permission of Tischco Signs & services Inc.
Unauthorized use will result in a minimum \$1,000.00 charge

Approved by

Date

To: Honorable Mayor and City Commission
From: Engineering
Date: 11/10/09
RE: Engineering Services to Muskegon Heights

SUMMARY OF REQUEST:

Authorize staff to negotiate an engineering services agreement with Muskegon Heights to survey, design and provide construction oversight for the reconstruction of Getty Street.

Furthermore; should the City Manager and Attorney find the agreement acceptable; the Manager be authorized to execute said agreement.

FINANCIAL IMPACT:

None at this time.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Authorize staff to negotiate and execute the agreement.

Date: **October 28, 2009**

To: **Honorable Mayor and City Commission**

From: **Department of Public Works**

RE: **Laketon Township Intergovernmental Sewer
System Maintenance Agreement**

SUMMARY OF REQUEST: Approve the attached agreement between Laketon Township and the City of Muskegon DPW to enter into a Sewer system Operation and Maintenance Agreement.

BUDGET ACTION REQUIRED: NONE

STAFF RECOMMENDATION: To approve the agreement and authorize the Mayor and Clerk to sign

INTERGOVERNMENTAL OPERATION AND MAINTENANCE AGREEMENT

This Agreement is made effective _____, 2009, by and between the City of Muskegon, 933 Terrace Street, Muskegon, Michigan 49440 ("City"), and the Township of Laketon, 2735 West Giles Rd., Muskegon, Michigan 49445 ("Township"), with regard to the following facts and circumstances:

A. The Township owns and operates a municipal sanitary sewer system which includes underground piping, two pump stations and associated equipment and apparatus (the "System").

B. The City, through its Department of Public Works, has the capability, capacity, employees, and equipment to provide operation and maintenance services for the System. The Township has no employees to provide operation and maintenance services for the System.

C. The Township and City desire to enter into a contract, pursuant to MCL 124.1, for the City to provide operation and maintenance services for the System.

THE PARTIES AGREE AS FOLLOWS:

1. Operation and Maintenance Services. The City agrees to perform and provide the following services for the System:

a. Services. Periodic routine preventative and corrective maintenance on a regular schedule including weekly lift station inspection, servicing and pump meter reading. 24 hour on-call emergency response and service including after hours response to residents' emergency calls. Miss Dig services for sewer lines and laterals in public right of ways or Township property. All manufacturer recommended and required inspections and maintenance on System equipment. Lift station monitoring by radio Telemetry System.

b. Records. Document by date and description the services performed on the System and to provide such records to the Township upon request.

c. Reports. Provide periodic, but not less than annual, reports on the System condition to the Township Sewer Superintendent.

2. Rate. City shall charge the Township for services on a time-and-material basis, as follows:

a. Time. City shall charge Township for all employee time attributable to the System, including travel time and any minimum time that the City is obligated to pay an employee. Current hourly employee hourly rates charged by City are as follows: \$48.26 straight time, \$72.35 time and a half, \$96.52 double time. Each call shall be a 2 hour minimum charge, except 7:30 a.m. to 4:00 p.m. Monday through Friday (non-holiday work days) shall be a 1 hour minimum charge. City may charge for actual supervisory personnel time for service to Township.

b. Material. City shall charge Township for all materials at City cost plus 15%.

c. Sub-contractors. City shall charge Township for all sub-contractors at City cost plus 15%.

d. Equipment. City shall charge Township for equipment at the rate set by the State of Michigan for equipment rental. If the State has not set a rate, the rate shall be reasonable and set by the City.

e. Rate Changes. As the hourly rates for employees and cost of fringe benefits change, City shall immediately inform Township as to changes in hourly rates, fringe benefit costs, and overhead rate, changes in the overhead rate will be applied prospectively, only, but the hourly rate and fringe benefit cost may be changed retroactively, but only if the settlement of a labor contract results in a change in the hourly rate of City employees.

3. Documentation. The Township shall provide the City with "as-built" plans of the System, as well as all documents indicating manufacturer recommended and required inspections and maintenance for System equipment.

4. Billing and Payment. City shall invoice the Township for time, materials, sub-contractors, and equipment on a regular monthly basis. Each invoice shall be itemized for each category charged. The Township shall pay each invoice within thirty (30) days of receipt.

