CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 28, 2008

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- **CALL TO ORDER:**
- **PRAYER:**
- **PLEDGE OF ALLEGIANCE:**
- **ROLL CALL:**
- **HONORS AND AWARDS:**
  - A. **Employee Service Awards.** CIVIL SERVICE
- **INTRODUCTIONS/PRESENTATION:**
- **CONSENT AGENDA:**
  - A. **Approval of Minutes.** CITY CLERK
  - B. **Contract Agreement – Lockers – The Casper Corporation.** PUBLIC SAFETY
  - C. **Rezoning Request for Properties Located at 2320 and 2350 S. Getty Street.** PLANNING & ECONOMIC DEVELOPMENT
  - D. **Rezoning Request for Properties Located in Area 8 Bounded by Keating Ave., Madison St., Holbrook Ave. and S. Getty St.** PLANNING & ECONOMIC DEVELOPMENT
  - E. **Resolution to Adopt Identity Theft Program Policy.** TREASURER
  - F. **Meter Reading Radio Equipment Purchase 2009.** PUBLIC WORKS
  - G. **Consideration of Bids for B-237 Richards Park WWTP Building Demolition.** ENGINEERING
  - H. **Admiral Petroleum, 11 E. Muskegon Ave., Request for an Encroachment Agreement.** ENGINEERING
  - I. **Support for Michigan Lighthouse Conservancy.** PLANNING & ECONOMIC DEVELOPMENT
  - J. **Liquor License Request, Clay Avenue Cellars, Inc., 611 W. Clay Avenue.** CITY CLERK

- **PUBLIC HEARINGS:**
  - A. **Request for an Industrial Facilities Exemption Certificate Transfer, SAF Holland.** PLANNING & ECONOMIC DEVELOPMENT
- **COMMUNICATIONS:**
- **CITY MANAGER'S REPORT:**
- **UNFINISHED BUSINESS:**
  - A. **Concurrence with the Housing Board of Appeals Notice and Order to Demolish 254 Amity Avenue.** PUBLIC SAFETY
- **NEW BUSINESS:**
  - A. **Vacation of the North Easterly Portion of the Alley Bounded by Eighth, Clay, Ninth and Western.** PLANNING & ECONOMIC DEVELOPMENT
  - B. **Commercial Rehabilitation Tax Abatement Districts Policy.** PLANNING & ECONOMIC DEVELOPMENT
  - C. **Concurrence with the Housing Board of Appeals Notice and Order to Demolish the following:** PUBLIC SAFETY

    769 Washington – Area 12

    640 Catawba

    143 W. Southern – Area 10b
- **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.

AGENDA ITEM

CITY COMMISSION MEETING

October 28, 2008

TO: **Honorable Mayor and City Commissioners**

FROM: **Karen Scholle, Civil Service Personnel Director**

DATE: **October 8, 2008**

RE: **2008 Employee Service Awards**

SUMMARY OF REQUEST:

Commission participation in the 2008 Employee Service Awards presentations during Honors and Awards portion of City Commission meeting.

FINANCIAL IMPACT:

Included in 2008 Civil Service budget.

BUDGET ACTION REQUIRED:

None. This is a 2008 Civil Service Budget item.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff respectfully requests your participation in this year's service awards event.

Date: October 28, 2008

To: Honorable Mayor and City Commissioners

From: Ann Marie Becker, City Clerk

RE: Approval of Minutes

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

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

City of Muskegon
City Commission Worksession
October 13, 2008
City Commission Chambers
5:30 PM

MINUTES

2008-85
Present: Commissioners Warmington, Wierengo, Wisneski, Gawron, Shepherd, and Spataro, and Carter (arrived 5:42 p.m.).
Absent: None.

Presentation: Old Landfill. David Farhat
David Farhat made a presentation to develop the old landfill located on the causeway by developing a nature preserve and creating a regional law enforcement training facility.

He will continue to keep the City Manager informed of any developments.

Presentation: Milwaukee Clipper
Dr. Hill made a presentation seeking the Commission's input to move the Milwaukee Clipper be moved to the old site of the Port City Princess at the Hartshorn Marina.

Wisneski moved, Carter seconded, to approve allowing the Milwaukee Clipper to move to the Hartshorn Marina site as a temporary location till research can be completed to determine if it is an appropriate long-term location, and that it has a specific timeline and that the final agreement comes back to the City Commission for final approval.

MOTION PASSES.

Pigeon Key Boat Slip
Mr. Richard P. Stutzman made a presentation regarding a boat slip at Pigeon Key that the City recently purchased from the County for back taxes. He is asking that the City re-consider and allow him the boat slip.

Spataro moved, Shepherd seconded, to refer this matter back to staff for a recommendation at next months worksession meeting.

MOTION PASSES.

DSE, Ann Bratsburg
This item will be placed on the next worksession agenda.

AmTrak, John Langdon

Mr. Langdon asked that the City Commission consider passing a resolution to increase current funding level for the state-supported Pere Marquette passenger train to add a second daily train out of Chicago to arrive in Grand Rapids before noon.

Spataro moved, Shepherd seconded, to adopt the resolution of support to increase current funding level for the stat-supported Pere Marquette passenger train to add a second daily train out of Chicago to arrive in Grand Rapids before noon.

MOTION PASSES.

Film & Music Policy – City of Muskegon. Planning & Economic Development
Cathy Brubaker-Clarke, Community & Economic Development Director, presented a proposed Film & Music Policy.

Timeline – Tax Abatements. Bryon Mazade
The City has been approached by companies asking that the City consider a longer timeline than what is currently in the City policy.

The City Commission will evaluate each request on a case-by-case basis.

Congress of Cities Registration. Commissioner Shepherd
Commissioner Shepherd requested that the City Commission consider paying the registration fee of $525 to the Congress of Cities Registration.

Commissioner Wierengo and Carter have volunteered to take the fees from their budgets.

Branding. Vice Mayor Gawron
Vice Mayor Gawron presented the branding concept, *Simply Muskegon!* To the City Commission.

Adjournment
Meeting adjourned at 7:25 p.m.

Ann Marie Becker, MMC
City Clerk

CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 14, 2008

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 14, 2008.

Mayor Warmington opened the meeting with a prayer from Vice Mayor Gawron 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 Lawrence Spataro, Sue Wierengo, Steve Wisneski, and Clara Shepherd, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

Absent: Commissioner Chris Carter (excused).

2008-86 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, September 23rd.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Information Use Agreements. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety is requesting the Commission's approval to enter into Information Use Agreements with a variety of state Department of Motor Vehicle agencies from around the country. These agreements will allow the police department to access information needed for parking and abandoned vehicle enforcement. We currently have one agreement pending with the Commonwealth of Virginia and expect more agreements in the near future.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the agreement.

C. **Film & Music Policy – City of Muskegon.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The State of Michigan is offering a lucrative tax incentive package to companies filming within the State. This has been fortunate for the City of Muskegon, as some of these film companies are asking to film in Muskegon. In addition, there are plans for a major film studio to locate in the City. The Muskegon Events Committee is working on this issue, including developing the best ways to meet the needs of the film companies. In addition, City staff has determined that a City of Muskegon Film & Music Policy is needed to assist in streamlining the process for film and music companies, while considering the needs and demands on City services. Therefore, a Film & Music Events Policy is being presented to the City Commission for consideration and approval.

FINANCIAL IMPACT: The Policy will allow for collection of fees for various City services, while leaving the exact amounts flexible, depending on the needs of the specific film and/or music company and the demands on City services.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Policy.

D. **SECOND READING: Rezoning Request for Property Located at 1338 S. Getty Street.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the property located at 1338 S. Getty Street, from B-4, General Business District to R, One 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 September 11^{th} meeting. The vote was unanimous, with T. Michalski, B. Larson and J. Aslakson absent.

E. **SECOND READING: Amendment to the Zoning Ordinance – Outdoor Seating.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2308, #2 (Outdoor Seating) of Article XXIII (General Provisions) to require a minimum of six feet of paved area for pedestrian circulation.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to require a minimum of six feet of paved area for pedestrian circulation.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their September 11th meeting. The vote was unanimous with T. Michalski, B. Larson, and J. Aslakson absent.

F. West Michigan Metropolitan Transportation Plan (WestPlan) Dues, FY2009. CITY MANAGER

SUMMARY OF REQUEST: To approve the City of Muskegon's portion of the WestPlan dues for Fiscal Year 2009, payable to West Michigan Shoreline Regional Development Commission. This agency determines projects and distributes federal transportation funds.

FINANCIAL IMPACT: $16,040.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve this request.

G. Request to Purchase Humidification Equipment for Central Fire Station. PUBLIC SAFETY

SUMMARY OF REQUEST: Fire Department staff is requesting approval by the Commission to allow for the procurement and installation of humidification equipment for the Central Fire Station. The low bid, which meets all stated specifications, was submitted by Northside Heating, Cooling, & Refrigeration, 2175 Riegler Rd., Muskegon, MI 49445 for $22,710. The only other bid received was from Rite-Way Plumbing & Heating, 2083 Walker Ct. NW, Grand Rapids, MI 49544 for $22,795.

FINANCIAL IMPACT: Funds for this purchase are provided for in the building fund for the new Central Fire Station.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

H. Budgeted Vehicle Replacement. PUBLIC WORKS

SUMMARY OF REQUEST: Approve purchase of two Dodge Durangos.

FINANCIAL IMPACT: $41,373.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve purchase using The Michigan State Purchasing Contract.

I. Uniform and Rugs Cleaning Contract. PUBLIC WORKS

SUMMARY OF REQUEST: Authorize staff to enter into an agreement with Arrow Uniform Company for a four-year contract of cleaning uniforms and rug rental at the Department of Public Works building and the Filtration Plant.

FINANCIAL IMPACT: The cost of $11,500 per year split up among seven departments.

BUDGET ACTION REQUIRED: None at this time. The cost was anticipated and budgeted for.

STAFF RECOMMENDATION: Authorize staff to enter into a contract with Arrow Uniform.

J. City/County Agreement regarding Justice Assistance Grant (JAG). CITY MANAGER

SUMMARY OF REQUEST: To approve an inter-local agreement between the City and the County of Muskegon for the City to acknowledge the County's receipt and use of a 2008 Edward Byrne Memorial Justice Assistance Grant.

FINANCIAL IMPACT: $16,776 to the County.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution.

K. Contract Extension – Independent Audit Services. FINANCE

SUMMARY OF REQUEST: You may recall that in 2004 our prior audit firm (Hoffman, Steensma, & Plamondon) exited the governmental audit business. Brickley DeLong assumed responsibility for the 2004 audit and, subsequently, the City entered into a three-year contract for services with them. This request is to extend the contract with Brickley DeLong for an additional three years. Staff believes this is in the City's best interest for the following reasons:

1. Brickley has presented a proposed extension that includes a cost decrease for the next year and a very modest total cost increase (2%) for the entire three-year period;
2. Brickley's staff is very familiar with the City's financial operations. This reduces staff time and costs. There would be significant upfront costs involved in bringing a new audit firm in;
3. Brickley is a major tenant in downtown Muskegon and is the only in-city firm qualified to perform our audit.

FINANCIAL IMPACT: The average annual cost of the proposed audit contract extension is about 2% higher than the average cost for the prior three-year period.

2005	2006	2007	Average 2005-07	2008	2009	2010	Average 2008-10
$34,675	$35,375	$36,075	$35,375	$34,250	$36,075	$37,875	$36,067

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of a three-year contract extension for audit services with Brickley DeLong.

L. **<u>Make Appointments to Various Boards and Committees.</u>** CITY CLERK

SUMMARY OF REQUEST: To appoint Quintan Cooley to the Citizen's Police Review Board, Thomas Pastoor to Community Development Block Grant – CDC, Stephanie Marion to the Leisure Services Board, and Eleanor Fife to the Zoning Board of Appeals.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

COMMITTEE RECOMMENDATION: The Community Relations Committee approved the appointments at their October 13th meeting.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the Consent Agenda as read.

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

Nays: None

MOTION PASSES

2008-87 PUBLIC HEARINGS:

A. **<u>Request for an Industrial Facilities Exemption Certificate – Johnson Technology.</u>** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, Johnson Technology, 2034 Latimer Dr., has requested the issuance of an Industrial Facilities Exemption Certificate. The total capital investment of the project is $2,000,000 in personal property. The company has requested an abatement length of 12 years. However, under the current City IFT policy, they are eligible for a seven-year abatement.

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 seven years for personal property.

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

Motion by Vice Mayor Gawron, second by Commissioner Spataro to close the Public Hearing and approve an amended resolution granting an Industrial Facilities Exemption Certificate for 12 years for personal property for Johnson Technology.

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

Nays: None

MOTION PASSES

2008-88 NEW BUSINESS:

A. Sewer Rate Adjustment. FINANCE

SUMMARY OF REQUEST: The City last adjusted sewer rates (a 15% increase) on July 1, 2007. However, sewer fund revenues simply are not keeping pace with the fee increases being implemented by the County combined with the steadily increasing sewer use that the County is attributing to the City:

12-Month Periods	City Usage (MG)	% Chg	Total System (MG)	% Chg
Sep. 2007 – Aug. 2008	2137	+8%	6813	-13%
Sep. 2006 – Aug. 2007	1984	+7%	7799	+7%
Sep. 2005 – Aug. 2006	1861	+17%	7277	-19%
Sep. 2004 – Aug. 2005	1592	+3%	9007	-5%
Sep. 2003 – Aug. 2004	1549	+18%	9520	+10%
Sep. 2002 – Aug. 2003	1312	-	8683	-

FINANCIAL IMPACT: The sewer rate adjustments will generate $650,000 additional annualized revenue for the City's sewer fund.

BUDGET ACTION REQUIRED: None at this time. If the rate increase is approved, it will be incorporated into the quarterly budget reforecast together with the higher anticipated County treatment costs.

STAFF RECOMMENDATION: Adoption of the fee adjustment resolution.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the sewer rate adjustment which is a 12% increase effective January 1, 2009.

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

Nays: None

MOTION PASSES

B. Sale of City Dockominium Boat Slips. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The City of Muskegon purchased two boat slips, one in Harbour Towne Marina and one in Pigeon Key Marina, from the State of Michigan (tax-reversion). In an effort to spur downtown residential sales, staff would like to offer one, or both, of these slips for sale. Staff is proposing to offer a slip, at our cost ($5,000), to the first new purchaser of a downtown residential condominium unit priced at over $250,000, by December 31, 2008.

FINANCIAL IMPACT: The City will be reimbursed for our cost into the dockominium and the resulting residential sale will result in increased taxes within our downtown.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the sale of the dockominiums, as outlined in the "Exciting Opportunity for Downtown Living and Recreation" flyer.

Motion by Commissioner Spataro, second by Commissioner Wierengo to adopt the request to market the boat slip at Harbour Towne Marina as proposed and withhold the Pigeon Key Marina slip until the mater is resolved.

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

Nays: None

MOTION PASSES

C. <u>Assignment & Assumption of Arena Management Contract.</u> CITY MANAGER

SUMMARY OF REQUEST: To approve an agreement to allow Arena Management Group to assign the L. C. Walker Arena & Conference Center management contract to JS Hockey Enterprises, Inc.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Assignment and Assumption of the management contract.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the Assignment and Assumption of the Arena Management Contract.

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

Nays: None

MOTION PASSES

D. <u>Muskegon Firefighters Local 370 Contract.</u> CITY MANAGER

SUMMARY OF REQUEST: To approve a collective bargaining agreement with the Muskegon Firefighters Union for 2008 – 2010.

FINANCIAL IMPACT: Wages – 2008 (3%); 2009 (2.5%); 2010 (2.5%). Other minor financial changes are also included.

BUDGET ACTION REQUIRED: None at this time.

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

Motion by Vice Mayor Gawron, second by Commissioner Shepherd to approve the collective bargaining agreement with the Muskegon Firefighters Union for 2008-2010.

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

Nays: None

MOTION PASSES

E. <u>Congress of Cities Voting Delegates.</u> CITY CLERK

SUMMARY OF REQUEST: To designate one of our officials who will be in attendance at the National League of Cities Annual Business Meeting to cast the City's vote; and, if possible, to designate an alternate.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

Motion by Vice Mayor Gawron, second by Commissioner Spataro to designate Commissioner Shepherd as the delegate to the National League of Cities Annual Business Meeting to cast the City's vote.

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

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Commissioner Shepherd presented Chief Kleibecker with a letter commending Officer Timothy Thompson. Mayor Warmington thanked Charles Nash and those who serve on City Boards and Committees.

PUBLIC PARTICIPATION: Various comments were heard.

ADJOURNMENT: The City Commission Meeting adjourned at 6:12 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk

CITY COMMISSION MEETING
Tuesday, October 28, 2008

TO: Honorable Mayor and City Commissioners

FROM: Anthony L. Kleibecker
Director of Public Safety

DATE: October 10, 2008

SUBJECT: Contract Agreement-Lockers-The Casper Corporation

SUMMARY OF REQUEST:

The Director of Public Safety requests that the Commission consider the attached bid for lockers for the men's lockeroom in the police department. The bid was submitted by The Casper Corporation of Kalamazoo, Michigan.

Due to the layout of the lockeroom, The Casper Corporation is the only vendor who could provide the style of locker (built-in locking storage and bench) that will function in conjunction with the design. This is the same company that provided lockers for the women's lockeroom in 2007. Cost for the lockers (62) as proposed by Casper is $66,976.00.

FINANCIAL IMPACT:

This project is part of the 2009 capital improvement fund.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Approval of this request.

THE CASPER CORPORATION

A SYSTEC COMPANY

THE CASPER CORPORATION
533 Grand Pre Avenue
Kalamazoo, MI 49006
Tel: 269-344-7588 Ext. 40
Fax: 269-344-5221
www.caspercorp.com
"Serving Michigan for over 35 years"

October 9, 2008

Anthony Kleibecker
Director of Public Safety
City of Muskegon
Muskegon Police Department
980 Jefferson Street
Muskegon, MI 49443

Dear Anthony:

Re: DSM Personnel Duty Lockers w/Bench Drawer for Men's Locker Room

This is to serve as the PURCHASE AGREEMENT for the DSM Lockers quoted below.

Please see attached Drawing No. KF0155-3A1A dated 5/13/2008 WITH CHANGE TO 66" LOCKER AND TOTAL HEIGHT OF 90".

62 each PDLF1872BN-18BDH DSM Personnel Duty Locker
Built In Slope Top
18" wide x 24" deep x 66 high (plus 6" for slope in back) with 18" high Bench Drawer.

Total Locker Height for Sloped Top Locker w/Bench Drawer: 90" High

Lockers to include:

- Drawer comes with lock.
- Locker Door has recessed DSM Liftlatch System with 3-point engagement and pad lock hasp.
- Finished in high quality powder coat paint.\
- Number tags riveted on front doors.
- All installation hardware, filler strips are included.
- Lifetime warranty of the frame
- 5 year limited warranty on moving parts.
- Butcher Block Bench Seats are manufactured from 1.25 thick maple wood strips with a 2 part lacquer finish.
- To reduce the amount of unwanted seams in the wood seating area, DSM ships maple hardwood seating loose in larger sections for installation by The Casper Corporation. We will provide as many 72" sections as possible and use shorter sections to make up the difference on a given locker bank length.

Total Materials	**$61,586.00**
Shipping and Handling	**2,475.00**
Installation	**2,915.00**
Total Project Cost	**$66,976.00**

Commission Meeting Date: August 26, 2008

Date: **October 20, 2008**

To: **Honorable Mayor and City Commissioners**

From: **Planning & Economic Development** CBL

RE: **Rezoning request for properties located at 2320 and 2350 S. Getty Street**

SUMMARY OF REQUEST:

Request to rezone the properties located at 2320 and 2350 S. Getty, from B-4, General Business District to I-2, General Industrial 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 10/16 meeting. The vote was unanimous, with B. Smith and John Aslakson absent.

