CITY OF MUSKEGON

CITY COMMISSION MEETING

NOVEMBER 7, 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., Monday, November 7, 2022, a moment of silence was observed, after which the Commission and public recited the Pledge of Allegiance to the Flag.

Present: Mayor Ken Johnson, Vice Mayor Willie German, Jr., Commissioners Teresa Emory, Rebecca St.Clair, Rachel Gorman, Interim City Manager LeighAnn Mikesell, City Attorney John Schrier, and City Clerk Ann Meisch.

Absent: Commissioners Eric Hood and Michael Ramsey

HONORS, AWARDS, AND PRESENTATIONS:

A. Presentation on Regional Transit Authority by Muskegon County

Bob Lukens, Community Development Director for Muskegon County, spoke about the potential for a transit authority for Muskegon County. Muskegon County has been in discussions with WMSRDC about the potential of a Transit Authority. The County is seeking the appointment of a city representative to attend meetings and participate in discussions.

Mayor Johnson suggested appointing LeighAnn Mikesell as the city representative to participate in meetings and discussions regarding the potential Transit Authority. A letter indicating her appointment will be sent.

PUBLIC COMMENT ON AGENDA ITEMS: No public comments were received.

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To Approve the minutes of the October 10, 2022 Worksession and October 11, 2022 Regular Meeting.

STAFF RECOMMENDATION: To approve the minutes.

C. Amendment to Marihuana Overlay District – Drive Thrus/Signs 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 thrus 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:

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 thrus 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.

D. <u>Landscaping RFP</u> Public Works

SUMMARY OF REQUEST: Staff requests authorization to issue a request for proposals to obtain pricing to transition a number of downtown landscaping areas to private contract.

Staff has worked with the Downtown BID, DDA, Chamber of Commerce, Lakeside BID and other stakeholders to develop the RFP that covers a wide array of landscaping services currently provided through the City Parks Department. There is a desire among the stakeholders to improve the level of service being provided and a desire among city staff to free up staffing resources that are currently expended for the services to improve service in other areas of the city parks. Issuing the RFP will be the next step in exploring that prospect by obtaining prices from interested firms to further inform future decisions.

The RFP proposes to obtain prices for nine (9) identified areas as follows, with each area having a distinct scope of work and a proposed assigned cost share. The baseline RFP proposes a 3-year contract with optional extensions for 4th and 5th year.

- Western Avenue
- Hackley Park
- 3rd Street (Midtown)
- City Hall Grounds
- Farmers Market Grounds
- Shoreline Drive
- Scatter Flower Pots/Planters
- Citywide Irrigation Startup/Shutdown
- Lakeside BID

Once bids are obtained for the work the responsible entities will reconvene to review pricing and make a determination on future recommendations. Future decision may have cost implications for the City, DDA, BID, and established care funds at the Community Foundation; however there is no cost implications to issue the RFP and obtain bids.

STAFF RECOMMENDATION: Authorize staff to issue the RFP for Landscaping Services.

E. <u>MDEGLE High Water Infrastructure Grant</u> Public Works

SUMMARY OF REQUEST: Staff requests a resolution of support and commitment of matching funds for submittal to MDEGLE through the 2023 High Water Infrastructure Grant Program.

The Michigan Legislature appropriated $14.25 million to the Michigan Department of Environment, Great Lakes, and Energy (EGLE) for a grant program to provide infrastructure and planning grants that directly address the impacts and vulnerabilities presented by severe weather events, with a focus on projects that address flooding, coastline erosion, urban heat, and storm water management.

Staff has identified restoration of the beach access at Kruse Park as a target for this program. Staff has previously conducted community engagement on this project and developed a master plan for the site that is available on our website here – https://www.muskegon-mi.gov/cresources/Kruse-Park-Master-Plan-compressed.pdf

Staff has prepared an application to pursue funds to support the work identified in Phase 1 of the Master Plan as well as obtaining letters of support from our legislative contacts, the Muskegon Conservation District, WMSRDC, Beachwood-Bluffton Neighborhood Association, and Disability Network of West Michigan.

If successful as drafted, the grant will provide $700,000 towards the project and will require a commitment of matching cash/in-kind funds from the City in the amount of $343,915.00 during the 23/24 fiscal year.

STAFF RECOMMENDATION: Approve the Resolution of Support and Commitment of Matching Funds for the 2023 State High Water Infrastructure Grant and authorize the Clerk to sign.

F. <u>Roberts Street MDOT Agreement</u> Public Works

SUMMARY OF REQUEST: Staff is requesting approval of a contract with MDOT for the repaving of Roberts Street from Sherman Boulevard to Laketon Avenue, and approval of resolution authorizing the Mayor and Clerk to sign contract.