5. Term. This Agreement shall be effective until March 31, 2011, and shall automatically renew for additional periods of one year on the same terms and conditions unless agreed otherwise in writing by the parties. Not less than ninety days prior to the expiration of any term either party may give the other written notice of non-renewal or request to renegotiate terms.

6. Termination. Either party may terminate this contract on 180 days written notice without cause or on 30 days written notice for cause including non-payment or non-performance. Upon termination City agrees to turn over to Township all System records and materials.

7. Arbitration. Each party shall have the right to arbitrate disputes relating to this contract, except for disputes relating to the hourly rate charged for City employees. As to arbitrable matters each party shall select an individual to serve on the arbitration panel and the two so selected shall select a third. All arbitrators selected herein shall have expertise to resolve the arbitrable issue(s). The three shall form the arbitration panel, with the votes of two necessary to resolve any matter. The cost of the neutral arbitrator, and any incidental expenses, shall be split evenly by the parties. The arbitration award may be entered in any court having jurisdiction. Arbitration hearings shall be held in Muskegon County, Michigan.

8. Notice. Each party shall send written notice to the other as follows:

Laketon Township, Laketon Township Supervisor,
2735 West Giles Road, Muskegon, MI 49445;

City of Muskegon, Director of Public Works, Water & Sewer Maintenance,
1350 East Keating Avenue, Muskegon, MI 49442.

9. Governing Law. This Agreement shall be governed in all respects by the laws of the State of Michigan.

10. Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to its subject matter. This Agreement supersedes and/or replaces any oral or written agreement(s) relating to the subject matter entered into by the parties before the date of this Agreement.

LAKETON TOWNSHIP

Dated: _____, 2009

By _____
Kim Arter, Supervisor

Dated: _____, 2009

By _____
Christina Achterhoff, Clerk

CITY OF MUSKEGON

Dated: _____, 2009

By _____
Stephen J. Warmington, Mayor

Dated: _____, 2009

By _____
Ann Marie Becker, Clerk

Commission Meeting Date: November 10, 2009

Date: November 2, 2009
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development *CBK*
RE: Madison St Fire Station Purchase Request

SUMMARY OF REQUEST:

Jon Ritz, of Ritz Properties, is offering a bid of \$10,000 for the fire station that is for sale at 1774 Madison St. The building would be used to start a new business, Muskegon Handiman Services, LLC. The company would offer small scale handyman services and would employee up to three people. Ritz Properties was approved for a special use permit for the property during the October Planning Commission meeting, contingent upon purchase of the building.

FINANCIAL IMPACT:

Purchase price of \$10,000; \$635 annually from income tax of three jobs; \$620 annually from property taxes.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval of the sale of the building.

COMMITTEE RECOMMENDATION:

None



Property Address

1774 MADISON ST
MUSKEGON, MI 49442

General Information

Floor Area:	2400 Sq. Ft.	Estimated TCV:	\$86,267
Occupancy:	Garage, Emergency Response	Taxable Value:	\$56,000
		Class:	C
Stories Above Ground:	1	Average Story Height:	15
Basement Wall Height:	N/A		
Year Built:	0	Year Remodeled:	0
Percent Complete:	100%	Heat:	Forced Air Furnace
Physical Percent Good:	48%	Functional Percent Good:	100%
Economic Percent Good:	100%	Effective Age:	29 yrs.

Land Information

Acreage:	0.42	Frontage:	0.00 Ft.
Zoning Code:	R-1	Depth:	0.00 Ft.
True Cash Value:	\$17,500	Mortgage Code:	
Land Improvements:	\$8,289	Lot Dimensions/Comments:	IRREGULAR-SEE SKETCH
Renaissance Zone:	NO		
ECF Neighborhood Code:	C13.		

Commission Meeting Date: November 10, 2009

Date: October 22, 2009
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department
**RE: Acquisition of Property for a Right Turn Radius
through Eminent Domain - Portion of 1813 S.
Getty Street.**

SUMMARY OF REQUEST:

The City had sent a letter to the Samei Btk (pronounced Betak (owner)) of 1813 S. Getty on July 14, 2009 with an offer of \$500 to purchase a small corner of the parking area of the property. He declined the offer. The County Equalization Department has placed a value on the portion that the City would need to obtain and that amount is \$758.44. Staff sent a second letter on October 23, 2009 with an offer of \$758.44. The owner has not accepted nor made a counter offer. It is necessary to begin eminent domain proceedings in order to acquire the property.

FINANCIAL IMPACT:

The sum of \$1,000 will need to be placed with the County Treasurer's Office to show that the funds are segregated.

BUDGET ACTION REQUIRED:

To allow payment of \$1,000 from the Public Improvement Fund.

STAFF RECOMMENDATION:

To approve the attached resolution and to authorize both the Mayor and the Clerk to sign said resolution and Declaration of Taking with the City Engineer to sign the Affidavit of Deposit.

COMMITTEE RECOMMENDATION:

None.

RESOLUTION AFFIRMING THE NECESSITY FOR TAKING
OF PRIVATE PROPERTY, AND AUTHORIZING
CONDEMNATION PROCEEDINGS PURSUANT TO THE
PROVISIONS OF ACT 279 OF THE PUBLIC ACTS OF 1909,
AND ACT 295 OF THE PUBLIC ACTS OF 1966, AND ACT 87
OF THE PUBLIC ACTS OF 1980, ALL AS AMENDED, OF
CERTAIN LANDS SITUATED WITHIN THE CITY OF
MUSKEGON, MUSKEGON COUNTY, MICHIGAN

The following Resolution offered by City Council Member _____ and
supported by City Council Member _____:

WHEREAS, the City of Muskegon has undertaken the implementation to improve the intersection of Laketon and Getty, by acquiring private property necessary for improvement and construction of a public road, as authorized by Act 279 of the Public Acts of 1909, Section 4(e) (2); Act 295 of the Public Acts of 1966, Section 1(a); Act 87 of the Public Acts of 1980, Section 1-27; all as amended, and

WHEREAS, the City has attempted to purchase certain real property necessary for the implementation of the project by good faith negotiation with the owners thereof, and has made a good faith written offer to purchase the real property, but has been unable to purchase after good faith negotiation and after the presentation to such owners of a good faith written offer to purchase, and such owners have refused to convey the real property to the City of Muskegon for the aforesaid purposes; and

WHEREAS, the legal descriptions of said real property and the names of all interested parties in such real property, together with the City of Muskegon's offer of estimated just compensation are attached hereto and made a part of this Resolution; and

WHEREAS, all the parcels of real property described in Attachment A are deemed necessary for the implementation of the project; and

WHEREAS, the offer of estimated just compensation as set forth in each parcel included in Attachment A of \$1,000.00 is estimated by the City, to be just compensation for the taking of such parcel.

NOW, THEREFORE, BE IT RESOLVED:

1. That the acquisition of the parcels of land as described in Attachment A of from the owners thereof as set forth therein is necessary for the implementation of improvement of the intersection of Laketon and Getty, in the City of Muskegon, County of Muskegon, Michigan.

2. That the attorney assigned to the acquisition of lands for the project be and is hereby authorized and directed to file a Complaint in the Muskegon County Circuit Court for the condemnation, of those parcels of real property described in Attachment A attached, together with a Declaration of Taking which will cause an immediate transfer of title, pursuant to the

provisions of Act 279 of the Public Acts of 1909, Section 4(e)(2); Act 295 of the Public Acts of 1966, Section 1(a); and Act 87 of the Public Acts of 1980, Sections 1-27; all as amended.

The above Resolution is adopted by a majority vote of the City Council Members at a regular meeting held at the Muskegon City Hall, 933 Terrace Street, Muskegon, Michigan on the _____ day of _____, 2009.

STATE OF MICHIGAN)
) ss.
COUNTY OF MUSKEGON)

I, Ann Marie Becker, Clerk for the City of Muskegon do hereby certify that the above is a true and correct copy of a Resolution adopted by a majority vote of the City Council Members at its regular meeting held at the Muskegon City Hall, 933 Terrace Street, Muskegon, Michigan on the _____ day of _____, 2009.

Ann Marie Becker, MMC
City Clerk

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MUSKEGON

In the matter of the petition of the
City of Muskegon, a Municipal
Corporation of Muskegon County for
the condemnation of private property
for condemnation purposes in Muskegon
County, Michigan.

CITY OF MUSKEGON,
a Municipal Corporation,

Plaintiff,

File No. _____-CC

HON. _____

vs.

BETAK ENTERPRISES, INC.,

Defendant.

Douglas M. Hughes (P-30958)
Attorney for Plaintiff

DECLARATION OF TAKING

A Statement of Purpose and Necessity having been made by the CITY OF MUSKEGON setting forth that the improvement of the intersection of Laketon and Getty, in the City of Muskegon, Michigan, for the laying out of improvements and construction of a public roadway intersection at that place, is necessary and as a result it is required to purchase certain property by condemnation for that purpose, and that a good faith written offer to purchase the property has been made,

NOW, THEREFORE, by virtue of the authority vested in the CITY OF MUSKEGON by Act 279, of the Public Acts of 1909, and Act 295 of the Public Acts of 1966, and Act 87 of the

Public Acts of 1980, all as amended, it is now declared that by filing this Declaration in the Circuit Court for the County of Muskegon, title to the property hereinafter described is taken in the name of the CITY OF MUSKEGON for public road construction.

A description of the property taken, sufficient for their identification, the name of the person(s) interested in the property, so far as known, a statement of the estate of interest being taken, and statement of the sum of money estimated by complainant to be just compensation for the property to be taken is as follows:

SEE ATTACHED EXHIBIT A

Subject to delinquent taxes in accordance with Act 270, PA 1931, and the proration of real property taxes in accordance with the provisions of Act 288, PA 1966, both as amended.

Estimated Just Compensation: \$1,000.00

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____, 2009.

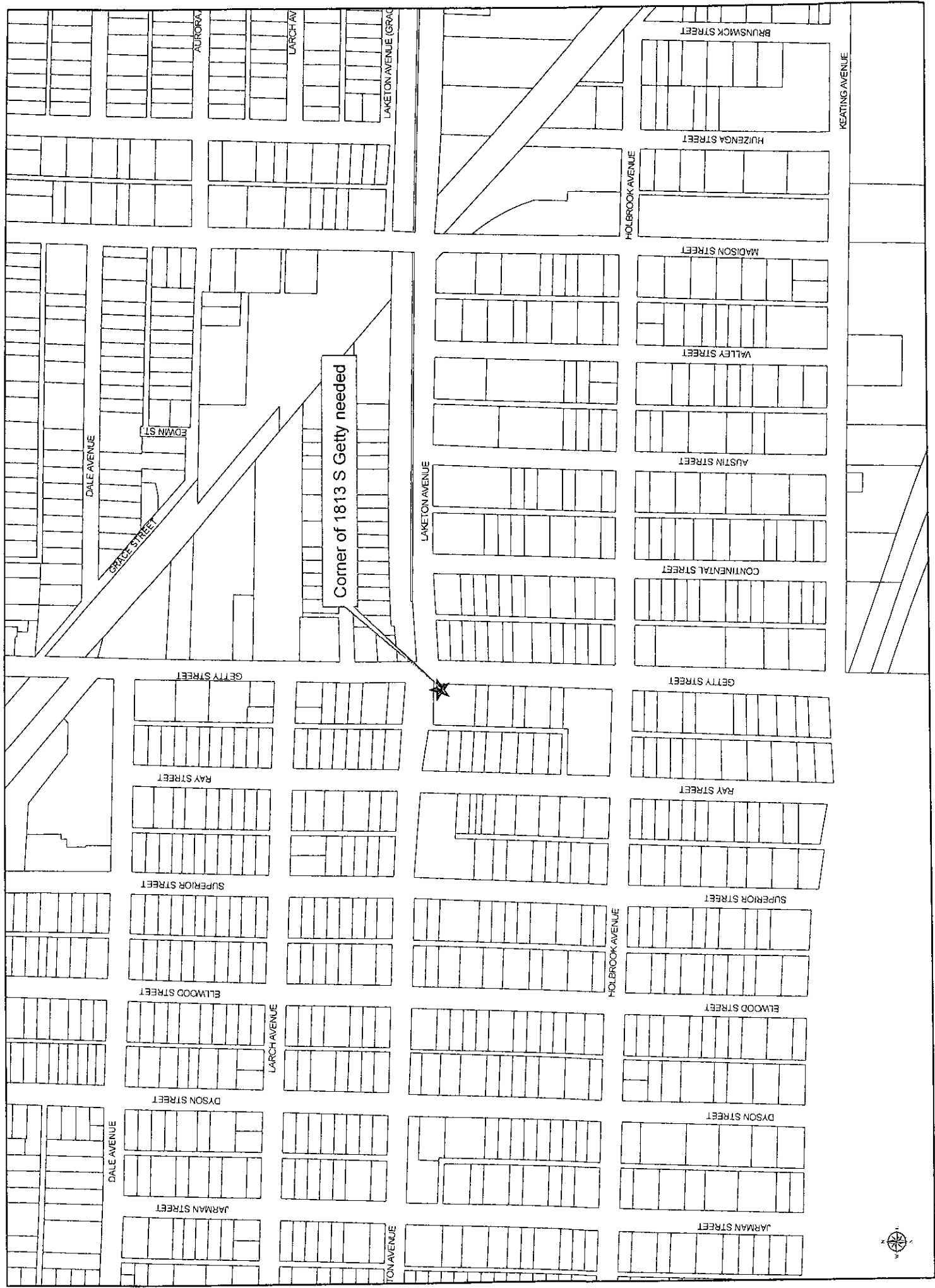
CITY OF MUSKEGON

By _____
Stephen J. Warmington, Mayor
for the City of Muskegon

STATE OF MICHIGAN)
) ss.
COUNTY OF MUSKEGON)

On this _____ day of _____, 2009, before me, a Notary Public, personally appeared Stephen J. Warmington, Mayor, for the City of Muskegon, to me known to be said person who signed the within Declaration of Taking as Mayor of the City of Muskegon.

Notary Public, Muskegon Co., Michigan
My Comm. Exp. _____



Corner of 1813 S Getty needed





WESTSHORE CONSULTING

Engineers ■ Scientists ■ Surveyors ■ Planners

SITE MAP

FOR: CITY OF MUSKEGON

A PARCEL OF LAND BEING THAT PART OF LOTS 29 AND 30 OF WESTERMAN'S SUBDIVISION OF LOT 9 OF R.P. EASTON SUBDIVISION, SECTION 32, TOWN 10 NORTH, RANGE 16 WEST, CITY OF MUSKEGON, MUSKEGON COUNTY, MICHIGAN, DESCRIBED AS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 32;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS W AS RECORDED ON SAID PLAT, A DISTANCE OF 33.00 FEET;

THENCE SOUTH 89 DEGREES 55 MINUTES 00 SECONDS WEST AS RECORDED ON SAID PLAT, A DISTANCE OF 33.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 30;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS W ALONG THE EASTERLY LINE OF SAID LOT 30, A DISTANCE OF 21.00 FEET TO THE POINT OF BEGINNING.

THENCE CONTINUE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS W ALONG SAID LINE, A DISTANCE OF 32.34 FEET;

THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 2.49 FEET;

THENCE NORTHWESTERLY ALONG THE ARC OF A NON-TANGENT CURVE TO THE TO THE LEFT, A DISTANCE OF 41.25 FEET. (CURVE DATA BEING: DELTA = 90 DEGREES 05 MINUTES 00 SECONDS, RADIUS = 37.00', CHORD = 39.14', CHORD BEARING = NORTH 31 DEGREES 56 MINUTES 07 SECONDS WEST);

THENCE SOUTH 87 DEGREES 50 MINUTES 08 SECONDS EAST (ALONG A LINE IF PROJECTED WESTERLY WOULD INTERSECT THE WEST LINE OF SAID LOT 30 AT A POINT 16 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT), A DISTANCE OF 23.21 FEET TO THE POINT OF BEGINNING;

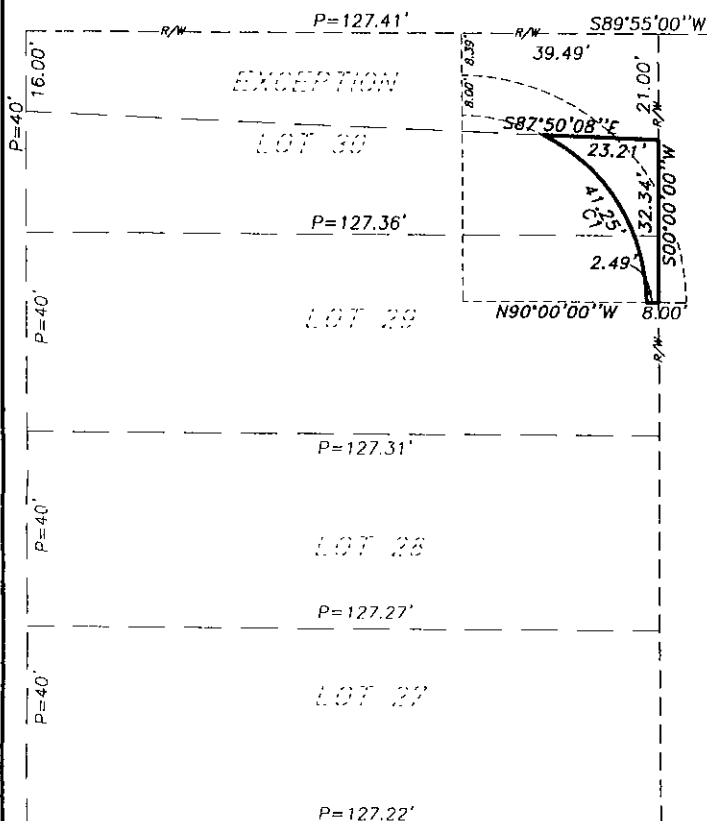
SAID PARCEL CONTAINS 268 SQUARE FEET, MORE OR LESS.

LAKETON AVENUE

S89°55'00"W

NORTHEAST CORNER
SECTION 34-10-16

Curve	Delta	Radius	Arc	Chord	Chord Bearing
1	63°52'15"	37.00	41.25	39.14	S 31°56'07"E



33.00'

86.39'

500'00"00"W

33.00'

27.49'

8.00'

2.49'

32.34'

21.00'

39.49'

33.00'

33.00'

33.00'

33.00'

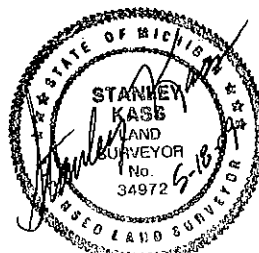
GETTY STREET

SCALE: 1" = 30'

LEGEND

P PLATTED DIMENSION
SECTION CORNER

NOTE: THIS DRAWING IS NOT A
CERTIFICATE OF SURVEY.



FILE NO: WS09-0039

SCALE: 1" = 20'

SURVEYED BY: SJK

DRN BY: BJA

DATE: 5/18/09

SHEET 1 OF 1

AFFIDAVIT OF DEPOSIT

STATE OF MICHIGAN)
) ss.
COUNTY OF MUSKEGON)

Mohammed Al Shatel, states under oath as follows:

1. I am the Director of the City of Muskegon Department of Engineering Department. I have first hand knowledge of the facts stated in this Affidavit, and I am competent to testify as to these facts and will do so if called as a witness.

2. There is on this date deposited with the Treasurer of the County of Muskegon the amount of One Thousand and no/100 Dollars (\$1,000.00) which is the total amount of the estimated just compensation for the acquisition of a right-of-way for the Property Interests described in a Resolution of Necessity adopted at a meeting of the City of Muskegon and that such an amount will be set aside and held for the benefit of the parties having interests in the Property Interests described in the Declaration of Taking until it is disbursed upon order of the Circuit Court for Muskegon County.

of

Mohammed Al Shatel, Director
City of Muskegon Engineering Department

Public Works

STATE OF MICHIGAN)
) ss.
COUNTY OF MUSKEGON)

This Affidavit of Deposit was acknowledged before me this _____ day of _____, 2009, by Mohammed Al- Shatel who is personally known to me and who executed this instrument as Director of the City of Muskegon Engineering Department.

Notary Public, Muskegon County, MI
My Comm. Exp. _____
Acting in Muskegon County