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO.________

An ordinance to amend the zoning map of the City to provide for a zone change for a certain properties from B-4 "General Business" district to I-2 "General Industrial" district.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

The zoning map of the City of Muskegon is hereby amended to change the zoning of the following described property from B-4, "General Business" district to I-2 "General Industrial" district:

LAND SITUATED IN THE CITY OF MUSKEGON, COUNTY OF MUSKEGON, STATE OF MICHIGAN TO WIT: COMMENCE AT THE SOUTHWEST CORNER OF SECTION 33, TOWN 10 NORTH, RANGE 16 WEST; THENCE NORTH 00 DEGREES 46 MINUTES 24 SECONDS EAST, ALONG THE WEST LINE OF SAID SECTION, 1773.90 FEET TO THE POINT OF BEGINNING FOR THIS PARCEL; THENCE SOUTH 89 DEGREES 57 MINUTES 31 SECONDS EAST 189.54 FEET; THENCE NORTH 01 DEGREES 01 MINUTES 20 SECONDS EAST 100.00 FEET; THENCE NORTH 89 DEGREES 57 MINUTES 31 SECONDS WEST 189.98 FEET TO THE WEST LINE OF SAID SECTION 33; THENCE SOUTH 00 DEGREES 46 MINUTES 24 SECONDS WEST, ALONG SAID WEST LINE, 100.00 FEET TO THE POINT OF BEGINNING. EXCEPT ANY PORTION DEEDED, USED OR TAKEN FOR ROAD PURPOSES.

And

CITY OF MUSKEGON SEC 33 T10N R16W PART S 1/2 NW 1/4 SW 1/4 COM @ POINT OF INT E LN GETTY ST WITH S LN PLAT OF WELLWORTH ADD TH S 01D 12M W ALG E LN GETTY ST 228.50 FT FOR POB TH CONT S 01D 12M W ON E LN GETTY ST 125 FT TH S 89D 15M E 180 FT TH NELY ON A CURVE TO RT HAVING R OF 20 FT A DIST OF 31.60 FT TH N 01D 12M E 5 FT TH N 89D 15M W 6 FT TH N 01D 12M E 100 FT TH N 89D 15 M W 194 FT TO POB

This ordinance adopted:
Ayes:____

Nayes:____

Adoption Date:_________________________

Effective Date:_________________________

First Reading:_________________________

Second Reading:_______________________

CITY OF MUSKEGON

By: ________________________
Ann Marie Becker, MMC
City Clerk

CERTIFICATE (Rezoning of 2320 & 2350 S. Getty Street from B-4 to I-2)

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 28th day of October, 2008, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2008, and that minutes were kept and will be or have been made available as required thereby.

DATED: ____________________, 2008.

____
Ann Marie Becker, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

CITY OF MUSKEGON
NOTICE OF ADOPTION

Please take notice that on October 28, 2008, the City Commission of the City of Muskegon adopted an ordinance amending the zoning map to provide for the change of zoning of the following property from to B-4 "General Business" district o I-2 "General Business" district:

LAND SITUATED IN THE CITY OF MUSKEGON, COUNTY OF MUSKEGON, STATE OF MICHIGAN TO WIT: COMMENCE AT THE SOUTHWEST CORNER OF SECTION 33, TOWN 10 NORTH, RANGE 16 WEST; THENCE NORTH 00 DEGREES 46 MINUTES 24 SECONDS EAST, ALONG THE WEST LINE OF SAID SECTION, 1773.90 FEET TO THE POINT OF BEGINNING FOR THIS PARCEL; THENCE SOUTH 89 DEGREES 57 MINUTES 31 SECONDS EAST 189.54 FEET; THENCE NORTH 01 DEGREES 01 MINUTES 20 SECONDS EAST 100.00 FEET; THENCE NORTH 89 DEGREES 57 MINUTES 31 SECONDS WEST 189.98 FEET TO THE WEST LINE OF SAID SECTION 33; THENCE SOUTH 00 DEGREES 46 MINUTES 24 SECONDS WEST, ALONG SAID WEST LINE, 100.00 FEET TO THE POINT OF BEGINNING. EXCEPT ANY PORTION DEEDED, USED OR TAKEN FOR ROAD PURPOSES.

And

CITY OF MUSKEGON SEC 33 T10N R16W PART S 1/2 NW 1/4 SW 1/4 COM @ POINT OF INT E LN GETTY ST WITH S LN PLAT OF WELLWORTH ADD TH S 01D 12M W ALG E LN GETTY ST 228.50 FT FOR POB TH CONT S 01D 12M W ON E LN GETTY ST 125 FT TH S 89D 15M E 180 FT TH NELY ON A CURVE TO RT HAVING R OF 20 FT A DIST OF 31.60 FT TH N 01D 12M E 5 FT TH N 89D 15M W 6 FT TH N 01D 12M E 100 FT TH N 89D 15 M W 194 FT TO POB

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten days from the date of this publication.

Published ____________________, 2008

CITY OF MUSKEGON

By ___________________________

Ann Marie Becker, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE.

Account No. 101-80400-5354

Staff Report [EXCERPT]
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

October 16, 2008

Hearing; Case 2008-28: Request to rezone the properties located at 2320 and 2350 S. Getty Street from B-4, General Business District to I-2, General Industrial District by Murdock Mills, Port City Architectural.

Applicant:	Murdock Mills, Port City Architectural
Property Address/Location:	2320 and 2350 S. Getty Street
Request:	Rezone from B-4, General Business District to I-2, General Industrial District
Present Land Use:	2320 S. Getty – vacant; 2350 S. Getty - industrial
Zoning:	B-4, General Business

STAFF OBSERVATIONS

1. The properties both face Getty Street between E. Barney and Hovey Avenues. The property at 2350 S. Getty is presently the home of Port City Architectural. The property at 2320 S. Getty has been split from it's parent parcel on the corner of Getty and E. Barney and is being purchased by Port City Architectural. It contains a small vacant building.
2. The applicant wishes to purchase the property at 2320 S. Getty for a future industrial expansion. The time table for this expansion is not known by staff, but the applicant would like to have the property acquired and the rezoning in place when they are ready to proceed with the expansion.
3 Although the property is currently zoned B-4, an industrial use was grandfather in the building at the time that the applicant purchased it and began operations about 2 years ago due to previous industrial uses in the building. They produce recreational signage for such uses as golf courses. Their process requires casting of metals, which would require the I-2 zoning designation.
4. The minimum size for an I-2 property is one acre (43,560 sq. ft.), with 150 feet of street frontage. The two lots combined would have the necessary street frontage, but would be lacking in total square footage at 40,250 sq. ft. However, since an industrial use is already operating on the site, the addition of the extra property would be considered moving closer to conformity.
5. The properties to the north, and south are zoned, B-4 and the property to the east is zoned I-2. To the west is Muskegon Heights.

6. The Future Land Use Map shows these properties (Sub-Area 3) as commercial, however due to present industrial use and that no residential properties are located adjacent to the properties, rezoning seems to make the most sense.
7. Staff has had no comments regarding this request.

2320 S. Getty Street.

2350 S. Getty Street.

STAFF RECOMMENDATION

Staff recommends approval of the request to rezone the subject property from B-4, General Business district to I-2, General Industrial district, because the request conforms to the goals and recommendation of the City's 1997 Master Plan and Future Land Use Plan and zoning district intent.

DELIBERATION

Criteria-based questions typically asked during a rezoning include:

1. **What**, if any, identifiable **conditions** related to the petition **have changed which justify** the petitioned **change in zoning**.

2. **What** are the **precedents and the possible effects** of precedent that might result from the approval **or denial** of the petition?

3. What is the **impact** of the amendment on the ability of the city to provide **adequate public services** and **facilities and/or programs** that might reasonably be required in the future if the petition is approved?

4. Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?

5. Does the petitioned zoning change generally **comply with the adopted Future Land Use Plan of the City**?

6. Are there any **significant negative environmental impacts** which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:

   a. **Surface water** drainage problems
   b. **Waste water** disposal problems
   c. Adverse effect on surface or subsurface **water quality**
   d. The **loss of valuable natural resources** such as **forest, wetland, historic sites, or wildlife areas**.

7. Is the proposed zoning change a "**Spot Zone**"?

   a. Is the parcel **small in size relative to its surroundings?**
   b. Would the zoning change allow uses that are **inconsistent with those allowed in the vicinity?**
   c. Would the zoning change confer a **benefit to the property owner** that is **not generally available to other properties** in the area?
   d. A spot zone is **appropriate if it complies with the Master Plan.**

DETERMINATION

The following motion is offered for consideration:

I move that the request to rezone the properties located at 2320 and 2350 S. Getty Street from B-4, General Business district to I-2, General Industrial district, as described in the public notice, be recommended for (**approval/denial**) to the City Commission pursuant to the City of Muskegon Zoning Ordinance, and the determination of (**compliance/lack of compliance**) with the intent of the City Master Land Use and zoning district intent.

Commission Meeting Date: October 28, 2008

Date: **October 20, 2008**

To: **Honorable Mayor and City Commissioners**

From: **Planning & Economic Development** CbC

RE: **Rezoning request for properties located Area 8 Bounded by Keating Ave., Madison St., Holbrook Ave. and S. Getty St.**

SUMMARY OF REQUEST:

Request to rezone multiple properties located in City of Muskegon Continental Addition bounded by Keating Avenue, Madison Street, Holbrook Avenue and S. Getty Street.

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 10/16 meeting. The vote was unanimous, with B. Smith and J. Aslakson absent.

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO.________

An ordinance to amend the zoning map of the City to provide for zoning changes for certain properties within the area bounded by Keating Avenue, Keating Street, Holbrook Avenue, and S. Getty Street.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

The zoning map of the City of Muskegon is hereby amended to change the zoning of the following described properties as follows (see attached map):

The following properties located within the City of Muskegon Continental Addition to be rezoned from B-4, General Business District to R-1, One Family Residential District:

- Block 7, Lots 17-20
- Block 8, Lots 11, 12 & the N ½ of Lot 13, Lots 19-21
- Block 9, Lots 18-21
- Block 10, Lots 11-20

This ordinance adopted:

Ayes:____

Nayes:____

Adoption Date:________________________

Effective Date:________________________

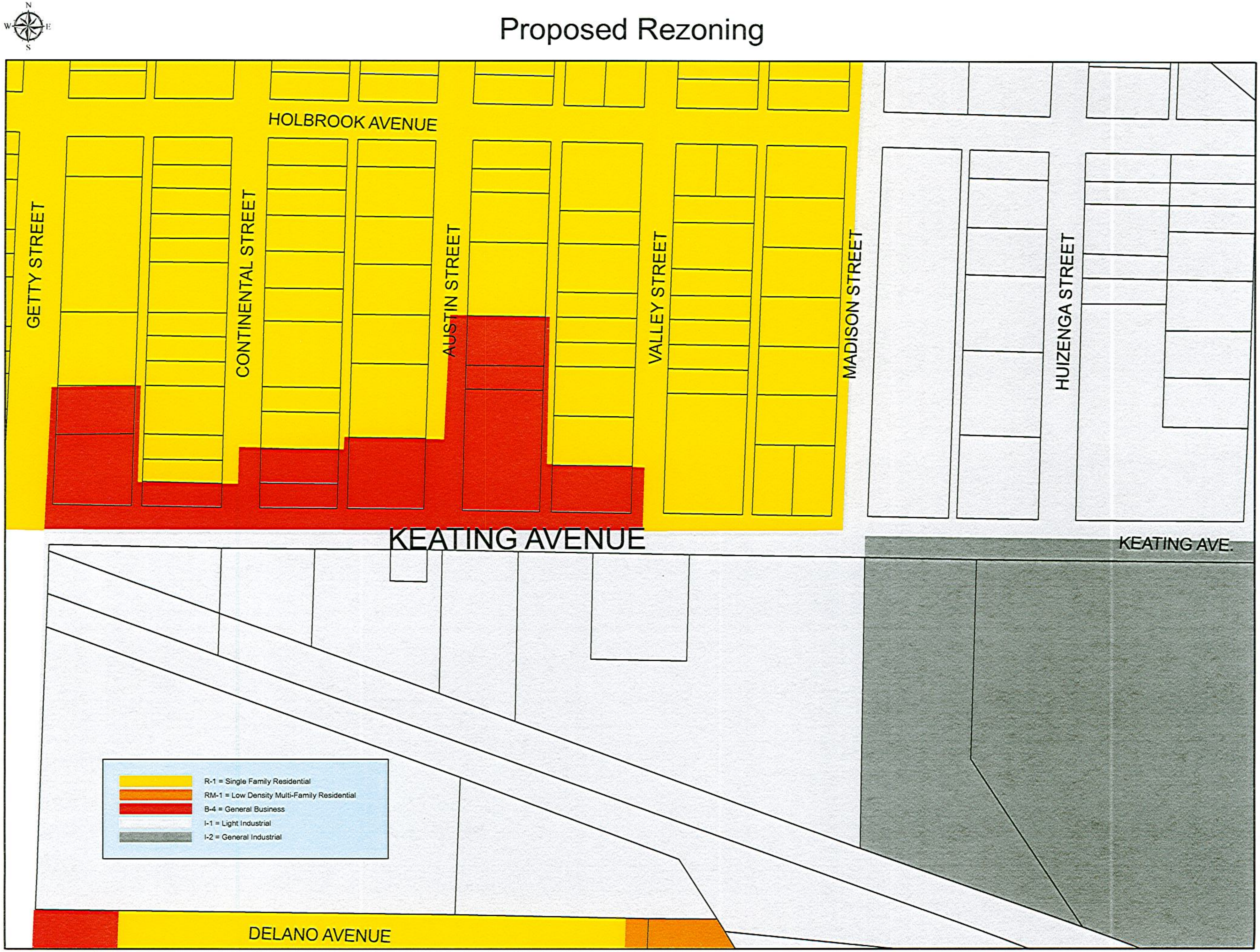
First Reading:______________________________

Second Reading:____________________________

CITY OF MUSKEGON

By: ______________________________
Ann Marie Becker, MMC, City Clerk

Proposed Rezoning



CERTIFICATE (City Commission Date: October 28, 2008 Rezoning of Area 8)

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 28th day of October, 2008, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: ________________, 2008. ______________________________

Ann Marie Becker, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

CITY OF MUSKEGON
NOTICE OF ADOPTION

Please take notice that on October 28, 2008, the City Commission of the City of Muskegon adopted an ordinance amending the zoning map to change the zoning of the following described properties as follows:

All properties located in the City of Muskegon Continental Addition, bounded by Keating Avenue, Madison Street, Holbrook Avenue, and S. Getty Street, to be rezoned from B-4, General Business District to R-1, One Family Residential District, as described below:

- Block 7, Lots 17-20
- Block 8, Lots 11, 12 & the N ½ of Lot 13, Lots 19-21
- Block 9, Lots 18-21
- Block 10, Lots 11-20

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten days from the date of this publication.

Published ____________________, 2008 CITY OF MUSKEGON

By ______________________________
Ann Marie Becker, MMC
Its Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE.
Account No. 101-80400-5354

<u>Hearing; Case 2008-24:</u> Staff initiated request to rezone multiple properties in the portion of the city known as Area 8, bounded by Keating Avenue, Madison Street, Holbrook Avenue, and S. Getty Street from B-4, General Business District to R, One Family Residential District.

BACKGROUND

This case is a continuation of the "blight fight" effort begun by the City Commission in 2002. So far we have rezoned the areas known as Area 10, Area 10b, Area 11, Area 11b, and Area 12. We have also eliminated the H, Heritage District, but not as a part of the blight fight program.

The current area for the blight fight effort is labeled "Area 8" and encompasses the area bounded by Park Street to the West, Laketon Avenue to the North, the boundary with Muskegon Township to the East, Sherman Boulevard to the South to the boundary with Muskegon Heights.

The area concerning this case is a smaller portion of Area 8 bounded by Keating Avenue, Madison Street, Holbrook Avenue and Getty Street. There are 14 parcels within this area slated for rezoning at this time. Letters were sent to all property owners and tenants within 300 feet of the boundaries of these properties informing them that this rezoning is being proposed and discussed by the Planning and City Commissions. Approximately 150 letters were sent out in this rezoning effort.

The area in question is primarily a residential neighborhood, with the exception of along Keating Avenue, and at the Corner of Getty and Keating. There are a few commercial properties, such as the Printing Source, that we prefer to leave as commercial. Our intent with this request is to bring the homes that currently are legal nonconforming uses into compliance by rezoning them to R-1. Included in your packet are two maps, one of the current zoning for that area, and another with the proposed rezoning.

The Future Land Use Map shows this area as residential, with the exception of the corner of Keating and Getty, which is shown as commercial.

Since our meeting in September, staff has met with one of the property owners from Custom Service Printers, Steve Kamp. They are located at 916 E. Keating. They own two additional lots behind their building located at 1959 and 1962 Austin Street and also the lot to the east of their building at 1981 Valley Street. They have requested that these lots remain commercial in case they need to expand in the future.

DELIBERATION

Criteria-based questions typically asked during a rezoning include:

1. **What**, if any, identifiable **conditions** related to the petition **have changed which justify** the petitioned **change in zoning**.

2. **What** are the **precedents and the possible effects** of precedent that might result from the approval **or denial** of the petition?

3. What is the **impact** of the amendment on the ability of the city to provide **adequate public services** and **facilities and/or programs** that might reasonably be required in the future if the petition is approved?

4. Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?

5. Does the petitioned zoning change generally **comply with the adopted Future Land Use Plan of the City**?

6. Are there any **significant negative environmental impacts** which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:

   a. **Surface water** drainage problems
   b. **Waste water** disposal problems
   c. Adverse effect on surface or subsurface **water quality**
   d. The **loss of valuable natural resources** such as **forest, wetland, historic sites, or wildlife areas.**

7. Is the proposed zoning change a "**Spot Zone**"?

   a. Is the parcel **small in size relative to its surroundings?**
   b. Would the zoning change allow uses that are **inconsistent with those allowed in the vicinity?**
   c. Would the zoning change confer a **benefit to the property owner** that is **not generally available to other properties** in the area?
   d. A spot zone is **appropriate if it complies with the Master Plan.**

DETERMINATION

The following motion is offered for consideration:

I move that the request to rezone the properties as shown on the proposed map, from B-4, General Business district to R, One Family Residential district, be recommended to the City Commission for (approval/denial) pursuant to the City of Muskegon Zoning Ordinance and the determination of **(compliance/lack of compliance)** with the intent of the City Master Land Use Plan and zoning district intent.

Commission Meeting Date: October 28, 2008

Date: **October 21, 2008**

To: **Honorable Mayor and City Commissioners**

From: **City Treasurer**

RE: **Resolution to Adopt Identity Theft Program Policy**

SUMMARY OF REQUEST:

To approve the attached resolution adopting an Identity Theft Policy Program in accordance with Federal Regulations.

FINANCIAL IMPACT:

N/A

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

To approve the attached resolution and policy.

COMMITTEE RECOMMENDATION:

N/A

City of Muskegon
Treasurer's Office

Memorandum

To: Mayor and City Commissioners

From: City Treasurer

Date: October 21, 2008

Re: New Federal Requirement to Help Fight Identity Theft

Identity thieves use people's personally identifying information to open new accounts and misuse existing accounts, creating havoc for consumers and businesses. Financial institutions and creditors soon will be required to implement a program to detect, prevent, and mitigate instances of identity theft.

FACTA, otherwise known as the "Fair and Accurate Credit Transactions Act" is a federal law which becomes effective November 1, 2008 that contains new regulations that require financial institutions and creditors to develop and implement written identity theft prevention programs. According to the Federal Trade Commission, in cases where government entities defer payment for goods or services, they are to be considered creditors. To comply with the regulations – known as the Red Flag Rules – one must provide for the identification, detection, and response to patterns, practices, or specific activities (known as "red flags") that could indicate identity theft. The FTC has taken the position that FACTA applies to municipal utilities, including water, sewer and electric.

The Red Flag Rules provide all financial institutions and creditors the opportunity to design and implement a program that is appropriate to their size and complexity, as well as the nature of their operations. We have attached a resolution and a policy to be adopted by the City Commission.

Please feel free to contact me with any questions you may have regarding this matter.