This is the standard contract that governs construction contracts that use federal funds and/or are administered through MDOT. The estimated cost of the project is $1,046,811.25, with $371,340 of that being Category F Transportation Economic Development Fund (TEDF) grant dollars. The reminder of $675,471.25 is accounted for in the City's FY22 Major Street fund capital budget. Of the $825,000 budgeted for the project, $31,880.07 has been spent on engineering and other design phase services.

The project will be bid this fall and begin construction in the spring; the exact schedule is not known at this time but will be communicated to the businesses and residents in the area once known.

AMOUNT REQUESTED: $675,471.25 AMOUNT BUDGETED: $825,000 Requested

$31,880.07 Expended

$793,119.93 Remaining

FUND OR ACCOUNT: 202 (Major Streets)

STAFF RECOMMENDATION: Approval of the Roberts Street MDOT Contract and a resolution authorizing the DPW Director and Clerk to sign the contract.

H. <u>LRS ARP Updated Construction Agreement</u> Development Services

SUMMARY OF REQUEST: Staff is requesting that Commission amend the construction and development agreement with Mr. Rubin Briggs, LRS Enterprises to accommodate a Priority Related Investment Loan from the Community Foundation for Muskegon County.

Mr. Briggs proved capable of working with the city during the Jackson Hill Infill Housing Pilot where 2 homes on Leonard were constructed. Commission awarded LRS Enterprises with an ARP agreement for 6 homes, with half the money from ARP and the other half from the developer's own financing. We have found this to be a hardship for smaller, minority owned builders who do not have access to capital of some of our larger partners.

In an effort to be equitable and not let a systemic barrier to our own program disqualify builders of color, staff has secured a Priority Related Investment Loan from the Community Foundation for Muskegon County to cover Mr. Briggs' $750,000 of the original contract. This would be a loan in the city's name at prime (5.5%) plus 2 percent interest with a .5% increase on January 1, 2023, and would be paid back first as the homes sell. Any additional profits from sale would go to the Public Improvement Fund. The updated Purchase Agreement reflects this PRI which will return to the Commission for final approval and signatures. The Act 99 Installment Purchase Agreement agenda item on this docket is a precursor to the PRI approval.

AMOUNT REQUESTED: $750,000 AMOUNT BUDGETED: N/A

FUND OR ACCOUNT: (101) TO (404)

STAFF RECOMMENDATION: To accept the construction agreement as presented and to authorize the Mayor and Clerk to sign.

I. <u>LRS PRI Act 99 Installment Purchase Agreement</u> Development Services

SUMMARY OF REQUEST: Staff is requesting the Commission authorize the statutorily required Act 99 Installment Purchase Agreement and Resolution.

Public Act 99 of 1933 is a statute which allows municipalities to borrow funds for real estate related endeavors. We have previously used this Act to partner with the Community Foundation for Muskegon County on the Jackson Hill Infill Pilot.

The resolution covers the requirements laid out in the Act and has the Agreement itself that is to be executed. This item is jointly presented for consideration along with the Amended LRS Enterprises ARP Agreement.

STAFF RECOMMENDATION: To adopt the Resolution Authorizing the Installment Purchase Agreement related to the Jackson Hill ARP Infill Housing Project as presented, and to authorize the Mayor and Clerk to sign.

K. <u>Sale of 1527 Hoyt Street</u> City Manager

SUMMARY OF REQUEST: Staff is requesting approval of the purchase agreement for 1527 Hoyt Street.

1527 Hoyt Street was constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding.

STAFF RECOMMENDATION: To approve the purchase agreement for 1527 Hoyt Street.

Motion by Vice Mayor German, second by Commissioner St.Clair, to accept the consent agenda as presented, minus items B, and G.

ROLL VOTE: Ayes: German, Gorman, Emory, St.Clair, and Johnson

Nays: None

MOTION PASSES

2022-97 REMOVED FROM CONSENT AGENDA:

B. <u>Arena Lease – Carlisle's</u> Arena Director

SUMMARY OF REQUEST: Seeking approval of the amended lease with Carlisle's at the Trinity Health Arena.

Amendment of Section 6 of the Agreement for Management of a Portion of a Licensed Premises Pursuant to Participating Agreement.

To reflect the following:

Construction costs paid by Carlisle and/or reimbursed to the City of Muskegon in the amount of $439,219.91, will result in a use credit to Carlisle at the rate of $7.00 per month for each $1,000 of construction costs incurred together with interest on the unreimbursed construction costs calculated at the rate of 5% per annum. Any unused credit for the month shall roll over and be added to the total available use credit in subsequent months. These credits shall continue monthly for the term of this Agreement and any extensions thereof to and until such time as the use credit is fully utilized and amortized.