CITY OF MUSKEGON

Resolution No. _________

Resolution to Adopt Identity Theft Prevention Program

WHEREAS pursuant to federal law the Federal Trade Commission adopted Identity Theft Rules requiring the creation of certain policies relating to the use of consumer reports, address discrepancy and the detection, prevention and mitigation of identity theft;

WHEREAS the Federal Trade Commission regulations, adopted as 16 CFR § 681.2 require creditors, as defined by 15 U.S.C. § 1681a(r)(5) to adopt red flag policies to prevent and mitigate identity theft with respect to covered accounts;

WHEREAS 15 U.S.C. § 1681a(r)(5) cites 15 U.S.C. § 1691a, which defines a creditor as a person that extends. renews or continues credit, and defines `credit' in part as the right to purchase property or services and defer payment therefore;

WHEREAS the Federal Trade Commission regulations include utility companies in the definition of creditor;

WHEREAS the City of Muskegon is a creditor with respect to 16 CFR § 681.2 by virtue of providing utility services or by otherwise accepting payment for municipal services in arrears;

WHEREAS the Federal Trade Commission regulations define `covered account' in part as an account that a creditor provides for personal, family or household purposes that is designed to allow multiple payments or transactions and specifies that a utility account is a covered account;

WHEREAS the Federal Trade Commission regulations require each creditor to adopt an Identity Theft Prevention Program which will use red flags to detect, prevent and mitigate identity theft related to information used in covered accounts;

WHEREAS the City provides water and sewer utility services for which payment is made after the product is consumed or the service has otherwise been provided which by virtue of being utility accounts are covered accounts;

WHEREAS the duly elected governing authority of the City of Muskegon is the Mayor and Commission thereof;

Now therefore be it resolved that the City of Muskegon adopts the attached Identity Theft Prevention Program Policy, effective October 29, 2008.

This resolution passed.

Ayes____

Nays____

CITY OF MUSKEGON

By____________________________
Ann Marie Becker, MMC, City Clerk

CERTIFICATE

This resolution was adopted at a meeting of the City Commission, held on October 28, 2008. The meeting was properly held and noticed pursuant to the Open meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By____________________________

Ann Marie Becker, MMC, City Clerk

City of Muskegon
OFFICIAL POLICY & PROCEDURE

TITLE:	EFFECTIVE DATE:
IDENTITY THEFT PREVENTION PROGRAM	**October 29, 2008**

Purpose

To establish an Identity Theft Prevention Program designed to detect, prevent and mitigate identity theft in connection with the opening of a covered account or an existing covered account and to provide for continued administration of the Program in compliance with the Federal Trade Commission's Red Flags Rule (Part 681 of Title 16 of the Code of Federal Regulations) implementing Sections 114 and 315 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003.

Under the Red Flag Rule, every financial institution and creditor is required to establish an "Identity Theft Prevention Program" tailored to its size, complexity and the nature of its operation. Each program must contain reasonable policies and procedures to:

1. Identify relevant Red Flags for new and existing covered accounts and incorporate those Red Flags into the Program;
2. Detect Red Flags that have been incorporated into the Program;
3. Respond appropriately to any Red Flags that are detected to prevent and mitigate Identity Theft; and
4. Ensure the Program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from Identity Theft.

Definitions

Identifying information means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including: name, address, telephone number, social security number, date of birth, government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer's Internet Protocol address, or routing code.

Identify theft means fraud committed or attempted using the identifying information of another person without authority.

A *covered account* means:

1. An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes that involves or is designed to permit multiple payments or transactions. Covered accounts include credit card accounts, mortgage loans, automobile loans, margin accounts, cell phone accounts, utility accounts, checking accounts and savings accounts; and

2. Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation or litigation risks.

A *red flag* means a pattern, practice or specific activity that indicates the possible existence of identity theft.

Policy

A. **IDENTIFICATION OF RED FLAGS**. The City identifies the following red flags, in each of the listed categories:

1. Suspicious Documents
   - i. Identification document or card that appears to be forged, altered or inauthentic;
   - ii. Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
   - iii. Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); and
   - iv. Application for service that appears to have been altered or forged.

2. Suspicious Personal Identifying Information
   - i. Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);
   - ii. Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a credit report);
   - iii. Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
   - iv. Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
   - v. Social security number presented that is the same as one given by another customer;
   - vi. An address or phone number presented that is the same as that of another person;
   - vii. A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and
   - viii. A person's identifying information is not consistent with the information that is on file for the customer.

3. Suspicious Account Activity or Unusual Use of Account
   i. Change of address for an account followed by a request to change the account holder's name;
   ii. Payments stop on an otherwise consistently up-to-date account;
   iii. Account used in a way that is not consistent with prior use (example: very high activity);
   iv. Mail sent to the account holder is repeatedly returned as undeliverable;
   v. Notice to the City that a customer is not receiving mail sent by the City;
   vi. Notice to the City that an account has unauthorized activity;
   vii. Breach in the City's computer system security; and
   viii. Unauthorized access to or use of customer account information.

4. Alerts from Others
   i. Notice to the City from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in Identity Theft.

B. **DETECTING RED FLAGS**.

1. **New Accounts**. In order to detect any of the Red Flags identified above associated with the opening of a new account, City personnel will take the following steps to obtain and verify the identity of the person opening the account:
   i. Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
   ii. Verify the customer's identity (for instance, review a driver's license or other identification card);
   iii. Review documentation showing the existence of a business entity; and/or
   iv. Independently contact the customer.

2. **Existing Accounts**. In order to detect any of the Red Flags identified above for an existing account, City personnel will take the following steps to monitor transactions with an account:
   i. Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
   ii. Verify the validity of requests to change billing addresses; and
   iii. Verify changes in banking information given for billing and payment purposes.

C. **PREVENTING AND MITIGATING IDENTITY THEFT**. In the event City personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

1. **Prevent and Mitigate**
   i. Continue to monitor an account for evidence of Identity Theft;
   ii. Contact the customer;
   iii. Change any passwords or other security devices that permit access to accounts;
   iv. Not open a new account;
   v. Close an existing account;
   vi. Reopen an account with a new number;
   vii. Notify the City Manager for determination of the appropriate step(s) to take;
   viii. Notify law enforcement; and/or
   ix. Determine that no response is warranted under the particular circumstances.

2. **Protect customer identifying information**
   i. In order to further prevent the likelihood of identity theft occurring with respect to City accounts, the City will take the following steps with respect to its internal operating procedures to protect customer identifying information:
   ii. Ensure that its website is secure or provide clear notice that the website is not secure;
   iii. Ensure complete and secure destruction of paper documents and computer files containing customer information;
   iv. Ensure that office computers are password protected and that computer screens lock after a set period of time;
   v. Keep offices clear of papers containing customer information;
   vi. Safeguard all credit card information, checks, ACH information, bankruptcy statements, or other personal financial information at all times;
   vii. Ensure computer virus protection is up to date; and
   viii. Require and keep only the kinds of customer information that are necessary for utility purposes.

D. **PROGRAM UPDATES**. This Program will be periodically reviewed and updated to reflect changes in risks to customers and the soundness of the City from Identity Theft. The City Manager will consider the City's experiences with Identity Theft situations, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, changes in types of accounts the City maintains and changes in the City's business arrangements with other entities. After considering these factors, the City Manager will determine whether changes to the Program, including the listing of Red Flags, are warranted. If warranted, the City Manager will present the City Commission with his/her recommended changes and the City Commission will make a determination of whether to accept, modify or reject those changes to the Program.

E. **PROGRAM ADMINISTRATION**.

1. **Oversight**. Responsibility for developing, implementing and updating this Program lies with the Reengineering Committee for the City. The Committee is headed by the Finance Director, with the City Treasurer, Income Tax Administrator / Deputy Treasurer, Information Systems Director and Assistant Finance Director comprising the remainder of the committee membership. The Reengineering Committee will be responsible for the Program administration, for ensuring appropriate training of City staff on the Program, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating Identity Theft, determining which steps of prevention and mitigation should be taken in particular circumstances and considering periodic changes to the Program.

2. **Staff Training and Reports**. City staff responsible for implementing the Program shall be trained either by or under the direction of the Reengineering Committee in the detection of Red Flags, and the responsive steps to be taken when a Red Flag is detected. City staff is required to provide reports to the Program Administrator on incidents of Identity Theft, the City's compliance with the Program and the effectiveness of the Program.

3. **Specific Program Elements and Confidentiality**. For the effectiveness of Identity Theft prevention Programs, the Red Flag Rule envisions a degree of confidentiality regarding the City's specific practices relating to Identity Theft detection, prevention and mitigation. Therefore, under this Program, knowledge of such specific practices are to be limited to the Reengineering Committee and those employees who need to know them for purposes of preventing Identity Theft. Because this Program is to be adopted by a public body and thus publicly available, it would be counterproductive to list these specific practices here. Therefore, only the Program's general red flag detection, implementation and prevention practices are listed in this document.

Authority & Revisions

This policy is enacted immediately upon approval of the City Commission, as reflected in the regular meeting minutes dated October 28, 2008. Revisions to this policy shall only be enacted when approved by the City Commission and reflected in the applicable meeting minutes. This policy shall be reviewed at least biennially by the City Manager and updated as appropriate.

Revision History

Date	Revision #	Nature of Revision
10/28/08		Original document.

Date: **10/20/08**

To: **Honorable Mayor and City Commission**

From: **Department of Public Works**

RE: **Meter Reading Radio Equipment Purchase 2009**

SUMMARY OF REQUEST: Approval to purchase 11,000 Meter (MXU) Radio Transceiver Units and one (VXU) Vehicle based reading unit during the year 2009. This proposal will complete the process of installing radio read technology to all residential customers. It is the intent of the Department of Public Works to purchase the radio units in January of 2009 and to have the project completed in 2010.

FINANCIAL IMPACT: Total Cost $ 1,240,000

BUDGET ACTION REQUIRED: None: The 2009 Water Fund Budget Includes $1,400,000 in funding for this purchase.

STAFF RECOMMENDATION: To approve purchase from ETNA SUPPLY.

MEMORANDUM

10/20/08

To: Bob Kuhn, Director of Public Works,
Mohammed Al-Shatel, Deputy Director

From: Kelly DeFrench, Public Utility Superintendent

RE: Budgeted Purchase of Radio Read Transceiver Units

Currently we read 12,200 residential water meters on a quarterly basis using an Electronic Touch Read system. The Touch Read System allows meters to be read automatically by means of touching the tip of an Auto Read Gun to a touch pad that is affixed to the outside of the home. We have been using Touch Read Technology for residential meter reading since 1993.

It has been a goal to begin the process of installing residential Radio Read Meters and to begin monthly residentail utility billing in 2010. To achieve this goal we began installing Sensus Radio Units in residential meter pits in the spring of 2008. It was decided that the meter pits would be done first as a pilot program and to allow us to have the pit installations completed before winter.

The meter pit installations have gone well and we have recently begun to install some Senses Radio Touch Coupler units on the remaining 11,000 residential meters.

The touch coupler radio unit attaches to the existing touch pad which greatly minimizes installation time. The unique feature of the Sensus Touch Coupler Radio design allows us to upgrade to a Radio read system without replacing the meter or the need to gain access to the meter inside the home. Also, the Radio installations can be completed in- house at a cost savings to the City of $ 330,000

Advantages of using the Sensus Touch Coupler Radio Unit.

- No need to get inside the home to install the radio.
- 100% of our residential water meters are Sensus Meters
- No need to replace the meter
- Efficient cost effective Installation
- Water Billing Office is currently using Sensus Software
- Installation can be completed in - house using Water Department Staff
- Programming of the Radio Unit is easy
- Touch pad backup
- 20 year battery warranty

ETNA Supply and Sensus Metering Systems has given the City of Muskegon special pricing of $110 per unit.

The 2009 Water Maintenance Budget includes $1,400,000 for the purchase of 11,000 Radio Units. The budgeted amount also includes a vehicle based reading unit. Availability of the Radio Units is 6 to 8 weeks, we would like to place the order with ETNA Supply now and begin installations in January.

Date: October 28, 2008

To: Honorable Mayor and City Commissioners

From: Engineering

RE: Consideration of Bids for:
B-237 Richards Park WWTP Building Demolition

SUMMARY OF REQUEST:

Award Phases I thru IV of the Richards Park WWTP Building Demolition contract to Pitsch Wrecking Co. out of Grand Rapids, MI since they were the lowest responsible bidder with a total bid price of $82,600.00 (see attached bid tabulation) and authorize staff to negotiate for a possible reduction in the aforementioned bid.

FINANCIAL IMPACT:

The construction cost of $82,600.00

BUDGET ACTION REQUIRED:

Cost from the 2008 & 2009 Budget items

STAFF RECOMMENDATION:

Award the contract to Pitsch Wrecking Co.

COMMITTEE RECOMMENDATION:

B-237 RICHARDS PARK WWTP BUILDING DEMOLITION

BID TABULATION 10/14/08

	CONTRACTOR	PITSCH WRECKING CO	SMALLEY CONST., INC.	MELCHING INC.	MACKENZIE ENV. SERVICES, INC.	DORE & ASSOC. CONTRACTING	HOMRICH WRECKING, INC.
	ADDRESS	675 RICHMOND NW	1742 W. US 10	16942 WOODLANE	4248 W SAGINAW	900 HARRY S TRUMAN PKY	200 MATLIN RD
	CITY/ST/ZIP	GRAND RAPIDS, MI 49504	SCOTTVILLE, MI 49454	NUNICA, MI 49448	GRAND LEDGE, MI 48837	BAY CITY, MI 48706-0146	CARLETON, MI 48117
ITEM DESCRIPTION	UNIT						
PHASE 1	LUMP SUM	$ 15,110.00	$ 27,400.00	$ 38,000.00	$ 25,100.00	$ 34,100.00	$ 38,000.00
PHASE 2	LUMP SUM	$ 16,190.00	$ 57,500.00	$ 42,000.00	$ 37,400.00	$ 48,200.00	$ 63,000.00
PHASE 3	LUMP SUM	$ 27,300.00	$ 49,400.00	$ 42,000.00	$ 52,000.00	$ 32,500.00	$ 58,000.00
PHASE 4	LUMP SUM	$ 24,000.00	$ 48,000.00	$ 36,000.00	$ 54,680.00	$ 38,400.00	$ 48,000.00
	TOTALS	$ 82,600.00	$ 182,300.00	$ 158,000.00	$ 169,180.00	$ 153,200.00	$ 207,000.00
PHASE 5	LUMP SUM	$ 115,997.00	$ 89,000.00	$ 148,500.00	$ 147,420.00	$ 185,200.00	$ 227,500.00
	TOTALS	$ 115,997.00	$ 89,000.00	$ 148,500.00	$ 147,420.00	$ 185,200.00	$ 227,500.00

Date:	**October 28, 2008**
To:	**Honorable Mayor and City Commissioners**
From:	**Engineering**
RE:	**Admiral Petroleum – 11 E. Muskegon Ave. Request for an Encroachment Agreement**

SUMMARY OF REQUEST:

Hopp Environmental, on behalf of Admiral Petroleum, is requesting your permission to install one- (1) vertical monitoring wells in the northerly right-of-way of Muskegon Ave. east of Pine St. as reflected in the attached application.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the encroachment agreement subject to the supplemental conditions and compliance with the necessary insurance requirements.

COMMITTEE RECOMMENDATION:

None

SUPPLEMENTAL CONDITIONS

1- The grantee shall be fully responsible for the maintenance of the wells and any relocation that becomes necessary to facilitate other improvements within the right of way (s).

2- 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.

3- Insurance: LICENSEE shall at all times, carry liability insurance in such amounts as are satisfactory to the City (attached). 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 days written notice before a change in coverage may occur.

4- The City and/or its agent are not responsible for any damage to the facilities.

Hopp Environmental
127 Mark Teague Road
Pittsboro, NC 27312
(919) 542-0914

October 2, 2008

Mohammed S. Al-Shatel
City of Muskegon
933 Terrace Street
Muskegon, MI 49443-0536

Mohammed

Enclosed is an application to install one (1) monitor well within the City of Muskegon Right of Way along E. Muskegon Ave. The well is a part of an investigation to aid in defining a gasoline plume within groundwater as a result of a release from the Admiral station located at 11 E. Muskegon, Muskegon, MI. A map is enclosed indicating the approximate well location. The well will be installed using hand equipment at a depth of approximately 27' below the surface. The well will be constructed using 2" diameter PVC and flush mounted with the surface using an 8" diameter cover.

If you have any questions feel free to contact me at (919) 542-0194.

Dave Hopp

City of Muskegon
Groundwater Monitoring Well Installation Application and Permit
(Encroachment Permit Agreement)

Permit Number:	Date issued:	Permit Fee:	Other:

If applicant hires a contractor to perform work, BOTH shall assume responsibility of the Permittee for the provisions of this Application and Permit

APPLICATION

APPLICANT – Please Print			CONTRACTOR – Please Print		
Name: Admiral Petroleum			Name: Hopp Environmental		
Street: 13 Randall St.			Street: 127 Mark Teague Rd		
City: Coopersville	State: MI	Zip: 49404	City: Pittsboro	State: NC	Zip: 27312
Phone: 616 837-6218	Fax:		Phone: 9195420914	Fax:	

Permittee proposes to install, repair, or maintain groundwater monitoring well(s) ("the encroachment"), in or abutting a street, alley, sidewalk, park, terrace, or other property controlled or owned by the City of Muskegon, as described below (**Permittee shall attach a site map to scale which shows each monitoring well location**):

Street Name & Address/General Description (legal description may be required):	Location (Cross streets between which property is located or nearest intersection):
North of 11 E. Muskegon	N side of E Muskegon East of Pine St.

Project Description/Purpose: monitor well installation to aid in defining contaminant plume from 11 E. Muskegon gasoline release

Proposed Start Date: Open

Monitoring/Observation Well Information

Drilling Company (if different than Contractor):	Proposed Well Depth (ft.):	Well name or #:
	27'	

Purpose of Monitoring Well Installation: ☒ Part 211/213 Site ☐ Part 201 Site ☐ Part 111 Site ☐ Phase II ESA/ AAI ☐ BEA ☐ Other (specify)

Applicant/Authorized Agent Signature – If Authorized Agent, I certify that I am acting as Authorized Agent on behalf of named Applicant.

Name:

PERMIT

PERMIT AGREEMENT: This permit is made and entered into by and between the City of Muskegon, a municipal corporation (City), and the Permittee (indicated above). Therefore, the City does hereby grant unto Permittee the privilege of constructing, installing, maintaining, repairing, and performing all necessary functions relating to the monitoring well installation (encroachment), and for that purpose to enter the property, for the term herein stated. This permit shall be effective on the date shown above, and shall not occur before the delivery to the City of the required evidence of insurance coverage and bonding information, and only after approval of this permit by the City Commission, at which time the permit shall become effective. **The attached Permit Requirements & Conditions are incorporated herein by reference and constitute an integral part of this permit.**

This permit is subject to the following special conditions:

Required Bond Amount: $__________

Witnesses:

____

____

____

____

CITY OF MUSKEGON:

By____________________

____________________, Mayor

And____________________

____________________, Clerk

APPLICANT:____________________

CONTRACTOR:____________________

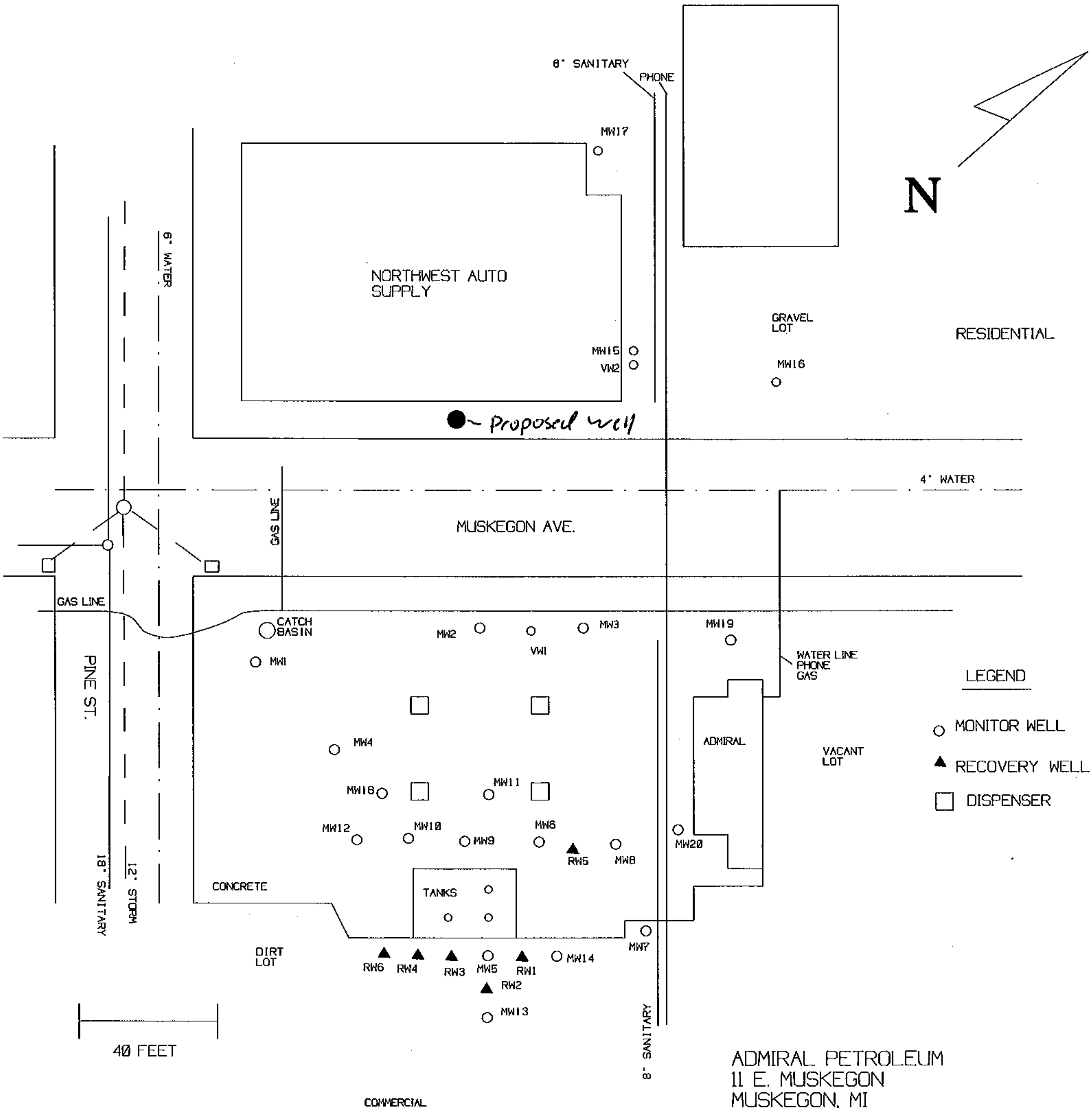
City of Muskegon
Groundwater Monitoring Well Permit Application – Requirements & Conditions

1. **Fees and Costs**. A one-hundred dollar ($100.00) non-refundable fee is required for processing of this request. At the time the permit is issued, the permittee shall pay an administrative handling fee of $10.00 per well per year, which fees shall be deposited in advance for the entire term of this permit.
2. **Monitoring Well Installation Requirements**:
   a. Top of well casing shall be flush-mounted (unless written permission is otherwise granted by the City) and equipped with a sturdy lockable, water-tight cover. Each monitoring well must be permanently labeled in the field so that it is readily identifiable, and coincides with the designations provided on the scaled map referenced in Section 2(d) below. Monitoring well(s) shall be constructed in accordance with generally accepted industry standards.
   b. The Permittee shall provide the City with at least 72 hours written advance notice prior to starting work at the site.
   c. Permittee must maintain and repair, as necessary, the monitoring well(s) and any associated equipment. Upon completion of the use of the monitoring well(s), all wells shall be properly abandoned in accordance with current Michigan Department of Environmental Quality (MDEQ) standards. At least 72 hours advance written notice shall be given to the City prior to monitoring well abandonment activities. Permittee shall provide the City with a copy of a monitoring well abandonment report in acceptable form.
   d. Following installation of any monitoring wells in accordance with this permit, Permittee shall provide the City with a scaled map or figure specifically identifying the locations of the monitoring wells. References to the location of wells shall be measured from permanent monuments, structures, streets and/or intersections.
   e. Any costs, expenses, or liability for environmental response or remediation shall be considered as restoration and shall be the sole responsibility of the Permittee.
   f. Permittee warrants and represents that it has all required permits, licenses or approvals from the Michigan Department of Environmental Quality, or other governmental department or agency with jurisdiction over Permittee's activities.
   g. The City reserves the right to require the Permittee to remove all or any well(s) if in the sole opinion of the City it is necessary to facilitate other improvements within the right-of-way, with no reimbursement of costs to Permittee or its contractor.
   h. The City and/or its agents are not responsible for any injury or damage caused by Permittee, its contractor, their representatives, employees, or agents.
   i. The Permittee shall provide a copy of the data collected from the monitoring well(s) to the City, upon request.
3. **Specifications**. All work performed under this permit must be done in accordance with plans, specifications, maps, and statements filed with and approved by the City, and must comply with the City's current ordinances and specifications on file with the City of Muskegon.
4. **Miss Dig**. In all cases, there must be compliance with Public Act No. 53 of 1974 (MCL 460.701 et seq.) regarding the protection of underground utilities. Call Miss Dig at (800) 482-7171. The Permittee assumes all responsibility for damage to or interruption of underground utilities.
5. **Bond**. Before this permit becomes valid, the Permittee must file with the City Clerk a bond, in a form and amount acceptable to the City at the time the permit is issued. The bond must be posted before any work begins, and must remain in force during the entire term of the permit and be in such amount sufficient to guarantee to the City the cost of proper monitoring well abandonment.
6. **Insurance**. The Contractor shall at all times carry insurance in the following or greater amounts. The insurance shall be issued by companies acceptable to the City, licensed in the State of Michigan. The City shall be named as additional insured on policies of liability insurance. The Permittee shall file certificates or policies evidencing such insurance coverage annually with the City. Insurance policies or certificates shall provide that the City be given thirty (30) days written notice before a cancellation or change in coverage may occur. Valid insurance coverage, acceptable to the City, shall be maintained until such time as the monitoring well is properly abandoned.

Type	Limits
Workers' Compensation	Statutory
Professional Errors and Omissions Liability (including pollution liability coverage)	$1,000,000/claim, $1,000,000/aggregate
Commercial General Liability (including blanket contractual liability coverage)	$1,000,000/occurrence, $1,000,000/aggregate
Automotive Liability	$500,000/person
Bodily Injury	$500,000/occurrence

7. **Indemnification**. The Permittee shall indemnify and hold harmless the City 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 the Permittee or the activities of the Permittee related to the installation, maintenance, repair, or abandonment of monitoring wells. 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 chemical, substance or material constituting a prohibited or regulated substance under governmental law, rule, statute, or regulations in force at any time, or any substance with respect to which any present or future federal, state, or local environmental law or governmental agency requires environmental investigation, monitoring or remediation.

8. **Term of Permit**. The privilege granted by this permit shall continue for a period of five (5) years from the date of signature. Renewal payment of appropriate fees shall continue in five (5) year intervals, due on the first day of May, unless terminated in accordance with Paragraph 11 below.
9. **Limitation of Permit**. This permit does not relieve the Permittee from meeting applicable laws and regulations of other governmental agencies or departments. The Permittee is responsible for obtaining additional permits or authorizations, as necessary, which may be required in connection with this work from other governmental agencies, public utilities, private entities and individuals, including property owners.
10. **Assignment**. This permit shall be binding upon the respective heirs, representatives, successors, and assigns of the Permittee.
11. **Permit Revocation or Surrender**. The City may cancel and revoke this permit at any time upon giving the Permittee fourteen (14) days of written notice, with no refund of the fees required in Paragraph 1. The Permittee may surrender the permit hereby granted at any time upon giving the City fourteen (14) days of written notice, with no refund of the fees required in Paragraph 1. Upon the voluntary relinquishment or abandonment of this privilege, or upon cancellation or revocation thereof by the City, the Permittee shall properly abandon the monitoring well(s) as described in Paragraph 2 and restore the property at the Permittee's expense and in a manner satisfactory to the City; and in default thereof shall be liable to the City for any cost, damage, or expense the City may sustain in such restoration.
12. **Violation of Permit**. In the event the Permittee fails or refuses to conform to any of the terms and conditions of this permit, the privilege hereby granted shall immediately terminate and become null and void.



ADMIRAL PETROLEUM
11 E. MUSKEGON
MUSKEGON, MI

PROPOSED MONITOR WELL IN
CITY RIGHT OF WAY

Commission Meeting Date: October 28, 2008

Date: October 22, 2008

To: Honorable Mayor & City Commission

From: Planning & Economic Development Department

RE: Support for Michigan Lighthouse Conservancy

SUMMARY OF REQUEST: The Michigan Lighthouse Conservancy (MLC) has applied for ownership of the Muskegon lighthouses. From the information received by staff, they appear to have the ability to take on this responsibility (see attached e-mail correspondence). They have requested the support of the City by approval of the attached letter. If they seek grants, they will request the partnership of the City, as well as others. Some of these grants may require the City to submit that actual application, although the MLC will prepare the grant application (similar to the process we have used before with the local museums).

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve support of the Michigan Lighthouse Conservancy's application to take ownership of the Muskegon Pierhead and Muskegon South Breakwater lighthouses and authorize the Mayor to sign the letter of support.

Affirmative Action
(231)724-6703
FAX: (231)722-1214

Assessor/Equalization
(231)724-6708
FAX: (231)726-5181

Cemetery Department
(231)724-6783
FAX: (231)726-5617

City Manager
(231)724-6724
FAX: (231)722-1214

Civil Service
(231)724-6716
FAX: (231)724-4405

Clerk
(231)724-6705
FAX: (231)724-4178

Community and Neigh. Services
(231)724-6717
FAX: (231)726-2501

Computer Info. Systems
(231)724-6744
FAX: (231)722-4301

Engineering Dept.
(231)724-6707
FAX: (231)727-6904

Finance Dept.
(231)724-6713
FAX: (231)724-6768

Fire Dept.
(231)724-6792
FAX: (231)724-6985

Income Tax
(231)724-6770
FAX: (231)724-6768

Inspection Services
(231)724-6715
FAX: (231)728-4371

Leisure Services
(231)724-6704
FAX: (231)724-1196

Mayor's Office
(231)724-6701
FAX: (231)722-1214

Planning/Zoning
(231)724-6702
FAX: (231)724-6790

Police Department
(231)724-6750
FAX: (231)722-5140

Public Works Dept.
(231)724-4100
FAX: (231)722-4188

Treasurer's Office
(231)724-6720
FAX: (231)724-6768

Water Billing Dept.
(231)724-6718
FAX: (231)724-6768

Water Filtration
(231)724-4106
FAX: (231)755-5290

MUSKEGON

West Michigan's Shoreline City

October 17, 2008

Mr. Jeff Shook
VP Branch Operations & Customer Service
NLB Corporation
29830 Beck Rd.
Wixom, MI 48393

Dear Mr. Shook,

It is our understanding that the Michigan Lighthouse Conservancy (MLC) is being considered as a potential steward for the Muskegon Pierhead and Muskegon South Breakwater lighthouses when they are transferred through the process of the National Historic Lighthouse Preservation Act. The City of Muskegon wishes to express our support for the Michigan Lighthouse Conservancy in acquiring the Muskegon South Pierhead and South Breakwater lighthouses for preservation.

The City of Muskegon wishes to see these lighthouses preserved because they have played an integral role in the development of Muskegon. Lighthouse restoration is a very difficult and challenging preservation project for anyone, and MLC has stepped up through the application process to take care of them. MLC has demonstrated their ability in the past and will work with the local community and various others on restoring the lights to keep them shining bright for the city and visitors alike. We anticipate that they will partner with other organizations in the City, such as the Great Lakes Navel Memorial & Museum and the Community Foundation for Muskegon County.

The City of Muskegon will support MLC's preservation efforts by partnering with them on various grant opportunities when they become available and will offer what advice and assistance we can for their restoration effort. We feel MLC is able to preserve these historic structures for future generations and we wish them the best of luck in their efforts to obtain these historic structures.

Please feel free to contact me at any time should you feel I may be able to provide any assistance in this matter.

Sincerely,

Stephen J. Warmington
Mayor

City of Muskegon, 933 Terrace Street, P.O. Box 536, Muskegon, MI 49443-0536
www.shorelinecity.com

Brubaker-Clarke, Cathy

From: Brubaker-Clarke, Cathy
Sent: Wednesday, October 22, 2008 9:22 AM
To: Brubaker-Clarke, Cathy
Subject: FW: Muskegon Lighthouse Application

From: Shook, Jeff D [mailto:shookjd@nlbusa.com]
Sent: Friday, October 17, 2008 2:52 PM
To: Brubaker-Clarke, Cathy
Subject: RE: Muskegon Lighthouse Application

Cathy,

No problem here on that request. Our web site is www.michiganlights.com . Just for your information, we acquired Gull Rock Lighthouse in Lake Superior near Copper Harbor, MI. several years ago. We were the deed holder and started up a local group to take care of the lighthouse with the ultimate goal that they take it over after they got up and running after a few years. We just transferred that deed to them this summer after major restoration work was accomplished with our guidance and support to the Gull Rock Lightkeepers, the local group.

As a little more background, we have preserved numerous artifacts, interpreted them for display, made signage for other lighthouses and offered technical assistance to other lighthouse organizations on maintenance issues. We have been involved with sourcing contractors and restoration methods. Next year, we are going to launch a preservation section on our web site to attest to the technical information we have offered in a restoration project section.

We are currently without a lighthouse at the present time, but we want to acquire the Muskegon lights permanently and care for them and look at various programs we might be able to develop in the local community, even possibly opening up the lighthouse for tower climbs on weekends for instance. So a lot of the projects we have offered advice on are not listed on our web site. I can place you in contact with a person at the State of Michigan Historic Preservation Office who can verify our experience as well and other lighthouse groups and National Park Service personnel. I don't know how much you want me to load you down with information? This might solve it though, for example, we are getting a letter of support from the Great Lakes Lighthouse Keepers Association, which I am including the rough draft first run version of their letter of support in the text below for reference on our qualifications. This is a letter they developed without influence from us. GLLKA is the largest lighthouse preservation organization in the Great Lakes region as well as the country and to have their support is a key endorsement. Please feel free to contact their executive director who is listed below.

If you would like a small tri-fold brochure that we have, please send me your mailing address and I will get it to you. If you need a formal letter request as well asking for support, please let me know. I also have left messages with Bob and Arn as they were both not in today.

Let me know what other information you need please.

Thanks,
Jeff

From: Shook, Jeff D [mailto:shookjd@nlbusa.com]
Sent: Friday, October 17, 2008 1:38 PM
To: Brubaker-Clarke, Cathy
Subject: Muskegon Lighthouse Application

Cathy,

This is Jeff Shook, president of the Michigan Lighthouse Conservancy contacting you. We talked on the phone a while ago about the lighthouses and their future and restoration through the government application process. As we are working on finalizing our application we are getting our letters of support together as we previously discussed. Please review the text below and get back with me on any changes you see necessary. When we get an acceptable document, we will need it on your letterhead and then mailed to us for filing with the application. Please let me know if you have any questions or concerns? My cell phone number if I am out of the office is 810-444-9589 and my office number is 248-624-5555. I would need to get this finalized in the next week or two, so let me know if this is possible.

Thank you,
Jeff Shook
VP Branch Operations &
Customer Service
NLB Corporation
29830 Beck Road
Wixom, MI. 48393
PH: (248) 624-5555
FX: (248) 624-0908
www.nlbcorp.com
shookjd@nlbusa.com

Date: October 28, 2008

To: Honorable Mayor and City Commissioners

From: Ann Marie Becker, City Clerk

RE: Liquor License Request
Clay Avenue Cellars, Inc.
611 W. Clay Avenue

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Clay Avenue Cellars, Inc. to Add Space to the licensed 2008 Small Wine Maker and Direct Shipper Licenses located at 611 W. Clay.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.

Muskegon Police Department

Anthony L. Kleibecker
Director of Public Safety

980 Jefferson
Muskegon, Michigan
49443-0536

www.muskegonpolice.com

Phone: 231-724-6750
FAX: 231-722-5140

October 9, 2008

To: City Commission through the City Manager

From: Anthony L. Kleibecker, Director of Public Safety

Re: Liquor License Investigation – 611 W. Clay Ave.
To Add Space

The Muskegon Police Department has received a request from the Michigan Liquor Control Commission for an investigation from applicant Clay Avenue Cellars, Inc. of 611 W. Clay Ave., Muskegon, MI. 49440.

Clay Avenue Cellars, Inc. is requesting to Add Space to the licensed 2008 Small Wine Maker and Direct Shipper Licenses located at 611 W. Clay Street. This is an existing licensed business and a check of MPD records and Criminal History showed no reason to deny this request.

ALK/kd

Mailed 9-15-08 DCL

Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

RECEIVED
SEP 17 2008
MUSKEGON POLICE DEPT.
CHIEF of POLICE

POLICE INVESTIGATION REQUEST

[Authorized by MCL 436.1201(4)]

September 2, 2008

To: Muskegon Police Department
980 Jefferson Street
P.O. Box 536
Muskegon, MI 49443-0536

Request ID #:483493

Applicant: Clay Avenue Cellars, Inc.

Contact: Garrett D Anguilm, Jr.

Phone: (231) 722-3108 (work) or (231) 755-3799

Please make an investigation of the application. If you do not believe that the applicants are qualified for licensing, give your reasons in detail. Complete the Police Inspection Report on Liquor License Request, LC-1800, or for Detroit police, the Detroit Police Investigation of License Request, LC-1802. If there is not enough room on the front of the form, you may use the back.

Forward your report, along with fingerprint cards (if requested) and $30.00 for each card to the Michigan Liquor Control Commission.

*****NO FINGERPRINTS REQUIRED WITH THIS REQUEST*****

If you have any questions, contact the Manufacturers & Wholesalers at (517) 322-1415 or (517) 322-1416.

LC-1972(Rev. 09/05) Authority: MCL 436.1201(4) Completion: Mandatory Penalty: No License	The Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

Mailed 9-15-08 DCL

Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

POLICE INVESTIGATION REPORT

[Authorized by MCL 436.1217 and R 436.1105; MAC]

FOR MLCC USE ONLY	
Request ID #	483493
Business ID #	173493

Please conduct your investigation as soon as possible, complete all four sections of this report and return the completed report and fingerprint cards to the MLCC.

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

Clay Avenue Cellars, Inc. requests to Add Space to the licensed 2008 Small Wine Maker and Direct Shipper Licenses, located at 611 W Clay Ave, Muskegon, MI 49440, Muskegon County.

Section 1. APPLICANT INFORMATION

APPLICANT #1:	APPLICANT #2:
DATE FINGERPRINTED**: NO FINGERPRINTS	DATE FINGERPRINTED**:
DATE OF BIRTH: Is the applicant a U.S. Citizen: ☐ Yes ☐ No* *Does the applicant have permanent Resident Alien status? ☐ Yes ☐ No* *Does the applicant have a Visa? Enter status:	DATE OF BIRTH: Is the applicant a U.S. Citizen: ☐ Yes ☐ No* *Does the applicant have permanent Resident Alien status? ☐ Yes ☐ No* *Does the applicant have a Visa? Enter status:
Attach the fingerprint card and $30.00 for each card and mail to the Michigan Liquor Control Commission	
ARREST RECORD: ☐ **Felony** ☐ **Misdemeanor** Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)	**ARREST RECORD:** ☐ **Felony** ☐ **Misdemeanor** Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)

Section 2. INVESTIGATION OF BUSINESS AND ADDRESS TO BE LICENSED

Does applicant intend to have dancing, entertainment, topless activity, or extended hours permit?
☒ No ☐ Yes, complete LC-1636

Are motor vehicle fuel pumps at or directly adjacent to the establishment? ☐ No ☐ Yes, explain relationship:

Section 3. LOCAL AND STATE CODES AND ORDINANCES, AND GENERAL RECOMMENDATIONS

Will the applicant's proposed location meet all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, if this license is granted? ☒ Yes ☐ No **If No**, indicate which state and local ordinances the location does not meet: ☐ Building ☐ Plumbing ☐ Zoning ☐ Fire ☐ Sanitation ☐ Health

Section 4. RECOMMENDATION

1. Is this applicant qualified to conduct this business if licensed? ☒ Yes ☐ No*
2. Should the MLCC grant this request? ☒ Yes ☐ No*

*If **any** of the above questions were answered No, you must state your reasons for MLCC consideration of this recommendation on the back of this form or on an attached signed and dated sheet.

3. Is this recommendation subject to final inspection to determine that the proposed location meets all building, plumbing, zoning, fire, sanitation and health laws and ordinances? ☒ Yes ☐ No
4. Is this recommendation subject to any other conditions? ☒ Yes ☐ No

If Yes, list the conditions below or on an attached signed and dated sheet if more space is needed

x J. L. Kleibler 10-10-08
Signature (Sheriff or Chief of Police) Date

Muskegon Police Department

LC-1800 (Rev. 08/2008) Authority: MCL 436.1217 and R 436.1105; MAC Completion: Mandatory Penalty: No License	The Department of Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

Commission Meeting Date: October 28, 2008

Date: **October 22, 2008**

To: **Honorable Mayor and City Commissioners**

From: **Planning & Economic Development**

RE: **Public Hearing - Request for an Industrial Facilities Exemption Certificate Transfer– SAF Holland**

SUMMARY OF REQUEST:

Pursuant to Public Act 198 of 1974, as amended, SAF Holland, 1950 Industrial Blvd, has requested the transfer of an Industrial Facilities Exemption Certificate from their facility in Holland to their Muskegon facility. The total capital investment of the project is $843,193 in personal property. The original certificate was issued in 2005 for a period of twelve (12) years and it will expire in 2017.

FINANCIAL IMPACT:

The City will capture certain additional property taxes generated by the expansion (see attached Summary Sheet).

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the IFT transfer.

COMMITTEE RECOMMENDATION:

None

Resolution No. _______

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING APPLICATION FOR TRANSFER
OF INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE
SAF HOLLAND 005-425

WHEREAS, pursuant to P.A. 198 of 1974 as amended, after duly noticed pubic hearing, this Commission by resolution established an Industrial Development District; and

WHEREAS, SAF Holland has filed an application for the transfer of an Industrial Facilities Tax Exemption (005-425) Certificate with respect to new machinery and equipment to be installed within said Industrial Development District ; and

WHEREAS, the facility in Holland hosting the mentioned equipment will be closing and the equipment will be relocated to the Muskegon facility;

WHEREAS, before acting on said application the Muskegon City Commission held a public hearing on October 28, 2008, at the Muskegon City Hall in Muskegon, Michigan at 5:30 p.m. at which hearing the applicant, the assessor and representatives of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, the installation of machinery and equipment is calculated to and will have the reasonable likelihood to retain, create, or prevent the loss of employment in Muskegon, Michigan; and

WHEREAS, the aggregate SEV of real property exempt from ad valorem taxes within the City of Muskegon, will not exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of personal and real property thus exempted.

NOW, THEREFORE, BE IT RESOLVED by the Muskegon City Commission of the City of Muskegon, Michigan that:

1) The Muskegon City Commission finds and determines that the Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Act of 1974 as amended and Act No. 255 of the Public Acts of 1978 as amended shall not have the effect of substantially impeding the operation of the City of Muskegon or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Muskegon.

2) The application of SAF Holland, for the transfer of an Industrial Facilities Tax Exemption Certificate with respect to installation of new machinery and equipment on the following described parcel of real property situated within the City of Muskegon to wit:

   CITY OF MUSKEGON PORT CITY INDUSTRIAL CENTER LOT 26 EXC E 33 FT LOT 29 LOT 28 EXC BEG AT SW COR LOT 27 TH S 89D 42M 50S E 206.5 FT ALG S LN SD LOT 27 TH S OOD 53M 40S W 6.5 FT ALG E LN SD LOT 28 TH S 89D 10M 36M W 206.58 FT TH N OOD 53M 40S E 10.5 FT ALG THE EXT OF W LN OF SD 27 TO POB

3) The Industrial Facilities Tax Exemption Certificate is transferred and shall be and remain in force and effect on personal property until the certificate expires in 2017.

Adopted this 28th Day of October 2008.

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 Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on October 28, 2008.

____

Ann Marie Becker, MMC
Clerk

CITY OF MUSKEGON

CONTRACT FOR TAX ABATEMENT
Act 198 Public Acts of 1974

AGREEMENT between CITY OF MUSKEGON, a municipal corporation of 933 Terrace Street, Muskegon, Michigan 49441, ("City") and SAF Holland USA ("Company") of 1950 Industrial Blvd, Muskegon, MI 49442.

Recitals:

A. The Company has applied to City for the establishment of an industrial development district or industrial rehabilitation district pursuant to the provisions of Act 198 of the public Acts of 1974, as amended, which act requires a contract between the City and the Company to be agreed and submitted with the Company's subsequent anticipated application for an industrial facilities exemption certificate.

B. That in addition to the statutory requirement, the City has determined that it is in the best interests of the taxpayers, property owners and residents of the City that this Agreement be approved and executed prior to the establishment of the requested district, and the City deems this Contract, together with the conditions set forth in the said Act to constitute a necessary element in the City's determination whether or not to create the district.

C. The Company intends to install the project set forth in its application ("project") which it believes qualifies for the process of establishing the district and the application for industrial facilities exemption certificate.

D. The City, provided this Agreement is executed, will determine whether to create the district based upon the potential for the production of permanent jobs, the continuation, **stabilization** or increase of economic activity, planning and zoning considerations and the City's general plan and intentions regarding economic development. In addition to the City policy considerations and predictions that the Company's proposed district and certificate benefit the community in those ways, the City has further determined that the contractual commitments made by the company to thereby assist the community shall be binding on the Company and necessary to continue the tax exemption made possible by the certificate.

E. This contract shall become effective upon the issuance of an Industrial Facilities Tax Exemption Certificate.

NOW THEREFORE THE PARTIES AGREE:

1. **COMPANY AGREEMENT** . The Company irrevocably commits to the investment, job retention and job creation promises made in its application, a copy of which is attached hereto and incorporated herein. In particular the company agrees:

1.1 That 100% of the jobs shall be filed and in existence with full-time employees by a date no later than (2) years from the date of the granting of the certificate by the State Tax Commission, **subject to the provisions of section 3.4 of this agreement.**

1.2 That the amount of jobs listed on the application, whether new or retained, will be maintained through the life of the abatement, **subject to the provisions of section 3.4 of this agreement.**

1.3 The Company shall meet the affirmative action goal included in the application or in any documents supplied by the City and utilized by the Company, including any additional representations made to the City Commission on or before the date two (2) years after the granting of the certificate by the State Tax Commission. It shall maintain the said levels of employment diversity during the period of the certificate, **subject to the provisions of section 3.4 of this agreement.**

1.4 The Company by the end of two (2) years from the date of the grant of the certificate by the State Tax Commission shall have completed the investment of $843,193 in the equipment and improvements as shown in the application, **subject to the provisions of section 3.4 of this agreement.**

1.5 That the improvements and equipment to receive the tax abatement treatment shall be completed on or before the date two (2) years from the date of granting of the certificate by the State Tax Commission.

1.6 The Company shall pay its specific taxes required by the act in a timely manner, and shall not delay payments so as to incur any penalties or interest.

1.7 The Company shall fully cooperate with the City representative in supplying all requested and required documentation regarding jobs, investment, the meeting of all goals and the timely installation and utilization of equipment and improvements. The City shall be entitled to inspect at reasonable hours the Company's premises where the said improvements and equipment have been installed and where the said jobs are performed.

1.8 The Company shall maintain, during the entire period for which the tax abatement is granted, the level of jobs, affirmative action goals, production and utilization of the improvements and equipment at the site where the district has been created and for which the tax exemption has been granted.

1.9 The Company shall not cause or fail to cure the release of any hazardous substance, or the violation of any environmental law on its premises in the City. It shall report any releases to the appropriate governmental authority in a timely and complete manner, and provide copies of said report documentation to the City. It shall comply with all orders and actions of any governmental agency having authority.

1.10 The Company shall maintain the equipment and improvements so as to minimize physical or functional obsolescence.

1.11 The Company shall continue to operate its business location in the City, containing the same number of and type of jobs, for the term of the certificate.

2. **AGREEMENT BY THE CITY**. Provided this contract has been executed and further provided all applications to create the district and achieve the industrial facility

exemption certificate have been properly filed, the City shall, in a timely manner, determine in a public meeting **whether to** create the district and **whether to** receive, process, and approve thereafter the Company's application for an industrial facilities exemption certificate. The City may consider this contract in a meeting separate from and prior to the meeting in which the City considers the creation of the district and approval of the application for certificate. Further, the City shall require the submission of the contract signed by the Company together with its applications, before creating the district.

3. **EVENTS OF DEFAULT**. The following actions or failures to comply shall be considered events of default by the Company:

3.1 Failure to meet any of the commitments set forth above.

3.2 The closing of the Company's facilities in the City. Closing shall mean for purpose of this Agreement, City of substantially all of the production facilities, and the elimination of substantially all the jobs created or retained thereby, which are set forth in the Company's application.

3.3 Failure to afford to the City the documentation and reporting required.

3.4 The failure to create or retain jobs, meet affirmative actions goals or expend the funds on equipment and improvements as represented in the application within the times required hereby, **unless the company can show that there has been a loss of revenue and employment due to circumstances beyond the control of the company. In order to make that showing the company shall have the burden of supplying, to the City's satisfaction, complete and convincing documentation supporting and justifying reductions in investment, failures to attain affirmative action goals or job losses, such as, without limitation, written evidence of lost contracts, accounting information showing reduced revenues due to the loss of business, (not due to diversion of production to affiliate companies or divisions of the company), production records showing reduced quantities over significant periods of time, and such other information required by the City to support the Company's claim that the failure to invest, failure to achieve affirmative actions goals, or loss of jobs should not form the basis for a finding of default.**

3.5 The bankruptcy or insolvency of the Company.

3.6 The failure to pay any and all taxes and assessment levied on the Company's property or any other taxes, local, state or federal, including but not limited to City income taxes and the withholding of said City income taxes from employees as required by the City Income Tax Ordinance.

3.7 The performance or omission of any act which would lead to revocation under MCLA 207.565, being §15 of the Act.

3.8 The violation of any provisions, promises, commitments, considerations or covenants of this Agreement.

4. **REMEDIES ON DEFAULT**. In the event of any of the above defaults the City shall have the following remedies which it may invoke without notice, except as may be reasonably required by the Company's rights to due process:

4.1 In the event of closing as determined after investigation of the facts and a public hearing, the Company shall be immediately liable for penalties to be paid forthwith to the city as determined as follows:

4.1.1 The company shall pay to the City for prorate distribution to the taxing units experiencing the abatement, an amount equal to the difference between the industrial facilities tax which it has paid, and the total property taxes to the relevant taxing units which it would have paid, given its installations of improvements and equipment, during the years for which the certificate was in effect.

4.1.2 Immediate Revocation. The Company hereby consents to revocation to the IFT certificate before the State Tax Commission, without hearing, and the City shall submit a copy of this agreement to the State Tax Commission in connection with its revocation procedure, giving notice that the default has occurred and immediate revocation should occur.

4.2 In the event the improvements and equipment have not been installed before the two (2) year period, in addition to the revocation procedures before the State Tax Commission, the abatement should immediately be reduced by the City proportionately, and any installations which have not been finished at the end of said two (2) year period shall not be eligible for the abatement thereafter and shall be placed on the regular tax roll.

4.3 Failure to Expend the Funds Represented. In the event, (whether or not the installations have been completed), the Company has not expended the funds it has represented on its application that it would invest for the installation of equipment, the abatement shall be reduced prorate, and any remaining value of equipment shall be placed on the regular tax roll, **unless the company can show, through receipts, etc. that the cost of the equipment was actually less than the amount estimated by the company (i.e., the same equipment was purchased as listed in the IFT application, but the bids came in less then expected).**

4.4 Job Creation and Retention. In the event the promised number of jobs have not been created or retained at the end of the two (2) years after the grant of the certificate by the State Tax Commission, the abatement shall be proportionately reduced, **unless the company can show that the loss of jobs, or inability to hire as many people as expected, is due to circumstances beyond the control of the company (such as an economic downturn).**

4.5 Affirmative Action Goals. In the event, after one (1) year from the grant of the certificate by the State Tax Commission, the affirmative action goals of the City for additional jobs have not been met on a prorate basis, the abatement shall be revoked.

4.6 For other violations of this Agreement or for actions or omissions by the Company amounting to grounds for revocation by statute, the City shall recommend to the State Tax Commission immediate revocation of the certificate.

4.7 Special Assessment. For any amount due to be paid to the City, under this Section 4, the Company consents that the City shall have a personal action against the Company for the said amount, and in addition, cumulatively, and not by election, the City shall have a special assessment lien on all the property of the Company personal and real, located in the City, for the collection of the amounts due as in the manner of property taxes and such case the collection of the said special assessment shall be accomplished by addition by the City to the Company's property tax statement regularly rendered.

5. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Michigan applicable to contracts made and to be performed within the State of Michigan.

6. Counterparts. This agreement may be executed in one or more counterparts. Notwithstanding such execution all such counterparts shall constitute one and the same Agreement.

7. Benefit. This agreement shall be binding upon and inure to the benefit of the respective parties, their successors and personal representatives.

8. Effective Date. This Agreement shall be effective on the date the State of Michigan Tax Commission grants the company an Industrial Facilities Exemption Certificate.

CITY OF MUSKEGON

By______________________________
Stephen Warmington,Mayor

and ______________________________
Ann Marie Becker, City Clerk

SAF Holland USA

By______________________________
Chris Cook

Its Director-Financing

MUSKEGON

West Michigan's Shoreline City

City of Muskegon
Industrial Facilities Exemption Application
Summary Sheet

Project Summary:

SAF Holland, a manufacturing company located at 1950 Industrial Blvd, will be transferring machinery and equipment from one of its Holland locations to its Muskegon location. The original certificate was issued in 2005 and it will expire in 2017, allowing Muskegon to give the abatement for nine (9) years. The abatement would save the Company $42,012 in City taxes over the nine (9) year period.

Employment Information:

Racial Characteristics:

White	284
Minority	18
Total	302

Gender Characteristics:

Male	237
Female	65
Total	302

Total No. of Anticipated New Jobs: 0

Investment Information:

Real Property:	$-0-
Personal Property	$ 843,193
Total:	$ 843,193

Property Tax Information (Annual)	All Jurisdictions	City Only
Total New Taxes Generated	$ 13,983	$ 4,668
Value of Abatement	$ 6,992	$ 2,334
Total New Taxes Collected	$ 6,992	$ 2,334

Income Tax Information: (Annual)

Total Additional Income Tax Generated: $0

Company Requirements:

Adopted Affirmative Action Policy	☒ Yes	☐ No
Meeting w/ City Affirmative Action Director	☒ Yes	☐ No
Signed Tax Abatement Contract	☒ Yes	☐ No
Taxes Paid In Full	☒ Yes	☐ No
Zoning Conflicts	☐ Yes	☒ No

Mike Franzak
Planner II

Dwana Thompson
Dwana Thompson
Affirmative Action Director

DATE: 08/19/2008

TO: Honorable Mayor and Commissioners

FROM: Mark Kincaid, Deputy Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN070238

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 **254 AMITY AVE Area 11** 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.

Case# & Project Address: # EN070238 254 Amity

Location and ownership: This structure is located on Amity between Fork and Jay Streets and is owned by Marilyn Brewster, 347 Shonat St., Apt #5, Muskegon, MI 49442.

Staff Correspondence: A dangerous building inspection was conducted on 11/08/07. An interior inspection was conducted 11/30/07. The Notice and Order to Repair was issued on 11/28/07. On 02/07/08, 03/06/08, and 04/03/08, the HBA tabled case to allow owner time to secure loan, establish timeline for repairs and obtain necessary permits. On 05/01/08 the HBA declared the structure substandard and dangerous. As of 08/19/08 no permits have been issued and no timeline submitted.

Owner Contact: Ms. Brewster was present for all HBA meetings stating she was working with Neighborhood Investment Corp to get loan to complete repairs and there were delays in getting taxes paid and obtaining insurance.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: 12,800

Estimated cost to repair: $25,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

SUMMARY FOR: 254 AMITY AVE

This building is a two story mixed use building with the second floor being set up for residential and the lower level a closed storefront that is largely used for storage. The apartment on the second floor is currently unoccupied. This building has been allowed to deteriorate to a point where it is a blighting influence on the neighborhood.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Thursday, November 8, 2007

Enforcement # EN070238 **Property Address** 254 AMITY AVE
Parcel #24-205-205-0011-10 **Owner** BREWSTER MARILYN L

Inspector: Henry Faltinowski

Date completed: 11/08/2007

DEFICENCIES:

Uncorrected
1. Siding missing on building falling off building exterior.
2. Roof covering must be replaced rotted shingles, missing shingles; missing soffit and fascia.
3. Structural damage to rafter system provide rafter investigation. Large humps and sags in roofline.
4. Carport in state of collapse; remove or rebuild to code MRC 2003. Roof caving in, header - beam support failings - columns falling out of alignment.
5. Provide interior inspection.

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact Inspection Services with any questions or to schedule an inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

Henry Faltinowski, Building Inspector | Date

CITY OF MUSKEGON

933 Terrace St., P.O. Box 536, Muskegon, MI 49443 (231)724-6715

DANGEROUS BUILDING INTERIOR INSPECTION REPORT

254 AMITY AVE
11/30/2007

Inspection noted:

Uncorrected

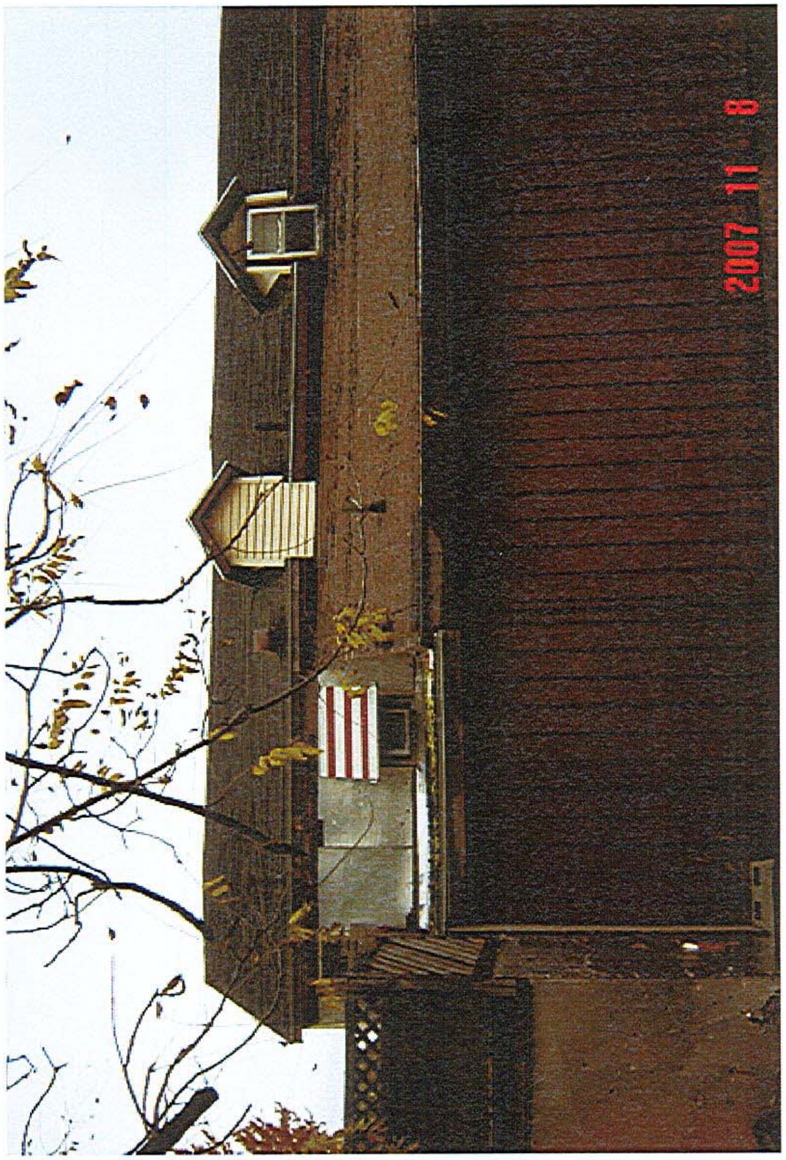
1. Repair all ceiling, wall, floor damage.
2. Interior garages storage area needs to be rebuilt to MRC 2003 Code - Cracked rafters; deteriorated roof covering, large sags in wall framing.
3. Repair upper stairway - treads loose, cracked missing sections.
4. Must remove large amount of storage to determine complete interior inspection upper and lower sections.
5. Smoke alarms required by code.
6. Building to be rewired to code.
7. Electric services to be replaced to code.
8. Smoke alarms to be installed in residential unit to code.
9. Inspect all plumbing for correct materials.
10. Kitchen sink upper.
11. Replace PVC water distribution pipe in basement.
12. Inspect & repair boiler & water heater & chimney.
13. Pressure test gas line; must have backflow device for boiler.
14. Seal vent for water heater.
15. Need T & P drain lines for water heaters.
16. Inspect & repair all plumbing when water is established as needed.
17. Inspect & certify space heater in store room.
18. Inspect & certify all coolers & store equipment.

BASED UPON MY RECENT INSPECTION OF THE ABOVE PROPERTY, I HAVE DETERMINED THAT THE STRUCTURE MEETS THE DEFINITION OF A DANGEROUS AND/OR SUBSTANDARD BUILDING AS SET FORTH IN SECTION 10-61 OF THE MUSKEGON CITY CODE.

____ ____________________

HENRY FALTINOWSKI, BUILDING INSPECTOR DATE

D.B
254 Amity



Commission Meeting Date: October 28, 2008

Date: **October 22, 2008**

To: **Honorable Mayor and City Commissioners**

From: **Planning & Economic Development**

RE: **Vacation of the North Easterly Portion of the Alley Bounded by Eighth, Clay, Ninth and Western**

SUMMARY OF REQUEST:

Request for vacation of the North Easterly 265 feet of the alley in Block 318 in the City of Muskegon Revised Plat or 1903, bounded by Eighth Street, Clay Avenue, Ninth Street, and Western Avenue.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends vacation of the north easterly 265 feet 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 10/16/08 meeting, with the condition that all utility easement rights be retained. The vote was 6-1 in favor, with B. Turnquist opposed and J. Aslakson, and B. Smith absent

RESOLUTION #2008-______

RESOLUTION TO VACATE A PUBLIC ALLEY

WHEREAS, a petition has been received to vacate the alley located in Block 318, of the City of Muskegon Revised Plan of 1903, bounded by Eighth Street, Clay Avenue, Ninth Street and Western Avenue; and,

WHEREAS, the Planning Commission held a public hearing on October 16, 2008, to consider the petition and, subsequently, recommended the vacation; and,

WHEREAS, due notice had been given of said hearing as well as the October 28, 2008, City Commission meeting to consider the recommendation of the Planning Commission;

NOW, THEREFORE, BE IT RESOLVED that the City Commission deems it advisable for the public interest to vacate and discontinue the North Easterly 265 feet of the alley located in Block 318 of the City of Muskegon Revised Plat of 1903, bounded by Eighth Street, Clay Avenue, Ninth Street, and Western Avenue, County of Muskegon, State of Michigan.

BE IT FURTHER RESOLVED that the City Commission does hereby declare that portion of said alley vacated and discontinued, provided, however, that this action on the part of the City Commission shall not operate so as to conflict with fire access or the utility rights heretofore acquired by the City or by any public service utility in the City of Muskegon operating in, over and upon said portion of alley hereby vacated, and it is hereby expressly declared that such rights shall remain in full force and effect.

BE IT FURTHER RESOLVED that after any maintenance and repair by the City, the City shall restore the disturbed area to the grade and paving in existence at the time of vacation. The City shall not be responsible to replace special planting, landscaping, fences or any structure. No structure shall be placed in the easement which, in the sole judgment of the City, will interfere with the repair or maintenance of utilities in the easement, public or private.

Adopted this 28th day of October, 2008.

Ayes:

Nays:

Absent:

By:______________________________
Stephen J. Warmington, Mayor

Attest:____________________________
Ann Marie Becker, MMC, City Clerk

CERTIFICATION

(Alley Vacation of the North Easterly 265 feet of the alley located in Block 318 in the City of Muskegon Revised Plan of 1903)

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 October 28, 2008.

Ann Marie Becker, MMC
Clerk, City of Muskegon

Staff Report [EXCERPT]
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
October 16, 2008

Hearing; Case 2008-27: Request to vacate the alley located in Block 318 of the City of Muskegon Revised Plat of 1903, bounded by Eighth Street, Clay Avenue, Ninth Street, and Western Avenue, by John Workman, Eagle Alloy Cast Products.

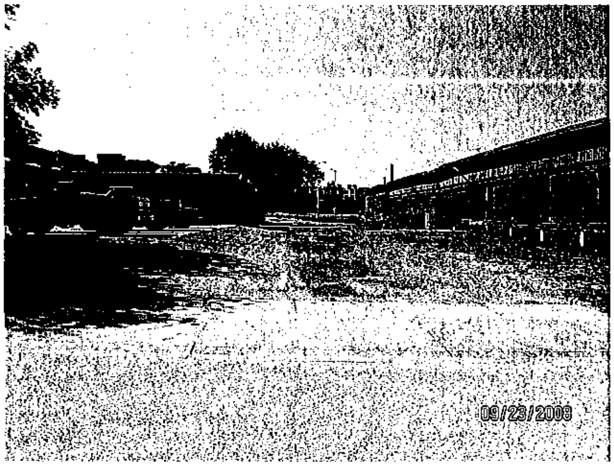
BACKGROUND

A request has been submitted by John Workman, of Eagle Alloy Cast Products, to vacate this alley that runs between the property where Eagle Alloy is located and the red railroad building to the west. The industry's forklift trucks use this alley quite frequently to travel to different part of the plant and for loading and unloading purposes. Since he owns the properties on both sides of the alley, he would like to have control of it for safety reasons. This alley appears to be used primarily by the factory and Port City Paint, who has access to the rear of their building off this alley. Staff is not sure if Port City Paint could access the rear gate where their dumpster is located, if the alley is vacated (see picture below).

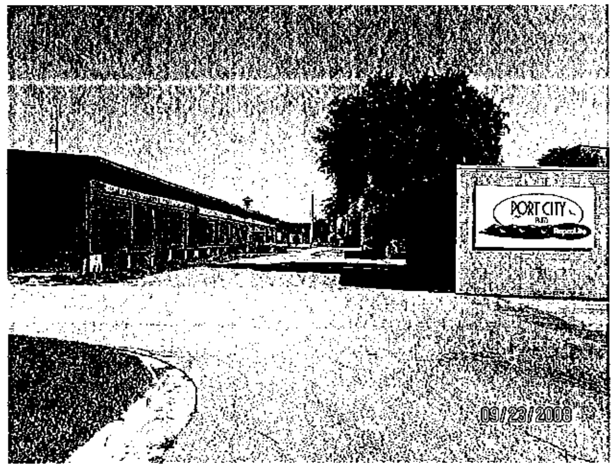
The Department of Public Works has a sanitary sewer located in the alley, and requires unrestricted access for maintenance.

The Fire Department has no issues with the alley vacation.

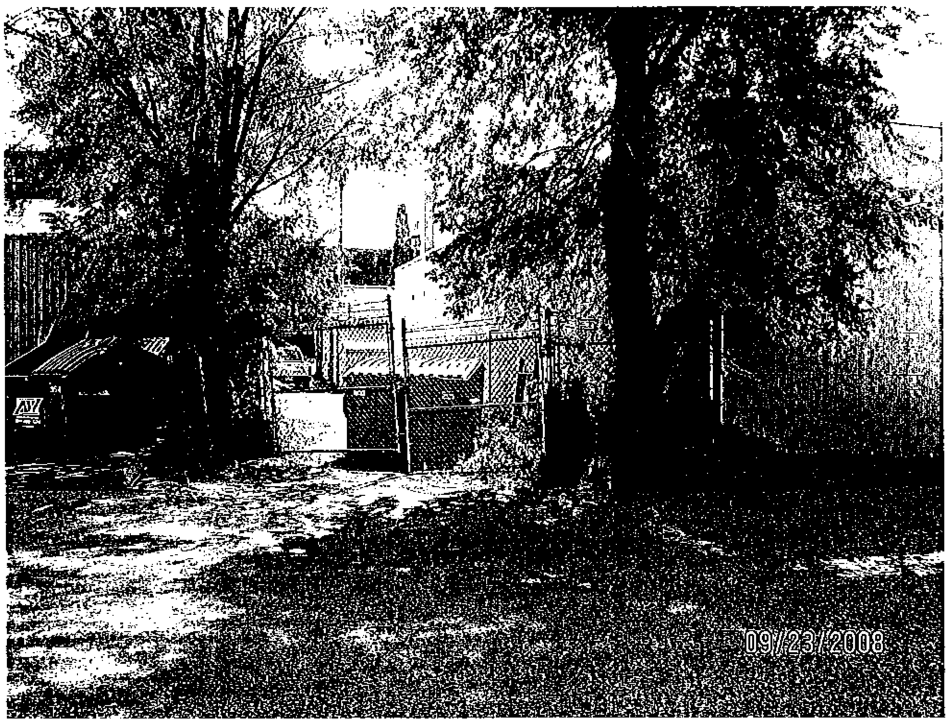
Staff has received no comments regarding this request.



View of alley from Eighth Street.



View of alley from Ninth Street.



Rear entrance to Port City Paint property.

City of Muskegon
Planning Commission
Case # 2008-27

STAFF RECOMMENDATION

Staff recommends approval of the request.

DETERMINATION

The following motion is offered for consideration:

I move that the vacation of the alley located in Block 318 of the City of Muskegon's Revised Plat of 1903, bounded by Eighth Street, Clay Avenue, Ninth Street and Western Avenue, be recommended to City Commission for (approval/denial), based on (compliance/lack of compliance), with the City's 1997 Master Land Use Plan, with the following conditions:

1. All utility easements will be retained.
2. Unrestricted access shall be provided to the Department of Public Works.

Commission Meeting Date: October 28, 2008

Date: **October 16, 2008**

To: **Honorable Mayor & City Commission**

From: **Planning & Economic Development Department** CBC

RE: **Commercial Rehabilitation Tax Abatement Districts Policy**

SUMMARY OF REQUEST:

To approve the Commercial Rehabilitation Tax Abatement Districts Policy for the City of Muskegon.

FINANCIAL IMPACT:

Qualified commercial rehabilitation projects would be granted a tax exemption that would freeze the property tax at its pre-rehabilitated value, effectively allowing the rehabilitation to be property tax free, with the exception of school operating taxes, for up to ten (10) years.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

To approve the Commercial Rehabilitation Tax Abatement Districts Policy.

COMMITTEE RECOMMENDATION:

None.

POLICY NO. ______

CITY OF MUSKEGON
COMMERCIAL REHABILITATION TAX ABATEMENT DISTRICTS
ACT NO. 210
PUBLIC ACTS OF 2005

1.0 STRATEGIC PLANNING PROCESS

The City Commission, on September 9, 2008, determined that the following policy is necessary, in order to implement the Commercial Rehabilitation Tax Abatement Districts, for these reasons:

- New legislation available that will benefit the City of Muskegon, particularly our commercial areas
- Implementation will encourage the development of commercial areas that have experienced little or no redevelopment in recent years
- To ensure that the redevelopment that does take place is appropriate for the districts identified

2.0 PURPOSE

The Muskegon City Commission is a strong advocate of economic development activities, programs, and structures designed to create and promote employment opportunities and expand the local tax base. In the past, the available incentives for commercial businesses have been minimal. The State of Michigan is now creating incentives that can be used on a local level to spark business development and building rehabilitation. The purpose of this policy is to stimulate business growth and improve commercial areas of the city, by freezing property taxes at their present value. The City Commission believes that it should be an active participant and a leader where appropriate in the economic development of the City.

The City of Muskegon supports the establishment of policies, programs, and facilities, permitted by law, which will carry out this policy. For the City to accomplish these purposes in an orderly fashion, it must be assured that the use of tax abatements for commercial rehabilitation is judicious, fair, and responsibly accomplished. The City adopts this policy, not only to encourage the use of tax abatements for commercial rehabilitation, but also to articulate the reasonable expectations of performance by those directly benefiting from the policy.

3.0 POLICY

A. It is the policy of the City of Muskegon to provide commercial tax abatements to qualifying applicants under certain State laws. The policy will increase the tax base of the community, increase the number of residents in the community, attract new business and industry, and will result in the expansion of businesses.

B. Multiple certificates by the same applicant are permitted, if authorized by State law, based upon previous performance and compliance with projections and conditions of previous applications. Specific monitoring techniques will be employed which analyze the results of the rehabilitation certificate program overall and specifically of each applicant on an annual basis. An annual performance report will be prepared for review by the Commission to determine the need for amendment to this policy.

C. It is the intent of the City of Muskegon that each application be reviewed against this policy, procedures and the annual reports to determine on a case-by-case basis that the application meets the goals and objectives of the City.

3.1 Commercial Rehabilitation Tax Abatement Criteria

The criteria to be considered by the City Commission in approval of applications, including applications for the establishment of districts, as well as the issuance of certificates, are the following:

1. Compliance with the Commercial Rehabilitation Tax Abatement Districts Policy as adopted by the City Commission.

2. Completion of facilities must be calculated to, and will at the time of issuance of the certificate have the reasonable likelihood to, increase commercial activity, create employment, retain employment, prevent a loss of employment, revitalize urban areas, or increase the number of residents in the community in which the facility is situated.

3. Will increase the tax base.

4. Compliance of the petitioner in meeting previous commercial rehabilitation requirements, and employment goals and investment projections (if relevant).

5. The impacts on public right of way and general circulation patterns.

6. General site improvements such as paving, parking areas, increases in landscaping ground vegetation, and signage improvements.

7. The history of the applicant in payment of taxes, water bills, or any other obligations to the City. "Applicant," for this purpose, shall include any entity controlled by the principal officers or owners of the entity signing the present application. The City shall not issue a certificate or approve a district in cases where the "applicant" as here defined, is delinquent in any tax, water bill, or obligation to the City.

8. The applicant must state, in writing, that the rehabilitation of the facility would not be undertaken without the applicant's receipt of the exemption certificate.

9. The location of the proposed improvements and whether the general area has already been designated as a Commercial Rehabilitation Tax Abatement District.

10. The value of the rehabilitation must include improvements aggregating 10 % or more of the true cash value of the property at the commencement of the rehabilitation of property.

11. The impact on property values in the general area of the project.

11. The consistency of the project with adopted codes, ordinances and plans.

12. Other considerations considered unique or of benefit to the community.

3.2 Administration & Monitoring Procedures

The City of Muskegon Planning & Economic Development Department shall be the administrator of the application process on commercial tax abatement certificates. Prior to presenting an application to the City Commission for approval the Planning & Economic Development Department, in conjunction with any other appropriate city departments, shall review all applications for compliance with this policy.

For each approved application, the property owner receiving the commercial rehabilitation certificate shall submit annual monitoring reports. These reports will include the following information:

- New Jobs Created
- Workforce Breakdown (by race and gender)
- Capital Investment Expended
- Status of any Other Requirements Set Forth by the City Commission

The City of Muskegon shall provide the report forms to the owner in the month of November for year-end calculations.

The Planning & Economic Development Department shall provide an annual report on the status of active commercial rehabilitation certificates to the City Commission in February of the following year.
(i.e. 2008 annual report shall be submitted in February of 2009).

3.3 Application Procedures

The following procedures are intended to implement the foregoing policy and provide complete applications upon which to base a decision for approval or denial. It is intended that the administration of this procedure and the application process be efficient and flexible so as to meet the applicant's needs while complying with the policy as adopted.

1. Applications

a. Application forms provided by the City shall be filled out completely and additional required documents shall be attached when submitted to the City Clerk.

b. All fees shall be paid with the application. The Clerk will not process any application without the payment of all required fees.

2. Processing of Applications; Schedule. The application will be processed on the following schedule.

a. Properly completed application for commercial rehabilitation certificates will be submitted to the City Clerk. Copies will be forwarded to the Planning & Economic Development Department and other appropriate person(s). The Clerk will also notify in writing the City Assessor and the legislative body of each taxing unit that levies ad valorem property taxes in the City of Muskegon.

b. Meeting scheduled with applicant to go over application, missing items, etc.

c. A public hearing will be scheduled and resolution drafted to approve a district or certificate.

d. A public hearing notice prepared by Planning & Economic Development staff for publication and forwarded to the City Clerk for publication in the Muskegon Chronicle. Public notice of the hearing shall not be less than 10 days or more than 30 days before the date of the hearing.

e. Certified mailing to property owners and taxing authorities with notification of application and public hearing date prepared and executed (if applicable). Notice will be given to all of the following:

- Property Owner
- Business Owner (if other than property owner)
- Muskegon School District or Orchard View School District (whichever is applicable)
- Muskegon Community College
- Muskegon Area Intermediate School District
- City of Muskegon Assessor's office
- County of Muskegon

f. Time requirements set forth in any applicable statute or regulation shall be observed. This includes 60 days for the City Commission to approve or disapprove the certificate and resolution authorizing the certificate, after the completed application is received by the City Clerk, and 60 days for the State Tax Commission ("commission") to approve or disapprove the resolution, after the commission receives the application and resolution adopted by the City Commission.

g. After approval by City Commission, the City Clerk will review the application and attachments for completeness, then sign the application and send copies to the appropriate persons. A copy of the completed application will be forwarded to the property owner and the original application to the Commission. The resolution is not effective unless approved by the commission.

3.4 *Establishing Districts & Approving Certificates*

The City Commission, on its own initiative, may choose to establish Commercial Rehabilitation Districts on their own. They may establish one or more districts that may consist of one or more parcels or tracts of land or a portion of a parcel or tract of land. It is also possible for the City Commission to establish a district if a written request is filed by the owner or owners of property comprising at least 50% of all taxable value of the property located within a proposed commercial priority rehabilitation district. The written request must be filed with the City Clerk. The resolution creating the Commercial Rehabilitation District will note all terms and conditions to be met by both the applicant and the community, if any. The District shall be approved by resolution of the City Commission to include the boundaries of the district.

A Certificate for a Commercial Rehabilitation Tax Abatement shall be approved only after the creation of the District. The Certificate shall be approved by resolution of the City Commission to include the boundaries of the Commercial Rehabilitation Tax Abatement District, the length of the abatement (1-10 years), and any conditions the City Commission deems appropriate for the issuance of the Certificate.

The County of Muskegon holds the right to reject a commercial rehabilitation district that has been approved by the City of Muskegon. In order to reject a commercial rehabilitation district, the Muskegon County Board of Commissioners must adopt a resolution and provide it to the City within twenty eight (28) days of the County receiving the resolution from the City.

3.5 *Filing and Compliance Monitoring Fee*

The applicant shall pay the filing and monitoring fee at the time the application is made. No applications shall be submitted to City Commission for approval prior to the payment of this fee. The fee will be equal to 2% of the abated taxes (based on the amount of investment on the first full year of service) or a maximum of $1,000.

CITY OF MUSKEGON
COMMERCIAL REHABILITATION TAX ABATEMENT GUIDELINES

The following guidelines are intended to provide direction for determining the length of all commercial rehabilitation tax exemptions as well as other potential components of a tax exemption such as employment generation/retention and site/facility requirements.

A. *Duration of Abatements*

The following section represents the number of years to be granted for projects.

Standard Exemption:

Real Property	5 Years

New Employment/Investment Bonus:*

4-5 Jobs	1 Year		$15,000.00+	1 Year
6-7 Jobs	2 Years	*or*	$25,000.00+	2 Years
8-9 Jobs	3 Years		$40,000.00+	3 Years
10-11 Jobs	4 Years		$80,000.00+	4 Years
12+ Jobs	5 Years		$100,000.00+	5 Years

* "*New Employment*" refers to full-time job equivalent

The standard exemption (5 years) will apply to all applications. Additional years (up to another 5 years) may be added to the certificate later (using above criteria), if additional improvements and/or jobs are added within the time period that the original exemption was granted. The applicant will then need to request an amendment to their original application, from the City of Muskegon. The resolution adopted by the City Commission at the time of granting the original certificate will indicate the factors, criteria and objectives to be considered in deciding whether to grant an extension.

The effective date of the certificate is December 31 immediately following the issuance of the certificate. However, the certificate may not exceed ten (10) years after the completion of the qualified facility. Thus, depending upon the dates of construction and application, a certificate may be valid for only nine (9) years.

B. Site/Facility Requirements

Improvements made shall conform to the Commercial Rehabilitation Districts Act. Changes made to the facility, other than replacement that restore or modify the property, together with all appurtenances, to an economically efficient condition are eligible. This includes major renovation and modification including, but not necessarily limited to, the improvement to floor loads, correction of deficient or excessive height, new or improved fixed building equipment, including heating, ventilation, and lighting, improved structural support including foundations, improved roof structure and cover, floor replacement, improve wall placement, improved exterior and interior appearance of buildings, and other physical changes required to restore or change the property to an economically efficient condition. A commercial rehabilitation district must be at least three (3) acres in size or be located downtown or in a business area. The project must consist of a building or group of contiguous buildings of commercial property that is 15 years or older. The rehabilitation costs must be not less than 10% of the true cash value of the property based upon the property's current assessment roll valuation prior to the rehabilitation of the facility. The request to include personal property for abatement will be dealt with on a case by case basis. The commencement of the rehabilitation of the facility cannot occur before the establishment of the commercial rehabilitation district.

C. *Employment Requirements*

All tax abatement applicants are encouraged to have a diverse labor force. The Company shall also agree to work with the City's Affirmative Action Director to market and publish notices regarding employment opportunities to underserved populations.

All new jobs promised at the time of application must be filled within two years and must be maintained over the life of the abatement. In the event the employment is not maintained over the life of the abatement, the City reserves the right to decrease the abatement by the number of bonus years that were given directly for that employment.

CITY OF MUSKEGON

CONTRACT FOR TAX ABATEMENT
Act 210 Public Acts of 2005

AGREEMENT between CITY OF MUSKEGON, a municipal corporation of 933 Terrace Street, Muskegon, Michigan 49441, ("City") and ______________("Company") of_____________, Muskegon, Michigan_______.

Recitals:

A. The Company has applied to City for the establishment of a commercial rehabilitation district pursuant to the provisions of Act 210 of the Public Acts of 2005, as amended, which allows a contract between the City and the Company to be agreed and submitted with the Company's subsequent anticipated application for a commercial rehabilitation exemption certificate.

B. The City has determined that it is in the best interests of the taxpayers, property owners and residents of the City that this Agreement be approved and executed prior to the establishment of the requested district, and the City deems this Contract, together with the conditions set forth in the said Act to constitute a necessary element in the City's determination whether or not to create the district.

C. The Company intends to install the project set forth in its application ("project") which it believes qualifies for the process of establishing the district and the application for a commercial rehabilitation exemption certificate.

D. The City, provided this Agreement is executed, will determine whether to create the district based upon the potential for the production of permanent jobs, the continuation, **stabilization** or increase of economic activity, planning and zoning considerations and the City's general plan and intentions regarding economic development. In addition to the City policy considerations and predictions that the Company's proposed district and certificate benefit the community in those ways, the City has further determined that the contractual commitments made by the Company to thereby assist the community shall be binding on the Company and necessary to continue the tax exemption made possible by the certificate.

E. This contract shall become effective upon the issuance of a Commercial Rehabilitation Tax Exemption Certificate.

NOW THEREFORE THE PARTIES AGREE:

1. **COMPANY AGREEMENT**. The Company irrevocably commits to the investment, job retention and job creation promises made in its application, a copy of which is attached hereto and incorporated herein. In particular the Company agrees:

    1.1 That 100% of the jobs shall be filled and in existence with full-time employees by a date no later than two (2) years from the date of the granting of the certificate by the State Tax Commission, **subject to the provisions of section 3.4 of this agreement.**

1.2 That the amount of jobs listed on the application, whether new or retained, will be maintained through the life of the abatement, **subject to the provisions of section 3.4 of this agreement.**

1.3 The Company shall meet the affirmative action goal included in the application or in any documents supplied by the City and utilized by the Company, including any additional representations made to the City Commission on or before the date two (2) years after the granting of the certificate by the State Tax Commission. It shall maintain the said levels of employment diversity during the period of the certificate, **subject to the provisions of section 3.4 of this agreement.**

1.4 The Company, by the end of two (2) years from the date of the grant of the certificate by the State Tax Commission shall have completed the investment of $__________ in the equipment and improvements as shown in the application, **subject to the provisions of section 3.4 of this agreement.**

1.5 That the improvements and equipment to receive the tax abatement treatment shall be completed on or before the date two (2) years from the date of granting of the certificate by the State Tax Commission.

1.6 The Company shall pay its specific taxes required by the act in a timely manner, and shall not delay payments so as to incur any penalties or interest.

1.7 The Company shall fully cooperate with the City representatives in supplying all requested and required documentation regarding jobs, investment, the meeting of all goals and the timely installation of equipment and improvements. The City shall be entitled to inspect at reasonable hours the Company's premises where the said equipment and improvements have been installed and where the said jobs are performed.

1.8 The Company shall maintain, during the entire period for which the tax abatement is granted, the level of jobs, affirmative action goals, production and utilization of the equipment and improvements and equipment at the site where the district has been created and for which the tax exemption has been granted.

1.9 The Company shall not cause or fail to cure the release of any hazardous substance, or the violation of any environmental law on its premises in the City. It shall report any releases to the appropriate governmental authority in a timely and complete manner, and provide copies of said report documentation to the City. It shall comply with all orders and actions of any governmental agency having authority.

1.10 The Company shall maintain the equipment and improvements so as to minimize physical or functional obsolescence.

1.11 The Company shall continue to operate its business location in the City, containing the same number of and type of jobs, for the term of the certificate.

2. **<u>AGREEMENT BY THE CITY</u>**. Provided this contract has been executed and further provided all applications to create the district and achieve the commercial rehabilitation tax exemption certificate have been properly filed, the City shall, in a timely manner, determine in a public meeting to **whether to** create the district and **whether to** receive, process, and approve thereafter the Company's application for a commercial rehabilitation tax exemption certificate. The City may consider this contract in a meeting separate from and prior to the meeting in which the City considers the creation of the district and/**or** approval of the application for certificate. Further, the City shall require the submission of this contract signed by the Company together with its applications, before creating the district.

3. **<u>EVENTS OF DEFAULT</u>**. The following actions or failures to comply shall be considered events of default by the Company:

3.1 Failure to meet any of the commitments set forth above.

3.2 The closing of the Company's facilities in the City. Closing shall mean for purpose of this Agreement, the removal, without transfer to another site within the City of substantially all of the production facilities, and the elimination of substantially all the jobs created or retained thereby, which are set forth in the Company's application.

3.3 Failure to afford to the City the documentation and reporting required.

3.4 The failure to create or retain jobs, meet affirmative action goals or expend the funds on equipment and improvements as represented in the application within the times required hereby, **unless the company can show that there has been a loss of revenue and employment due to circumstances beyond the control of the company. In order to make that showing the company shall have the burden of supplying, to the City's satisfaction, complete and convincing documentation supporting and justifying reductions in investment, failures to attain affirmative action goals or job losses, such as, without limitation, written evidence of lost contracts, accounting information showing reduced revenues due to the loss of business, (not due to diversion of production to affiliate companies or divisions of the company), production records showing reduced quantities over significant periods of time, and such other information required by the City to support the Company's claim that the failure to invest, failure to achieve affirmative action goals, or loss of jobs should not form the basis for a finding of default.**

3.5 The bankruptcy or insolvency of the Company.

3.6 The failure to pay any and all taxes and assessments levied on the Company's property or any other taxes, local, state or federal, including but not limited to City income taxes and the withholding of said City income taxes from employees as required by the City Income Tax Ordinance.

3.7 The violation of any provisions, promises, commitments, considerations or covenants of this Agreement.

4. **REMEDIES ON DEFAULT.** In the event of any of the above defaults the City shall have the following remedies which it may invoke without notice, except as may be reasonably required by the Company's rights to due process:

4.1 In the event of closing as determined after investigation of the facts and a public hearing, the Company shall be immediately liable for penalties to be paid forthwith to the city as determined as follows:

4.1.1 The Company shall pay to the City for prorata distribution to the taxing units experiencing the abatement, an amount equal to the difference between the commercial tax which it has paid, and the total property taxes to the relevant taxing units which it would have paid, given its installations of improvements and equipment, during the years for which the certificate was in effect.

4.1.2 Immediate Revocation. The Company hereby consents to revocation to the commercial rehabilitation certificate before the State Tax Commission, without hearing, and the City shall submit a copy of this Agreement to the State Tax Commission in connection with its revocation procedure, giving notice that the default has occurred and immediate revocation should occur.

4.2 In the event the improvements have not been installed before the two (2) year period, in addition to the revocation procedures before the State Tax Commission, the abatement should immediately be reduced by the City proportionately, and any installations which have not been finished at the end of said two (2) year period shall not be eligible for the abatement thereafter and shall be placed on the regular tax roll.

4.3 Failure to Expend the Funds Represented. In the event, (whether or not the installations have been completed), the Company has not expended the funds it has represented on its application that it would invest for the installation of equipment, the abatement shall be reduced prorata, and any remaining value of equipment shall be placed on the regular tax roll, **unless the company can show, through receipts, etc. that the cost of the equipment was actually less than the amount estimated by the company (i.e., the same equipment was purchased as listed in the commercial rehabilitation application, but the bids came in less then expected).**

4.4 Job Creation and Retention. In the event the promised number of jobs have not been created or retained at the end of the two (2) years after the grant of the certificate by the State Tax Commission, the abatement shall be proportionately reduced, **unless the company can show that the loss of jobs, or inability to hire as many people as expected, is due to circumstances beyond the control of the company (such as an economic downturn).**

4.5 Affirmative Action Goals. In the event, after one (1) year from the grant of the certificate by the State Tax Commission, the affirmative action goals of the City for additional jobs have not been met on a prorata basis, the abatement shall be revoked.

4.6 For other violations of this Agreement or for actions or omissions by the Company amounting to grounds for revocation by statue, the City shall recommend to the State Tax Commission immediate revocation of the certificate.

4.7 Special Assessment. For any amount due to be paid to the City, under this Section 4, the Company consents that the City shall have a personal action against the Company for the said amount, and in addition, cumulatively, and not by election, the City shall have a special assessment lien on all the property of the Company personal and real, located in the City, for the collection of the amounts due as and in the manner of property taxes and in such case the collection of the said special assessment shall be accomplished by addition by the City to the Company's property tax statement regularly rendered.

5. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Michigan applicable to contracts made and to be performed within the State of Michigan.

6. Counterparts. This Agreement may be executed in one or more counterparts. Notwithstanding such execution all such counterparts shall constitute one and the same Agreement.

7. Benefit. This Agreement shall be binding upon and inure to the benefit of the respective parties, their successors and personal representatives.

8. Effective Date. This Agreement shall be effective on the date the State of Michigan Tax Commission grants the company a Commercial Rehabilitation Exemption Certificate.

CITY OF MUSKEGON

By__________________________
Stephen J. Warmington, Mayor

and__________________________
Ann Marie Becker, Clerk

Company

By__________________________

Its______________________

and__________________________

Its______________________

Act No. 210
Public Acts of 2005
Approved by the Governor
November 17, 2005
Filed with the Secretary of State
November 17, 2005
EFFECTIVE DATE: November 17, 2005

STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2005

Introduced by Reps. Amos, Taub and Garfield

ENROLLED HOUSE BILL No. 4369

AN ACT to provide for the establishment of commercial rehabilitation districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain qualified facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of certain local governmental officials; and to provide penalties.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "commercial rehabilitation act".

Sec. 2. As used in this act:

(a) "Commercial property" means land improvements classified by law for general ad valorem tax purposes as real property including real property assessable as personal property pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, the primary purpose and use of which is the operation of a commercial business enterprise. Commercial property shall also include facilities related to a commercial business enterprise under the same ownership at that location, including, but not limited to, office, engineering, research and development, warehousing, parts distribution, retail sales, and other commercial activities. Commercial property also includes a building or group of contiguous buildings previously used for industrial purposes that will be converted to the operation of a commercial business enterprise. Commercial property does not include any of the following:

(*i*) Land.

(*ii*) Property of a public utility.

(b) "Commercial rehabilitation district" or "district" means an area not less than 75 acres in size of a qualified local governmental unit established as provided in section 3.

(c) "Commercial rehabilitation exemption certificate" or "certificate" means the certificate issued under section 6.

(d) "Commercial rehabilitation tax" means the specific tax levied under this act.

(e) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(f) "Department" means the department of treasury.

(g) "Qualified facility" means a building or group of contiguous buildings of commercial property consisting of 1,000,000 or more square feet of space that is 40% or more vacant for 12 or more consecutive months immediately preceding the date of application for the certificate and that is 15 years old or older. A qualified facility does not include property that is to be used as a professional sports stadium. A qualified facility does not include property that is to be used as a casino. As used in this subdivision, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(h) "Qualified local governmental unit" means a city, village, or township.

(i) "Rehabilitation" means changes to a qualified facility that are required to restore or modify the property, together with all appurtenances, to an economically efficient condition. Rehabilitation includes major renovation and modification including, but not necessarily limited to, the improvement of floor loads, correction of deficient or excessive height, new or improved fixed building equipment, including heating, ventilation, and lighting, reducing multistory facilities to 1 or 2 stories, improved structural support including foundations, improved roof structure and cover, floor replacement, improved wall placement, improved exterior and interior appearance of buildings, and other physical changes required to restore or change the obsolete property to an economically efficient condition. Rehabilitation shall not include improvements aggregating less than 10% of the true cash value of the property at commencement of the rehabilitation of the qualified facility.

(j) "Taxable value" means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

Sec. 3. (1) A qualified local governmental unit, by resolution of its legislative body, may establish 1 or more qualified rehabilitation districts that may consist of 1 or more parcels or tracts of land or a portion of a parcel or tract of land, if at the time the resolution is adopted, the parcel or tract of land or portion of a parcel or tract of land within the district is a qualified facility.

(2) The legislative body of a qualified local governmental unit may establish a commercial rehabilitation district on its own initiative or upon a written request filed by the owner or owners of property comprising at least 50% of all taxable value of the property located within a proposed commercial rehabilitation district. The written request must be filed with the clerk of the qualified local governmental unit.

(3) Before adopting a resolution establishing a commercial rehabilitation district, the legislative body shall give written notice by certified mail to the county in which the proposed district is to be located and the owners of all real property within the proposed commercial rehabilitation district and shall afford an opportunity for a hearing on the establishment of the commercial rehabilitation district at which any of those owners and any other resident or taxpayer of the qualified local governmental unit may appear and be heard. The legislative body shall give public notice of the hearing not less than 10 days or more than 30 days before the date of the hearing.

(4) The legislative body of the qualified local governmental unit, in its resolution establishing a commercial rehabilitation district, shall set forth a finding and determination that the district meets the requirements set forth in subsection (1) and shall provide a copy of the resolution by certified mail to the county in which the district is located.

(5) Within 28 days after receiving a copy of the resolution establishing a commercial rehabilitation district, the county may reject the establishment of the district by 1 of the following methods:

(a) If the county has an elected county executive, by written notification to the qualified local governmental unit.

(b) If the county does not have an elected county executive, by a resolution of the county board of commissioners provided to the qualified local governmental unit.

Sec. 4. (1) If a commercial rehabilitation district is established under section 3, the owner of a qualified facility may file an application for a commercial rehabilitation exemption certificate with the clerk of the qualified local governmental unit that established the commercial rehabilitation district. The application shall be filed in the manner and form prescribed by the commission. The application shall contain or be accompanied by a general description of the qualified facility, a general description of the proposed use of the qualified facility, the general nature and extent of the rehabilitation to be undertaken, a descriptive list of the fixed building equipment that will be a part of the qualified facility, a time schedule for undertaking and completing the rehabilitation of the qualified facility, a statement of the economic advantages expected from the exemption, including the number of jobs to be retained or created as a result of rehabilitating the qualified facility, including expected construction employment, and information relating to the requirements in section 8.

(2) Upon receipt of an application for a commercial rehabilitation exemption certificate, the clerk of the qualified local governmental unit shall notify in writing the assessor of the local tax collecting unit in which the qualified facility is located, and the legislative body of each taxing unit that levies ad valorem property taxes in the qualified local governmental unit in which the qualified facility is located. Before acting upon the application, the legislative body of the qualified local governmental unit shall hold a public hearing on the application and give public notice to the applicant, the assessor, a representative of the affected taxing units, and the general public. The hearing on each application shall be held separately from the hearing on the establishment of the commercial rehabilitation district.

Sec. 5. The legislative body of the qualified local governmental unit, not more than 60 days after receipt of the application by the clerk, shall by resolution either approve or disapprove the application for a commercial rehabilitation exemption certificate in accordance with section 8 and the other provisions of this act. The clerk shall retain the original of the application and resolution. If approved, the clerk shall forward a copy of the application and resolution to the commission. If disapproved, the reasons shall be set forth in writing in the resolution, and the clerk shall send, by certified mail, a copy of the resolution to the applicant and to the assessor. A resolution is not effective unless approved by the commission as provided in section 6.

Sec. 6. (1) Not more than 60 days after receipt of a copy of the application and resolution adopted under section 5, the commission shall approve or disapprove the resolution.

(2) Following approval of the application by the legislative body of the qualified local governmental unit and the commission, the commission shall issue to the applicant a commercial rehabilitation exemption certificate in the form the commission determines, which shall contain all of the following:

(a) A legal description of the real property on which the qualified facility is located.

(b) A statement that unless revoked as provided in this act the certificate shall remain in force for the period stated in the certificate.

(c) A statement of the taxable value of the qualified facility, separately stated for real and personal property, for the tax year immediately preceding the effective date of the certificate after deducting the taxable value of the land and personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14.

(d) A statement of the period of time authorized by the legislative body of the qualified local governmental unit within which the rehabilitation shall be completed.

(e) If the period of time authorized by the legislative body of the qualified local governmental unit pursuant to subdivision (b) is less than 10 years, the exemption certificate shall contain the factors, criteria, and objectives, as determined by the resolution of the qualified local governmental unit, necessary for extending the period of time, if any.

(3) The effective date of the certificate is the December 31 immediately following the date of issuance of the certificate.

(4) The commission shall file with the clerk of the qualified local governmental unit a copy of the commercial rehabilitation exemption certificate, and the commission shall maintain a record of all certificates filed. The commission shall also send, by certified mail, a copy of the commercial rehabilitation exemption certificate to the applicant and the assessor of the local tax collecting unit in which the qualified facility is located.

Sec. 7. (1) A qualified facility for which a commercial rehabilitation exemption certificate is in effect, but not the land on which the rehabilitated facility is located, or personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, for the period on and after the effective date of the certificate and continuing so long as the commercial rehabilitation exemption certificate is in force, is exempt from ad valorem property taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(2) Unless earlier revoked as provided in section 12, a commercial rehabilitation exemption certificate shall remain in force and effect for a period to be determined by the legislative body of the qualified local governmental unit. The certificate may be issued for a period of at least 1 year, but not to exceed 10 years. If the number of years determined is less than 10, the certificate may be subject to review by the legislative body of the qualified local governmental unit and the certificate may be extended. The total amount of time determined for the certificate including any extensions shall not exceed 10 years after the completion of the qualified facility. The certificate shall commence with its effective date and end on the December 31 immediately following the last day of the number of years determined. The date of issuance of a certificate of occupancy, if required by appropriate authority, shall be the date of completion of the qualified facility.

(3) If the number of years determined by the legislative body of the qualified local governmental unit for the period a certificate remains in force is less than 10 years, the review of the certificate for the purpose of determining an extension shall be based upon factors, criteria, and objectives that shall be placed in writing, determined and approved at the time the certificate is approved by resolution of the legislative body of the qualified local governmental unit and sent, by certified mail, to the applicant, the assessor of the local tax collecting unit in which the qualified facility is located, and the commission.

Sec. 8. (1) If the taxable value of the property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under this act or under 1974 PA 198, MCL 207.551 to 207.572, exceeds 5% of the taxable value of the qualified local governmental unit, the legislative body of the qualified local governmental unit shall make a separate finding and shall include a statement in its resolution approving the application that exceeding that amount shall not have the effect of substantially impeding the operation of the qualified local governmental unit or impairing the financial soundness of an affected taxing unit.

(2) The legislative body of the qualified local governmental unit shall not approve an application for a commercial rehabilitation exemption certificate unless the applicant complies with all of the following requirements:

(a) The commencement of the rehabilitation of the qualified facility does not occur earlier than 6 months before the applicant files the application for the commercial rehabilitation exemption certificate.

(b) The application relates to a rehabilitation program that when completed constitutes a qualified facility within the meaning of this act and that shall be situated within a commercial rehabilitation district established in a qualified local governmental unit eligible under this act.

(c) Completion of the qualified facility is calculated to, and will at the time of issuance of the certificate have the reasonable likelihood to, increase commercial activity, create employment, retain employment, prevent a loss of employment, revitalize urban areas, or increase the number of residents in the community in which the qualified facility is situated.

(d) The applicant states, in writing, that the rehabilitation of the qualified facility would not be undertaken without the applicant's receipt of the exemption certificate.

(e) The applicant is not delinquent in the payment of any taxes related to the qualified facility.

Sec. 9. The assessor of each qualified local governmental unit in which there is a qualified facility with respect to which 1 or more commercial rehabilitation exemption certificates have been issued and are in force shall determine annually as of December 31 the value and taxable value, both for real and personal property, of each qualified facility separately, having the benefit of a certificate and upon receipt of notice of the filing of an application for the issuance of a certificate, shall determine and furnish to the local legislative body the value and the taxable value of the property to which the application pertains and other information as may be necessary to permit the local legislative body to make the determinations required by section 8(2).

Sec. 10. (1) There is levied upon every owner of a qualified facility to which a commercial rehabilitation exemption certificate is issued a specific tax to be known as the commercial rehabilitation tax.

(2) The amount of the commercial rehabilitation tax, in each year, shall be determined by adding the results of both of the following calculations:

(a) Multiplying the total mills levied as ad valorem taxes for that year by all taxing units within which the qualified facility is located by the taxable value of the real and personal property of the qualified facility on the December 31 immediately preceding the effective date of the commercial rehabilitation exemption certificate after deducting the taxable valuation of the land and of personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, for the tax year immediately preceding the effective date of the commercial rehabilitation exemption certificate.

(b) Multiplying the mills levied for school operating purposes for that year under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, by the taxable value of the real and personal property of the qualified facility, after deducting all of the following:

(*i*) The taxable value of the land and of the personal property other than personal property assessed pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14.

(*ii*) The taxable value used to calculate the tax under subdivision (a).

(3) The commercial rehabilitation tax is an annual tax, payable at the same times, in the same installments, and to the same officer or officers as taxes imposed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, are payable. Except as otherwise provided in this section, the officer or officers shall disburse the commercial rehabilitation tax payments received by the officer or officers each year to and among this state, cities, school districts, counties, and authorities, at the same times and in the same proportions as required by law for the disbursement of taxes collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(4) For intermediate school districts receiving state aid under sections 56, 62, and 81 of the state school aid act of 1979, 1979 PA 94, MCL 388.1656, 388.1662, and 388.1681, of the amount of commercial rehabilitation tax that would otherwise be disbursed to an intermediate school district, all or a portion, to be determined on the basis of the tax rates being utilized to compute the amount of state aid, shall be paid to the state treasury to the credit of the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(5) The amount of commercial rehabilitation tax described in subsection (2)(a) that would otherwise be disbursed to a local school district for school operating purposes, and all of the amount described in subsection (2)(b), shall be paid instead to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(6) The officer or officers shall send a copy of the amount of disbursement made to each unit under this section to the commission on a form provided by the commission.

(7) A qualified facility located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the commercial rehabilitation tax levied under this act to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, except

for that portion of the commercial rehabilitation tax attributable to a special assessment or a tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff. The commercial rehabilitation tax calculated under this subsection shall be disbursed proportionately to the taxing unit or units that levied the special assessment or the tax described in section 7ff(2) of the general property tax act, 1893 PA 206, MCL 211.7ff.

Sec. 11. The amount of the tax applicable to real property, until paid, is a lien upon the real property to which the certificate is applicable. Proceedings upon the lien as provided by law for the foreclosure in the circuit court of mortgage liens upon real property may commence only upon the filing by the appropriate collecting officer of a certificate of nonpayment of the commercial rehabilitation tax applicable to real property, together with an affidavit of proof of service of the certificate of nonpayment upon the owner of the qualified facility by certified mail, with the register of deeds of the county in which the qualified facility is situated.

Sec. 12. The legislative body of the qualified local governmental unit may, by resolution, revoke the commercial rehabilitation exemption certificate of a facility if it finds that the completion of rehabilitation of the qualified facility has not occurred within the time authorized by the legislative body in the exemption certificate or a duly authorized extension of that time, or that the holder of the commercial rehabilitation exemption certificate has not proceeded in good faith with the operation of the qualified facility in a manner consistent with the purposes of this act and in the absence of circumstances that are beyond the control of the holder of the exemption certificate.

Sec. 13. A commercial rehabilitation exemption certificate may be transferred and assigned by the holder of the certificate to a new owner of the qualified facility if the qualified local governmental unit approves the transfer after application by the new owner.

Sec. 14. Not later than October 15 each year, each qualified local governmental unit granting a commercial rehabilitation exemption shall report to the commission on the status of each exemption. The report must include the current value of the property to which the exemption pertains, the value on which the commercial rehabilitation tax is based, and a current estimate of the number of jobs retained or created by the exemption.

Sec. 15. (1) The department annually shall prepare and submit to the committees of the house of representatives and senate responsible for tax policy and economic development issues a report on the utilization of commercial rehabilitation districts, based on the information filed with the commission.

(2) After this act has been in effect for 3 years, the department shall prepare and submit to the committees of the house of representatives and senate responsible for tax policy and economic development issues an economic analysis of the costs and benefits of this act in the 3 qualified local governmental units in which it has been most heavily utilized.

Sec. 16. A new exemption shall not be granted under this act after December 31, 2015, but an exemption then in effect shall continue until the expiration of the exemption certificate.

This act is ordered to take immediate effect.

Gary E Randall

Clerk of the House of Representatives

Carol Morey Viventi

Secretary of the Senate

Approved ....

....

Governor

Act No. 554
Public Acts of 2006
Approved by the Governor
December 28, 2006
Filed with the Secretary of State
December 29, 2006
EFFECTIVE DATE: December 29, 2006

STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006

Introduced by Reps. Pastor, Taub, Acciavatti, Rick Jones, Amos, Garfield and Gosselin

ENROLLED HOUSE BILL No. 6043

AN ACT to amend 2005 PA 210, entitled "An act to provide for the establishment of commercial rehabilitation districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain qualified facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of certain local governmental officials; and to provide penalties," by amending section 2 (MCL 207.842).

The People of the State of Michigan enact:

Sec. 2. As used in this act:

(a) "Commercial property" means land improvements classified by law for general ad valorem tax purposes as real property including real property assessable as personal property pursuant to sections 8(d) and 14(6) of the general property tax act, 1893 PA 206, MCL 211.8 and 211.14, the primary purpose and use of which is the operation of a commercial business enterprise or multifamily residential use. Commercial property shall also include facilities related to a commercial business enterprise under the same ownership at that location, including, but not limited to, office, engineering, research and development, warehousing, parts distribution, retail sales, and other commercial activities. Commercial property also includes a building or group of contiguous buildings previously used for industrial purposes that will be converted to the operation of a commercial business enterprise. Commercial property does not include any of the following:

(*i*) Land.

(*ii*) Property of a public utility.

(b) "Commercial rehabilitation district" or "district" means an area not less than 3 acres in size of a qualified local governmental unit established as provided in section 3. However, if the commercial rehabilitation district is located in a downtown or business area as determined by the legislative body of the qualified local governmental unit, the district may be less than 3 acres in size.

(c) "Commercial rehabilitation exemption certificate" or "certificate" means the certificate issued under section 6.

(d) "Commercial rehabilitation tax" means the specific tax levied under this act.

(e) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(f) "Department" means the department of treasury.

(g) "Multifamily residential use" means multifamily housing consisting of 5 or more units.

(h) "Qualified facility" means a building or group of contiguous buildings of commercial property that is 15 years old or older or has been allocated for a new markets tax credit under section 45d of the internal revenue code, 26 USC 45d. A qualified facility does not include property that is to be used as a professional sports stadium. A qualified facility does not include property that is to be used as a casino. As used in this subdivision, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(i) "Qualified local governmental unit" means a city, village, or township.

(j) "Rehabilitation" means changes to a qualified facility that are required to restore or modify the property, together with all appurtenances, to an economically efficient condition. Rehabilitation includes major renovation and modification including, but not necessarily limited to, the improvement of floor loads, correction of deficient or excessive height, new or improved fixed building equipment, including heating, ventilation, and lighting, reducing multistory facilities to 1 or 2 stories, improved structural support including foundations, improved roof structure and cover, floor replacement, improved wall placement, improved exterior and interior appearance of buildings, and other physical changes required to restore or change the obsolete property to an economically efficient condition. Rehabilitation shall not include improvements aggregating less than 10% of the true cash value of the property at commencement of the rehabilitation of the qualified facility.

(k) "Taxable value" means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

This act is ordered to take immediate effect.

Gary L Randall

Clerk of the House of Representatives

Carol Morey Viventi

Secretary of the Senate

Approved ....

....

Governor

DATE: 10/20/2008

TO: Honorable Mayor and Commissioners

FROM: Mark Kincaid, Deputy Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN080112

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 **769 WASHINGTON AVE 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.

Case# & Project Address: # EN080112 – 769 Washington

Location and ownership: This structure is located on Washington between Beidler and Henry Streets and is owned by Francisco Galindo, 1182 Washington, Muskegon, MI 49441.

Staff Correspondence: A dangerous building inspection was conducted on 05/13/08. The Notice and Order to Repair was issued on 05/21/08. On 08/07/08 the HBA declared the structure substandard and dangerous. An interior inspection was conducted 08/20/08.

Owner Contact: Mr. Galindo's sister Maria Galindo was present to represent case. She stated that her brother was not able to address issues right now but agreed to schedule interior inspection. No permits and have been issued and no owner contact since that time.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: $9,200

Estimated cost to repair: $30,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

SUMMARY FOR: 769 WASHINGTON AVE

This is a two story wood frame single family dwelling. This building is currently vacant. This building has been unsecured at various times and has been secured by the Inspections Department. The structure sits next to a building recently rehabilitated by the county land bank program and occupies the same lot as a house that was demolished by the City in 2007.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 536, Muskegon, MI 49443 (231)724-6715

DANGEROUS BUILDING INTERIOR INSPECTION REPORT

769 WASHINGTON AVE
08/20/2008

Inspection noted:

Uncorrected - Interior

1. Terminate dryer vent.
2. Need kitchen sink.
3. Pressure test gas piping.
4. Clean ductwork.
5. Need hammer arrestors @ laundry.
6. Inspect & repair house plumbing.
7. Need scald free faucet shower.
8. Insure wate flow and sewer is working.
9. Need bath fan.
10. Install HVAC registers.
11. Provide return air in upper.
12. Support basement plumbing & gas pipe.
13. Need gas dirtleg @ water heater.
14. Remove saddle value.
15. Must maintain 6" clearance from southwest vent (CPVC).
16. Align draft hood water heater.
17. Inspect & certify furnace, water heater, & chimney.
18. All plumbing & mechanical work to meet 2006 codes.
19. Electric service to be replaced to code.
20. House to be rewired to code.
21. Smoke alarms to be installed to code.
22. Kitchen cabinets incomplete.
23. Miscellaneous doors missing throughout dwelling.
24. Smoke detectors missing.
25. Replace floor coverings.
26. Header missing in wall over door just inside front room.
27. Handrail missing on stairs.
28. Repair all holes in ceilings and walls.
29. 2nd floor windows incomplete.
30. Tuck point basement walls.
31. Floor joists in basement overspanned.

BASED UPON MY RECENT INSPECTION OF THE ABOVE PROPERTY, I HAVE DETERMINED THAT THE STRUCTURE MEETS THE DEFINITION OF A DANGEROUS AND/OR SUBSTANDARD BUILDING AS SET FORTH IN SECTION 10-61 OF THE MUSKEGON CITY CODE.

HENRY FALTINOWSKI, BUILDING INSPECTOR DATE

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Wednesday, May 14, 2008

Enforcement # EN080112 **Property Address** 769 WASHINGTON AVE
Parcel #24-205-412-0004-00 **Owner** GALINDO FRANCISCO

Inspector: Henry Faltinowski

Date completed: 05/13/2008

DEFICENCIES:

Uncorrected

1. **Replace all damaged missing siding on home.**
2. **Chimney failing; repair brick.**
3. **Back porch collapsed remove-replace.**
4. **Roof system has large sag in rafters - provide rafter inspection.**
5. **Tuck point all open foundation wall block.**
6. **Electric meter pulled off home.**
7. **Broken out windows.**
8. **Replace damaged roofing/fascia.**
9. **Provide interior inspection.**

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact Inspection Services with any questions or to schedule an inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

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Henry Faltinowski, Building Inspector Date


2008 5 13


2006 5 13


2006 5 13

DATE: 10/20/2008

TO: Honorable Mayor and Commissioners

FROM: Mark Kincaid, Deputy Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN080066

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 **640 CATAWBA AVE** 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.

Case# & Project Address: # EN080066 – 640 Catawba Street

Location and ownership: This structure is located on Catawba Street between Kenneth and Holt Streets and is owned by Rance Reynolds Et Al, 612 Ada, Muskegon, MI 49441.

Staff Correspondence: A dangerous building inspection was conducted on 03/15/08. The Notice and Order to Repair was issued on 03/19/08. The case came before HBA 05/1/08 and was tabled to allow owner time to schedule interior inspection and provide timeline. On 08/07/08 the HBA declared the structure substandard and dangerous.

Owner Contact: Mr. Reynolds father was present for HBA meeting dated 05/01/08 stating owner was in the hospital but would start repairs on exterior and schedule an interior inspection. Mr. Reynolds was present for meeting dated 08/07/08 stating that house had been vandalized. He stated his financial and medical situation didn't allow for him to repair home and his plans was to sell to interested buyer.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: $22,100

Estimated cost to repair: $5,000 (Exterior only)

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

SUMMARY FOR: 640 CATAWBA AVE

This building is a two story wood frame single family dwelling. This building has been vacant and boarded for over 6 months, the front porch need structural repairs as well as miscellaneous other repairs to the exterior. The Housing Board of Appeals tabled case to allow the owners to schedule an interior inspection. The property owners have not scheduled an interior inspection and have shown no real interest in rehabilitating this structure.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Wednesday, March 19, 2008

Enforcement # EN080066 **Property Address** 640 CATAWBA AVE
Parcel #24-205-090-0017-00 **Owner** REYNOLDS RANCE ET AL

Inspector: Henry Faltinowski

Date completed: 03/13/2008

DEFICENCIES:

Uncorrected

1. Front porch column supports failing - restabilze column on foundation.
2. Ripped out screens broken windows - boarded windows and doors.
Basement window broken in people entering home.
3. Scrape and paint all exterior exposed wood.
4. Replace all exterior wood trim that is rotted and broken.
5. Flash chimney properly.
6. Interior inspection requested.

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact Inspection Services with any questions or to schedule an inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

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Henry Faltinowski, Building Inspector Date


2008 3 13

DATE: 10/20/2008

TO: Honorable Mayor and Commissioners

FROM: Mark Kincaid, Deputy Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN080065

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 **143 W SOUTHERN AVE Area 10b** 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.

Case# & Project Address: # EN080065 – 143 W. Southern

Location and ownership: This structure is located on Southern Ave between Fifth and Jefferson Streets and is owned by Bad Boys Bail Bond Agency, 990 Pine St, Muskegon, MI 49442.

Staff Correspondence: A dangerous building inspection was conducted on 03/13/08. The Notice and Order to Repair was issued on 03/19/08. On 05/01/08 the HBA declared the structure substandard and dangerous. An interior inspection was conducted 05/12/08. A Certificate of Appropriateness from Historic District Commission was issued 10/07/08. Several complaints have been received about students going into the structure.

Owner Contact: No one was present for the HBA meeting dated 05/01/08. Owner came in and scheduled interior inspection but no permits have been issued and no further contact from owner.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: $41,900

Estimated cost to repair: $15,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

SUMMARY FOR: 143 W SOUTHERN AVE

This is a two story wood frame multi family dwelling. This building has 3 dwelling units that are currently vacant, and have been boarded up for over six months. The building will require numerous repairs to the heating, plumbing and electrical systems in order for the building to be habitable again. In it's current condition this building will be an attractive gathering spot for the high school students from across the street.

CITY OF MUSKEGON
933 Terrace St., P.O. Box 536, Muskegon, MI 49443 (231)724-6715
DANGEROUS BUILDING INTERIOR INSPECTION REPORT

143 W SOUTHERN AVE
05/12/2008

Inspection noted:

Uncorrected
1. Install smoke alarms to code.
2. Replace damaged/missing light fixtures.
3. Provide GFI protection to code.
4. Insure grounding @ 3 wire plugs
5. Replace electric service to one unit.
6. Need furnaces & venting.
7. Inspect & insure plumbing is in working order & include water pressure & sewer.
8. Need adequate water heaters.
9. Inspect & certify chimney
10. Pressure test gas line.
11. Support piping in basement.
12. Bedrooms to have return & supply air.
13. All tub/shower to have scald free faucets.
14. Reglaze tubs.
15. Clean ductwork.
16. Need bath vent fans.
16. Remove or replace stove vent - upper unit.
17. Plumbing & mechanical to conform with 2006 Mechanical & plumbing code.
18. Need laundry to code if provided.
19. Tuck point open block in foundation walls.
20. Repair all interior drywall damage.
21. Replace all damaged floor coverings.
22. All handrails must meet code.

BASED UPON MY RECENT INSPECTION OF THE ABOVE PROPERTY, I HAVE DETERMINED THAT THE STRUCTURE MEETS THE DEFINITION OF A DANGEROUS AND/OR SUBSTANDARD BUILDING AS SET FORTH IN SECTION 10-61 OF THE MUSKEGON CITY CODE.

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HENRY FALTINOWSKI, BUILDING INSPECTOR DATE

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Friday, March 14, 2008

Enforcement # EN080065 **Property Address** 143 W SOUTHERN AVE
Parcel #24-205-426-0012-00 **Owner** BAD BOYS BAIL BOND AGENCY OF MI LLC

Inspector: Henry Faltinowski

Date completed: 03/13/2008

DEFICENCIES:

Uncorrected

1. Home has been boarded up over 6 months.
2. Broken out windows & replace.
3. Trim falling off home - replace.
4. Request interior by trade inspectors.

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact Inspection Services with any questions or to schedule an inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

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Henry Faltinowski, Building Inspector Date

Historic District Commission

CERTIFICATE OF APPROPRIATENESS

MUSKEGON

West Michigan's Shoreline City

Pursuant to Section 11-30 of the Code of Ordinances of the City of Muskegon, the Historic District Commission hereby issues this Certificate of Appropriateness authorizing commencement of exterior work within the District as described below:

143 W. Southern Avenue

The request to demolish the building is approved, as long all zoning requirements are met and the necessary permits are obtained.

Approval by the Commission was granted under the assumption that all work will meet minimum Code requirements. No other work or any variation in work thereof approved is permitted under this certificate without the prior consent of the Commission. Applicant must secure all necessary permits before commencing work.

October 7, 2008

____
HDC Member

____
Staff


2008 3 13


2008 3 13