In the original agreement the construction cost was $650,000. However, we are reducing the credit costs by $210,780.09 due to construction overages by Carlisle's. Allowing Carlisle's to utilize credit saves the City $279,259.64 in accrued interest through 2040.

STAFF RECOMMENDATION: Approve the lease and authorize the Mayor and Clerk to sign.

Motion by Commissioner St.Clair, second by Commissioner Gorman, to approve the lease and authorize the Mayor and Clerk to sign.

ROLL VOTE: Ayes: German, Gorman, Emory, St.Clair, and Johnson

Nays: None

MOTION PASSES

G. <u>Trash Compactors</u> Public Works/Parks

SUMMARY OF REQUEST: Staff requests authorization to sign a three-year lease for 14 self-compacting trash receptacles at Pere Marquette and Margaret Drake Elliot Parks.

These 50-gallon capacity, self-compacting units from Connect by BigBelly would enhance the shoreline look and be one direct result of the paid for parking benefit. Not only will the units look aesthetically pleasing as opposed to the current metal open face cans, but with a fully enclosed system, less trash would blow out of the units onto the beach.

Current walkway pads allow for placement and not block those with ADA needs. The units are sturdy in nature and can handle the winds and sands at the beach location according to the manufacturer. The biggest goal with the three-year lease period is to not only see how much the cans get used, but also to see how the units stand up to the elements. We will have the ability to extend the lease or purchase units at the end of the three-year period.

Local suppliers can provide liners for the units. The manufacturer does have a subsidiary in Kentucky that can proved liners if need be. The units also provide options to advertise or brand; staff is still discussing the pros and cons of this option and will proceed carefully, if at all. The units do connect to the internet if available, and will notify staff of the need for emptying and include usage data.

During the off season, roughly October through April, we have enclosed storage available at Margaret Drake Elliot for the units. Depending on how maneuverable they are and the installation needs, staff is considering locating them downtown during the off season. The three-year lease provides annual maintenance and troubleshooting, however placement of the units and removal each season would depend on Parks staff. The units are large and would require heavy machinery to move.

Staff has performed a financial comparison, and while these units are about twice as expensive as traditional receptacles we calculate we will recoup that cost and more by reducing the times they need to be emptied and reducing litter cleanup in the area. The current budget includes $10,000 for these units. The actual impact to this year's budget will be approximately $4,549.11 (for three months of lease payments). Future budgets will include for the exact lease amounts per fiscal year.

AMOUNT REQUESTED: $4,549.11 (FY22) AMOUNT BUDGETED: $10,000 (FY22)

$54,589.32 (Over 3 years) $54,589.32 (total including future budgets)

FUND OR ACCOUNT: 101-770-762 (Parks)

STAFF RECOMMENDATION: Authorize staff to enter into a three-year lease agreement with Connect by BigBelly for a total of $54,589.32 over three years for 14 self-compacting 50-gallon trash receptacles.

Motion by Commissioner Emory, second by Vice Mayor German, to authorize staff to enter into a three-year lease agreement with Connect by BigBelly for a total of $54,589.32 over three years for 14 self-compacting 50-gallon trash receptacles.

ROLL VOTE: Ayes: German, Gorman, Emory, St.Clair, and Johnson

Nays: None

MOTION PASSES

2022-98 ANY OTHER BUSINESS:

A. Sale of 206 Irwin Avenue City Manager

SUMMARY OF REQUEST: Staff is requesting approval of the purchase agreement for 206 Irwin Avenue.

206 Irwin Avenue was constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding. After signing the purchase agreement, the buyer elected to update the purchase price and seller concessions which equate to a net zero change in fund to the city.

STAFF RECOMMENDATION: To approve the purchase agreement and amendment for 206 Irwin Avenue.

Motion by Commissioner St.Clair, second by Commissioner Gorman, to approve the purchase agreement and amendment for 206 Irwin Avenue.

ROLL VOTE: Ayes: Gorman, Emory, St.Clair, Johnson, and German

Nays: None

MOTION PASSES

B. Sale of 291 McLaughlin City Manager

SUMMARY OF REQUEST: Staff is requesting approval of the purchase agreement for 291 McLaughlin Avenue

291 McLaughlin Avenue is being constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding. The home is under construction with a planned cost of $235,000. The offer presented is for a sales price of $172,500 with no seller concessions.

STAFF RECOMMENDATION: To approve the purchase agreement for 291 McLaughlin Avenue.

Motion by Commissioner St.Clair, second by Vice Mayor German, to approve the purchase agreement for 291 McLaughlin Avenue, to be transferred by Quit Claim Deed.

ROLL VOTE: Ayes: Emory, St.Clair, Johnson, German, and Gorman

Nays: None

MOTION PASSES

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

ADJOURNMENT: The City Commission meeting adjourned at 6:31 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk