CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 27, 2009

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- **CALL TO ORDER:**
- **PRAYER:**
- **PLEDGE OF ALLEGIANCE:**
- **ROLL CALL:**
- **HONORS AND AWARDS:**
  - **A. 2009 Employee Service Awards.** CIVIL SERVICE
- **INTRODUCTIONS/PRESENTATION:**
- **CONSENT AGENDA:**
  - **A. Approval of Minutes.** CITY CLERK
  - **B. Donation Program for 2009 Individual Income Tax Returns.** INCOME TAX
  - **C. Request to Amend Encroachment Agreement #2007-23(k) – E. Western and Marquette.** ENGINEERING
  - **D. Rezoning Request for Properties Located at 400 & 410 W. Laketon Avenue.** PLANNING & ECONOMIC DEVELOPMENT
  - **E. Vacation of the Southerly 159.5 feet of the Alley Bounded by W. Forest Avenue, Sixth Street, W. Southern Avenue and Fifth Street.** PLANNING & ECONOMIC DEVELOPMENT
  - **F. Amendment to the Zoning Ordinance – Adding Wind Turbine Facilities as Special Uses in Business and Industrial Zones.** PLANNING & ECONOMIC DEVELOPMENT
  - **G. Revocation of a Neighborhood Enterprise Zone Certificate for 1709 Pine.** PLANNING & ECONOMIC DEVELOPMENT
- **PUBLIC HEARINGS:**
  - **A. Completion of Neighborhood of Choice and Blight Elimination in Downtown Muskegon CDBG Grants.** FINANCE
- **COMMUNICATIONS:**
- **CITY MANAGER'S REPORT:**

- **UNFINISHED BUSINESS:**
- **NEW BUSINESS:**
  - **A. <u>Revocation of Eight Industrial Facility Tax Exemption Certificates for Sappi Fine Paper.</u>** PLANNING & ECONOMIC DEVELOPMENT
  - **B. <u>Revocation of Industrial Facility Tax Exemption Certificate for RC Productions.</u>** PLANNING & ECONOMIC DEVELOPMENT
- **ANY OTHER BUSINESS:**
- **PUBLIC PARTICIPATION:**

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

- **CLOSED SESSION:**
- **ADJOURNMENT:**

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

AGENDA ITEM

CITY COMMISSION MEETING

October 27, 2009

TO: **Honorable Mayor and City Commissioners**

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

DATE: **October 5, 2009**

RE: **2009 Employee Service Awards**

SUMMARY OF REQUEST:

Commission participation in the 2009 Employee Service Awards presentations during Honors and Awards portion of City Commission meeting.

FINANCIAL IMPACT:

Included in 2009 Civil Service budget.

BUDGET ACTION REQUIRED:

None. This is a 2009 Civil Service Budget item.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

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

Date: October 27, 2009

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 12th Commission Worksession, and the October 13th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

City of Muskegon
City Commission Worksession
October 12, 2009
City Commission Chambers
5:30 PM

MINUTES

2009-82
Present: Commissioners Warmington, Shepherd, Gawron, and Spataro.
Absent: Commissioners Carter, Wierengo, and Wisneski.

Appraisal Services.
In an effort to avoid a lengthy and costly property tax appeal, the new owner/developer of the Shoreline Inn properties has approached the City with the concept of mutually selecting an independent appraiser to set the value for the property. The property owner and city would share appraisal costs and agree to the independently determined value. Staff believes this is a cost-effective approach and will save attorney fees, interest charges and other costs associated with a lengthy appeal. Moreover, if a traditional appeal were pursued, the city would still have to hire an appraiser due to the complexity of the properties.

Staff recommends approval not to exceed $12,500.

This item has been placed on the October 13, 2009 Commission meeting for consideration.

Sewer Rate Adjustment.
City staff is recommending a 25% retail rate increase to be effective January 1, 2010. The request is based on the recent announcement that Sappi Paper has announced it is permanently closing the Muskegon mill operation and the state has announced closing of the Muskegon Correction facility. Muskegon County has announced it will raise wholesale sewer rates to municipal customers by an initial 15%.

This item has been placed on the October 13, 2009 Commission meeting for consideration.

Charter Amendments.
The following proposed charter amendments have been placed on the November 3, 2009 ballot for consideration by the electors.

1. Charter amendment providing for changing the dates for submission of the budget and adoption of budget by City Commission shall be established by ordinance.
2. Charter amendment allowing City Commission to change fiscal year by ordinance.
3. Charter amendment to eliminate the Charter-provided date by which the annual appropriation resolution needs to be adopted.
4. Charter amendment to provide that the composition, sessions and regulations of Board of Review would be as provided by law.

5. Charter amendment to eliminate primaries for Mayor and City Commission.
6. Charter amendment to repeal the provisions dealing with Civil Service.

A link has been placed on the City website explaining each proposed amendment and a brochure has been created for distribution.

Personnel Code.
The City Manager distributed a potential personnel code if Civil Service is eliminated. A link will be placed on the City website.

Walgreens Liquor License.
Mayor Warmington will attend the appeal process for the Walgreens liquor license in Lansing on November 3, 2009.

Temporary Liquor Licenses.
Tony Kleibecker, Public Safety Director, and Cathy Brubaker-Clarke, Planning and Economic Development Director, stated the amount of temporary liquor licenses has increased dramatically this year. The demand on staff time has made it difficult for staffing. Several suggestions were made to help the situation including raising the fee for temporary liquor licenses.

Staff will put a list of proposed changes to present at a future meeting.

Smith Ryerson Park Improvements.
This is a request to authorize staff to negotiate with the lowest based bid, Lakewood Construction, of Holland, Michigan on the Smith Ryerson Park Improvements project.

This item has been placed on the October 13, 2009 Commission meeting for consideration.

Many Commissioners stated they thought it better to re-bid the project based on inconsistencies within the bid and the total amount of all bids was higher than the budgeted amount.

Equalization Office Move.
General consent was given by the City Commission to allow Equalization to move to the Muskegon County building.

Mona Lake Watershed Presentation.
The Mona Lake Watershed Council is seeking permission to use part of the City's property for low impact storm water management to keep storm water from blasting downstream through the Peerless Plating site.

Motion by Commissioner Spataro, seconded by Vice Mayor Gawron to authorize a letter of support and refer future agreements to staff.

ROLL CALL VOTE:

Ayes: Gawron, Shepherd, Spataro, and Warmington.

Nays: None.

MOTION PASSES

Any Other Business.
Audience members were invited to participate.

Adjournment
Motion by Commissioner Spataro, seconded by Commissioner Shepherd to adjourn at 7:00 p.m.

MOTION PASSES

_____
Ann Marie Becker, MMC
City Clerk

CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 13, 2009

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, October 13, 2009.

Mayor Warmington opened the meeting with a prayer from Pastor Jonathan Phillips, Jr. from the Love Fellowship Baptist Church after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioners Lawrence Spataro, Sue Wierengo, Chris Carter, and Clara Shepherd, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

Absent: Commissioner Steve Wisneski (excused).

2009-83 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 22, 2009.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. SECOND READING: Amendment to the Zoning Ordinance – Wind Turbines. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2311, #10 (Accessory Structures and Buildings) of Article XXIII (General Provisions) to include "Wind Turbines" as permitted accessory structures.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to include "Wind Turbines" as permitted accessory structures.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their September 10th meeting. The vote was unanimous.

C. <u>SECOND READING: Amendment to the Zoning Ordinance – Wind Turbine Facilities.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2310 of Article XXIII (General Provisions) to add "Wind Turbine Facilities (WTF)".

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to include "Wind Turbine Facilities (WTF)".

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their September 10th meeting. The vote was unanimous.

D. <u>SECOND READING: Amendment to the Zoning Ordinance – Definitions.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Article II (Definitions) to add definitions for "Wind Turbine" and "Wind Turbine Facilities".

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to include definitions for "Wind Turbine" and Wind Turbine Facilities".

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their September 10th meeting. The vote was unanimous.

E. <u>Liquor License Request for PCJ Enterprises, LLC, 435 & 441 W. Western.</u> CITY CLERK

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from PCJ Enterprises, LLC, to transfer ownership of the 2008 Class C-SDM Licensed Business with Dance-Entertainment Permit located in escrow at 435 & 441 W. Western Avenue from D&L of Michigan, LLC.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.

F. <u>Marshall Street Elevated Storage Tank Control Panel Relocation and Electrical Service Upgrade.</u> WATER FILTRATION

SUMMARY OF REQUEST: To relocate the remote site control and communications equipment in a larger above-ground panel and upgrade the electrical power circuit breaker panel.

FINANCIAL IMPACT: The total project cost is $12,805.

BUDGET ACTION REQUIRED: The project is budgeted for this year.

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with Windemuller Electric for the relocation of the control panel and upgrade of the electrical service at the Marshall Street elevated water storage tank.

G. Request to Amend Encroachment Agreement #2000-112(j). ENGINEERING

SUMMARY OF REQUEST: AMEC/CSXT is requesting your permission to amend agreement #2000-112(j) to install five additional monitoring wells in the public R-O-W of E. Western and Marquette bringing the total to ten wells at that location. The request was made through the encroachment agreement form.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

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

H. Amendment to the Commercial Rehabilitation Certificate Resolution for 971 Washington. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 210 of 2005, as amended, the business at 971 Washington Avenue was approved for a commercial rehabilitation certificate on July 28, 2009. The State Tax Commission has requested additional language be put in the resolution.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the revised resolution.

I. Sale of Buildable Vacant Lot at 323 Catawba. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of a vacant buildable lot at 323 Catawba to Michael Harman of 315 Catawba, Muskegon, MI. The lot is 66 x 132 ft. and is being offered to Michael Harman for $1,000 plus the fee to register the deed. Michael Harman will be combining this property with his existing property, which would be considered unbuildable should his home be destroyed over 75%. His property is 52 x 66 ft. The True Cash Value for the property listed in the Assessor's office is $4,000, and our price is set at $2,200 which is 55% of that amount. The City has owned the property since 2003 and there have been no

inquiries for potential construction. The Land Reutilization Committee is recommending approval of the sale at a lesser price due to the size of Michael Harman's current property.

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

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and the Clerk to sign said resolution and deed.

COMMITTEE RECOMMENDATION: The Land Reutilization Committee recommends approval of the sale with the condition that the property be combined with the owner's original parcel.

J. <u>Sale of Buildable Vacant Lot at 1130 1st.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of a vacant buildable lot at 1130 1st Street to Charles Wolters, 8745 146th Avenue, West Olive, MI (owner of 1124 1st Street). The lot is 92 x 66 ft. and is being offered to Charles Wolters for $1,000 plus the fee to register the deed. Charles Wolters will be combining this property with his existing property, which would be considered unbuildable should his home be destroyed over 75%. His property is 46 x 66 ft. The True Cash Value for the property listed in the Assessor's office is $10,000, and our price is set at $2,500 which is 25% of that amount. The City has owned the property since 2006 and there have been no inquiries for potential construction. The Land Reutilization Committee is recommending approval of the sale at a lesser price due to the size of Charles Wolters' current property.

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

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and the Clerk to sign said resolution and deed.

COMMITTEE RECOMMENDATION: The Land Reutilization Committee recommends approval of the sale with the condition that the property be combined with the owner's original parcel.

K. <u>West Michigan Metropolitan Transportation Plan (WestPlan) Dues, October 1, 2009 – September 30, 2010.</u> CITY MANAGER

SUMMARY OF REQUEST: To approve the City of Muskegon's portion of the WestPlan dues, 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.

L. <u>Emergency Purchase – Sewer Lift Station Pump Replacement.</u> PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase a new pump from Kennedy Industries for the Beach Street Lift Station at the quoted price of $11,597.

FINANCIAL IMPACT: Expenditures for the purchase would come from the Sewer Fund.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To purchase the pump from Kennedy Industries.

M. <u>Purchase of Microfilm Scanner.</u> PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety is requesting Commission approval to purchase a microfilm scanner for the Police Department. Thousands of records are currently stored on microfilm. The microfilm is beginning to deteriorate. This scanner will allow us to transfer these documents onto a computer hard drive and thus ensure more reliable long-term storage.

Bids were solicited and we received the following:

Hasselbring/Clark, Lansing	$9,800.00
Michigan Office Solutions, Grand Rapids	$8,462.00

Based upon the bids received, staff is recommending Michigan Office Solutions.

FINANCIAL IMPACT: Funding for this scanner is part of Byrne/Justice Assistance Grant which was approved by the Department of Justice earlier this year. No general fund monies will be expended.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the purchase.

O. <u>Appraisal Services.</u> FINANCE

SUMMARY OF REQUEST: In an effort to avoid a lengthy and costly property tax appeal, the new owner/developer of the Shoreline Inn properties has approached the City with the concept of mutually selecting an independent appraiser to set the value for the property. The property owner and City would share appraisal costs and agree to the independently determined value. Staff believes this is a cost-effective approach and will save attorney fees, interest charges, and other costs associated with a lengthy appeal. Moreover, if a traditional appeal were pursued, the City would still have to hire an appraiser due to the complexity of the properties (i.e. hotel, marina, restaurant).

FINANCIAL IMPACT: City's share is not to exceed $12,500. Costs will be paid from the DDA fund since taxes on this property are collected as DDA tax increments.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Approval.

Motion by Commissioner Carter, second by Commissioner Spataro to approve the Consent Agenda as read minus items N, P, and Q.

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

Nays: None

MOTION PASSES

2009-84 ITEMS REMOVED FROM THE CONSENT AGENDA:

N. <u>Hackley Park Former Fence Usage.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The McLaughlin Neighborhood Association would like approval to use the former wrought iron fence around the Hackley Park statue. The fence is in the process of being replaced and has already been taken down and put in storage. The fence would be installed at the McLaughlin Pocket Park along Isabella Street and Terrace Street.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval to use the fence at the McLaughlin Pocket Park.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the request to donate the fence to the McLaughlin Pocket Park.

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

Nays: None

MOTION PASSES

P. <u>Special Event Liquor License Request – The Pelto Initiative.</u> LEISURE SERVICES

SUMMARY OF REQUEST: The Pelto Initiative, 1937 Lakeshore Drive is requesting a temporary liquor license to serve spirits on October 31, 2009, during their Scarefest 2009 film festival with movie premiere event (Muskegon Athletic Club, LLC holds the first license for October 30 thru October 31, 2009).

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

COMMITEE RECOMMENDATION: The Leisure Services Board approved this event at their September 21st meeting.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the special event liquor license request for The Pelto Initiative at the Harbour Theater.

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

Nays: Warmington

MOTION PASSES

Q. <u>Accept Resignation and Make Appointment to Various Boards and Committees.</u> CITY CLERK

SUMMARY OF REQUEST: To accept the resignation of Jason Bolton from the Local Development Finance Authority and appoint Tiffanny Seals to the Historic District Commission.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the resignation and the appointment.

COMMITTEE RECOMMENDATION: The Community Relations Committee approved this request at their October 12th meeting.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to accept the resignation of Jason Bolton from the Local Development Finance Authority and appoint Tiffanny Seals to the Historic District Commission.

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

Nays: None

MOTION PASSES

2009-85 PUBLIC HEARINGS:

A. <u>Public Hearing to Review 2008-2009 Consolidated Annual performance Evaluation Report (CAPER).</u> COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To conduct a public hearing on October 13, 2009, to review accomplishments and receive comments from the public concerning the 2008-2009 Consolidated Annual Performance Evaluation Report (CAPER) developed by the Community and Neighborhood Services department.

After the public hearing has been conducted and all the comments have been documented; the Community and Neighborhood Services office requests that the Commission direct the staff to submit the required documents to the U. S.

Department of Housing and Urban Development (HUD) in compliance with 24 CFR 91.520, by no sooner than October 29, 2009.

FINANCIAL IMPACT: The City is required to submit the CAPER report in order to continue receiving Community Development Block Grant and HOME funding.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To direct staff to gather comments from the public and to submit the CAPER to HUD after the public comment period has elapsed.

COMMITTEE RECOMMENDATION: The document was reviewed by the Citizen District Council.

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

Motion by Commissioner Carter, second by Commissioner Wierengo to close the Public Hearing and approve the Consolidated Annual Performance Evaluation Report.

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

Nays: None

MOTION PASSES

2009-86 NEW BUSINESS:

A. <u>Consideration of Bids for B-238 Smith Ryerson Park Improvements.</u> ENGINEERING

SUMMARY OF REQUEST: Authorize staff to negotiate with Lakewood Construction out of Holland, Michigan on the Smith Ryerson Park Improvements project.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to negotiate with Lakewood Construction.

Motion by Commissioner Spataro, second by Commissioner Wierengo to reject all bids because of computational errors and the fact that it was over bid.

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

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Commissioner Shepherd to rebid

the Smith Ryerson Park Improvement project with certain items removed and other items listed as alternative bids.

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

Nays: None

MOTION PASSES

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

SUMMARY OF REQUEST: The City last adjusted sewer rates on January 1, 2009 (a 12% increase). Since then, Sappi Paper has announced it is permanently closing the Muskegon mill operation and the state has announced closing of the Muskegon Correctional facility. In response, Muskegon County has announced it will raise wholesale sewer rates to municipal customers (including the City), by an initial15%. It is certain that another substantial wholesale rate increase will follow within the next year. City staff is recommending a 25% retail rate increase to be effective 1/1/10.

The proposed retail increase is greater than 15% for two reasons: 1) the cash position of the sewer fund is very poor and needs to be addressed quickly and, 2) within the year, we anticipate a second County rate increase that will be equal to or larger than the announced 15%. We are hopeful that increasing retail rates more substantially now will mitigate the level of increase needed later.

We continue to work with the County on metering issues. Some progress has been made as shown on the accompanying chart. Monthly flows have decreased with use of the new "C" station meter as the basis for computing City flows. Also, the new County leadership appears to recognize the importance of fully metering City flows.

However, even as monthly flows have fallen, the City's share of the total system has grown dramatically with the downsizing and eventual closing of Sappi. The 40-year intergovernmental sewage treatment agreement expires in 2010. There are many issues impacting the City that will need to be worked out in a new agreement.

FINANCIAL IMPACT: The proposed sewer rate adjustment will generate $1,225,000 additional annual revenue for the City's sewer fund. The financial impact for a typical City residential user (15,000 gal/month) will be $118.20 annually ($9.85 monthly). The City will start monthly utility billing in the next few weeks which will help residents budget for these costs and avoid the buildup of extraordinarily large bills.

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 Vice Mayor Gawron, second by Commissioner Shepherd to adopt the fee adjustment resolution for the sewer rates.

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

Nays: None

MOTION PASSES

C. <u>Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Following:</u> PUBLIC SAFETY

60 E. Walton Avenue

1409 Nolan Avenue

1478 Hoyt Street (Area 13)

1968 Howden Street

1969 Wood Street – Removed per staff request

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures are unsafe, substandard, a public nuisance and that they be demolished within 30 days. It is further requested that administration be directed to obtain bids for the demolition of the structures and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds.

BUDGET ACTION REQUIRED: None.

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

Motion by Commissioner Spataro, second by Commissioner Shepherd to concur with the Housing Board of Appeals notice and order to demolish 60 E. Walton, 1478 Hoyt, and 1968 Howden.

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

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with

the Housing Board of Appeals notice and order to demolish 1409 Nolan.

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

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Mayor Warmington introduced State Representative Jeff Hansen. Commissioner Shepherd shared plaques that were presented to the Michigan Black Caucus – Local Elected Officials.

PUBLIC PARTICIPATION: Various comments were heard.

ADJOURNMENT: The City Commission Meeting adjourned at 6:30 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk

AGENDA ITEM NO._____
CITY COMMISSION MEETING_____

TO: **HONORABLE MAYOR AND CITY COMMISSIONERS**

FROM: **Kenneth D. Grant, Income Tax Administrator**

DATE: **October 13, 2009**

RE: **Donation program for 2009 Individual Income Tax Returns**

SUMMARY OF REQUEST:
Approval of multiple donations programs for the 2009 income tax returns. Every year our goal is to increase the number of refunds donated to our designated programs. Last year, 503 taxpayers donated their refunds to our donation programs for a grand total of $2,540.00.

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

FINANCIAL IMPACT:
The average amount collected each year is $2,000.00. Each donated refund saves the city approximately $1.00 in checks fees.

BUDGET ACTION REQUIRED:
None

STAFF RECOMMENDATION:
Approval recommended

COMMITTTEE RECOMMENDATION:

Date: October 27, 2009

To: Honorable Mayor and City Commissioners

From: Engineering

RE: Request to Amend
Encroachment Agreement #2007-23(k)

SUMMARY OF REQUEST:

WSP on behalf of Federal-Mogul is requesting your permission to amend agreement #2007-23(k) to install two (2) additional monitoring wells in the public R-O-W of E. Western & Marquette bringing the total to four (4) wells at that location (see attached location map). The request was made through the attached letter dated 10/09/09 and an encroachment agreement form.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the encroachment agreement subject to the supplemental conditions.

COMMITTEE RECOMMENDATION:

SUPPLEMENTAL CONDITIONS

- Grantee shall notify Grantor of the date when the installation of the Wells shall begin and shall allow the City's representative ample time to inspect the site before construction begins.

- After completion of construction, the City shall be contacted for final inspection.

- Grantee shall not disturb any installation in the right of way, including utilities of any kind without prior approval by the City and the affected company.

- Grantee shall use all means necessary, including MISS DIG, to locate and /or have located all existing utilities in the vicinity of the proposed Wells.

- If deemed necessary by the City due to public improvements, Grantee shall relocate or remove the wells as directed by the City within 7-days of notification.

- The grantee shall be fully responsible for the maintenance of the wells and any relocation that might become necessary to facilitate other improvements within the right of way.

- Grantee will not be allowed to close off roadway nor will he be allowed to hinder the traffic flow without prior approval by the City.

WSP Consulting Engineers, P.C.

October 9, 2009

Mr. Mohammed S. Al-Shatel
Engineer, City of Muskegon
933 Terrace Street
Muskegon, Michigan 49440

Re: Monitoring Well Installation Permit
Federal-Mogul Piston Rings – Muskegon Facility, Muskegon, Michigan

Dear Mr. Al-Shatel:

On behalf of Federal-Mogul Corporation, WSP Consulting Engineers, P.C. has been requested by the Michigan Department of Environmental Quality (MDEQ) to install two monitoring wells for the collection of groundwater samples to determine the extent of the groundwater plume associated with the former Federal-Mogul Piston Rings facility located at 331 West Laketon Avenue. The locations of the proposed monitoring wells are for MW-33 on the frontage road to the west of the southbound lane of Seaway Drive between Dale Avenue and Larch Avenue; and for MW-34 it is to be located on Henry Street between West Laketon Avenue and Windsor Avenue. Enclosed are the completed permit application, proposed monitoring well location map, and a check for $90.00 (check number 1269), made payable to the City of Muskegon.

Drilling activities are scheduled tentatively to begin the week of November 16, 2009 and take approximately 5 to 8 days to complete. All personnel will wear high visibility clothing and hardhat. Miss Dig will be contacted at least 72 hours prior to drilling activities. Temporary traffic control will be in accordance with the Manual On Uniform Traffic Control Devices, Figure 6H-11, "Lane Closure on Two-Lane Road with Low Traffic Volume" (enclosure). All cuttings and drilling fluids will be drummed and transported to the former Federal-Mogul facility for storage and offsite disposal.

If you have any questions regarding the work to be performed or the permit application, please do not hesitate to contact Michael Gelles at (814) 242-7030 or me at (412) 604-1040.

Sincerely,

S. J. Kretschman

Stephen J. Kretschman
Vice President

SJK:MJG:eal
K:\Federal-Mogul\138082\Correspondence\2009\Well Permit\Well Permit 100909.doc

Enclosures

WSP Consulting Engineers, P.C.
750 Holiday Drive, Suite 410
Pittsburgh, PA 15220
Tel: (412) 604-1040
Fax: (412) 920-7455

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 Federal-Mogul Corporation		Name WSP Consulting Engineers, P.C.	
Street 26555 Northwestern Highway		Street 750 Holiday Drive; Suite 410	
City Southfield State MI Zip 48033		City Pittsburgh State PA Zip 15220	
Phone 248-354-8912	Fax 248-354-9499	Phone 412-604-1040	Fax 412-920-7455

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):
MW-33I\D frontage road west of Seaway Drive and MW-34I\D Henry Street see attached map	
Project Description/Purpose: As requested by the Michigan Department of Environmental Quality to determine the extent of the groundwater plume associated with the former Federal-Mogul Piston Rings facility located at 331 West Laketon Avenue	
Proposed Start Date: November 16, 2009	

Monitoring/Observation Well Information

Drilling Company (if different than Contractor):	Proposed Well Depth (ft.):	Well name or #:
Stearns Drilling Company	approximately 100 feet	MW-33I\D and MW-34I\D

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: Stephen J. Kretschman Stephen Kretschman, as an agent for Federal-Mogul Corporation

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:_____

Commission Meeting Date: October 27, 2009

Date: **October 16, 2009**

To: **Honorable Mayor and City Commissioners**

From: **Planning & Economic Development** CBC

RE: **Rezoning request for properties located at 400 & 410 W. Laketon Avenue**

SUMMARY OF REQUEST:

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

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the request.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the request at their 10/15 meeting. The vote was unanimous, with T. Harryman 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 RM-1 "Medium Density Multiple Family Residential" 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 RM-1 "Medium Density Multiple Family Residential" district:

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 3 BLK 460
And
CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 4 BLK 460

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 400 & 410 W. Laketon from B-4 to RM-1)

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 27th day of October, 2009, 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: _____, 2009.

_____
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 27, 2009, 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 to RM-1 "Medium Density Multiple Family Residential" district

CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 3 BLK 460
And
CITY OF MUSKEGON REVISED PLAT OF 1903 LOT 4 BLK 460

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 _____, 2009

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 15, 2009

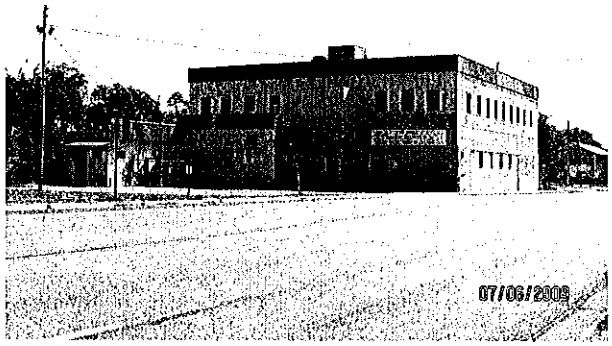
Hearing; Case 2009-17: Request to rezone the properties located at 400 and 410 W. Laketon Avenue from B-4, General Business District to RM-2, Medium Density Multiple Family Residential District, by Carla Skoglund, Muskegon Rescue Mission.

BACKGROUND

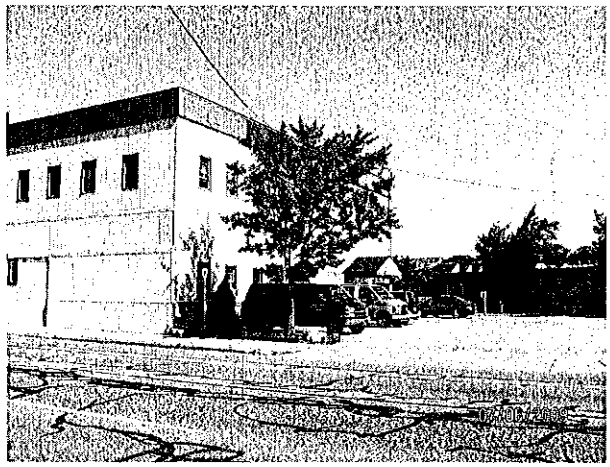
Applicant:	Carla Skoglund, Muskegon Rescue Mission
Property Address/Location:	400 W. Laketon Avenue
Request:	Rezoning from B-4 to RM-2
Present Land Use:	Rescue Mission's Men's Facility
Zoning:	B-4 – General Business District

STAFF OBSERVATIONS

1. The property is a 2.12 acre parcel that presently contains a building owned and occupied by Muskegon Rescue Mission men's facility.
2. This property is presently zoned B-4, General Business, but the applicant wishes to have the property rezoned to RM-1, Medium Density Multiple Family Residential.
3. Muskegon Rescue Mission originally applied for a special land use permit in July 2009 to allow for an expansion of the facility. Upon further discussion with their Board of Directors, they believe a rezoning would allow them to build a new facility which would be in compliance with all zoning requirements.
4. The properties to the North, South and West are zoned, I-2, General Industrial and the property to the East is zoned B-4.
5. The Future Land Use Map shows this property (Sub-Area 5) as "Public/Quasi-Public". The Master Plan also states: "Notwithstanding the presence of many quality homes, the sub-area also possesses a number of blocks with units in need of rehabilitation and site maintenance." A new building constructed on this site would surely improve the appearance of the area.
6. Staff has had no comments regarding this request.

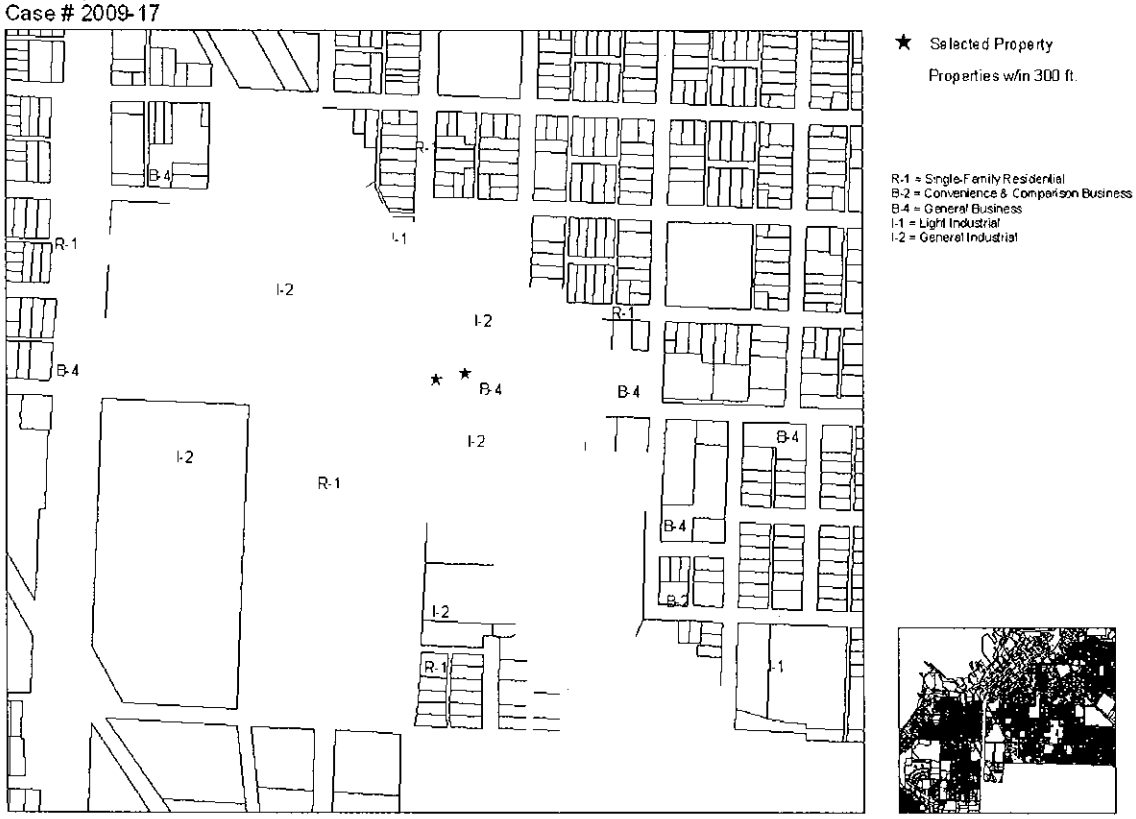


View of west side of building from Laketon.



East end of building from Laketon.

City of Muskegon
Planning Commission
Case # 2009-17



STAFF RECOMMENDATION

Staff recommends approval of the request to rezone the subject property from B-4, General Business district to RM-2, Medium Density Multiple Family 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 property located at 400 and 410 W. Laketon Avenue from B-4, General Business district to RM-2, Medium Density Multiple Family Residential 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 27, 2009

Date: **October 16, 2009**

To: **Honorable Mayor and City Commissioners**

From: **Planning & Economic Development** CDC

RE: **Vacation of the Southerly 159.5 feet of the Alley bounded by W. Forest Avenue, Sixth Street, W. Southern Avenue and Fifth Street**

SUMMARY OF REQUEST:

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

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends vacation of the ally, with the condition that all utility easement rights be retained.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended vacation of the alley at their 10/15/09 meeting, with the condition that all utility easement rights be retained. The vote was unanimous with T. Harryman absent.

RESOLUTION #2008-_____

RESOLUTION TO VACATE A PUBLIC ALLEY

WHEREAS, a petition has been received to vacate the Southerly 159.5 feet of the alley in the City of Muskegon Revised Plat of 1903, Block 427, bounded by W. Forest Avenue, Sixth Street, W. Southern Avenue and Fifth Street; and,

WHEREAS, the Planning Commission held a public hearing on October 15, 2009, to consider the petition and, subsequently, recommended the vacation; and,

WHEREAS, due notice had been given of said hearing as well as the October 27, 2009, 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 Southerly 159.5 feet of the alley in the City of Muskegon Revised Plat of 1903, Block 427, bounded by W. Forest Avenue, Sixth Street, W. Southern Avenue, and Fifth Street, County of Muskegon, State of Michigan.

BE IT FURTHER RESOLVED that the City Commission does hereby declare the 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 27th day of October, 2009.

Ayes:

Nays:

Absent:

By:_____
Stephen J. Warmington, Mayor

Attest:_____
Ann Marie Becker, MMC, City Clerk

CERTIFICATION

(Alley Vacation of the Southerly 159.5 feet of the alley in the City of Muskegon Revised Plat of 1903, Block 427)

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 27, 2009.

_____

Ann Marie Becker, MMC
Clerk, City of Muskegon

Staff Report [EXCERPT]
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
October 15, 2009

Hearing; Case 2009-11: Request to vacate the southerly 159.5 feet of the alley located in Block 427 of the City of Muskegon Revised Plat of 1903, bounded by W. Forest Avenue, Sixth Street, W. Southern Avenue, and Fifth Street, by Al and Tracy Hairston, 236 W. Forest Avenue.

BACKGROUND

A request has been submitted by Al and Tracy Harrison, who are the homeowners at 236 W. Forest. Their home is adjacent to this alley. They feel the alley is very dangerous, due to cars coming through the alley and not stopping before pulling out onto Forest Avenue. There is also a lot of kids hanging out in the alley doing various mischievous activities.

The applicants and their neighbor across the alley have no other access to their parking area located at the rear of their properties. The applicants say that if the alley is vacated, they will share the property with their neighbor for joint access to their parking areas. Parking is not allowed in a front yard, so they must have access to their parking areas in the back yard. Staff recommends that as a condition of approval, the two parties should be required to have joint easement agreements recorded with the Register of Deeds for each of their properties. This avoids problems in the future if new owners purchase either of the two properties. **This case was tabled at the September Planning Commission meeting.**

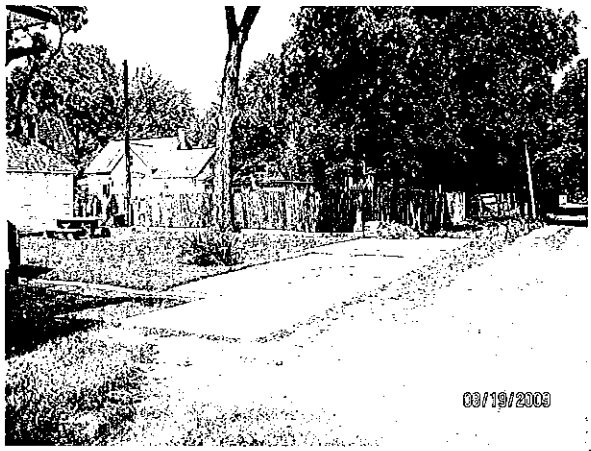
The Department of Public Works has no issues with the alley vacation.

The Fire Department has no issues with the alley vacation.

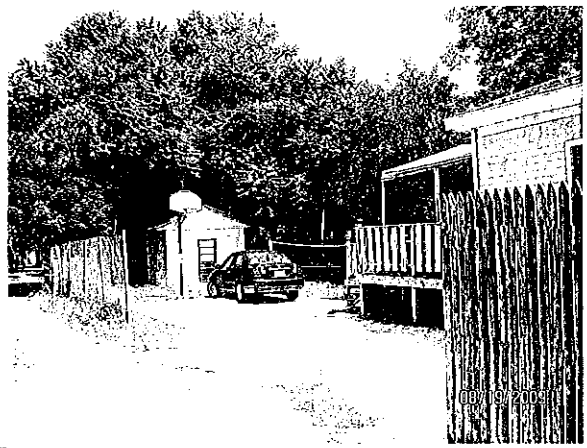
Staff has received no comments regarding this request.

View from W. Forest Avenue.

View of cross alley between 6th & 5th Streets.

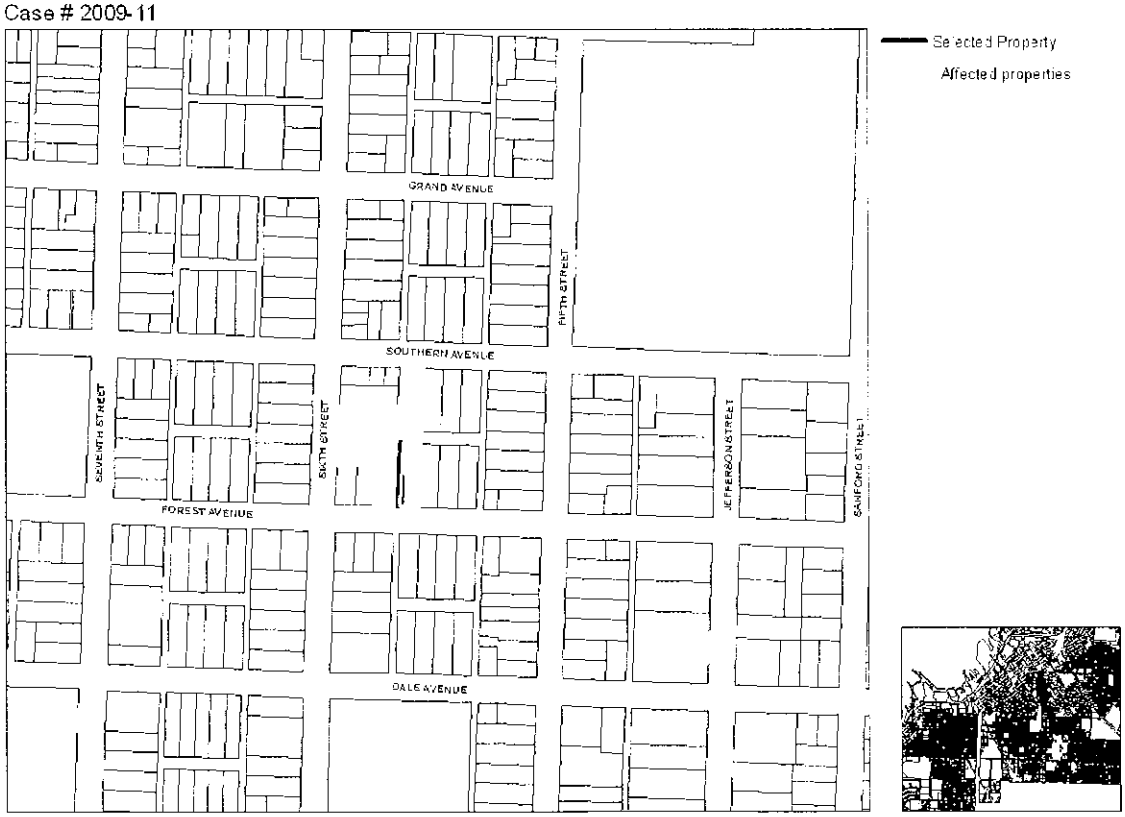


View of parking area for 246 W. Forest.



View of parking area for 236 W. Forest.

City of Muskegon
Planning Commission
Case # 2009-11



STAFF RECOMMENDATION

Staff recommends approval of the request.

DETERMINATION

The following motion is offered for consideration:

I move that the vacation of the southerly 159.5 feet of the alley located in Block 427 of the City of Muskegon's Revised Plat of 1903, bounded by W. Forest Avenue, Sixth Street, W. Southern Avenue and Sixth Street, 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. A joint property easement be obtained, recorded with the Register of Deeds, and copies provided to the Planning Department.

Commission Meeting Date: October , 2009

Date: **October 16, 2009**

To: **Honorable Mayor and City Commissioners**

From: **Planning & Economic Development** CBC

RE: **Amendment to the Zoning Ordinance – Adding Wind Turbine Facilities as Special Uses in Business and Industrial Zones**

SUMMARY OF REQUEST:

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

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

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

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the request at their 10/15 meeting. The vote was unanimous with T. Harryman absent.

Staff Report (EXCERPT)
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

October 15, 2009

Hearing; Case 2009-18: Staff initiated request to amend Section 1101, #14, of Article XI, Section 1201, #11 of Article XII, Section 1301, #13 of Article XIII, Section 1306, #6 of Article XIII, Section 1401, #7 of Article XIV, Section 1501, #5 of Article XV, to allow "Wind Turbine Facilities" as special land uses in B-2, B-3, B-4, and B-5 business zoning districts and I-1 and I-2 industrial zoning districts.

BACKGROUND

Since the new wind turbine facility ordinance was approved by the Planning Commission and City Commission, and they are allowed as special land uses in certain zoning districts, the language for those districts must be amended to include "Wind Turbine Facilities" as special land uses in those selected zoning districts.

NEW LANGUAGE

Deletions are ~~crossed out~~ and additions are in **bold:**

Section 1101, #14 of Article XI
New #14.

14. Wind Turbine Facilities.

Section 1201, #11 of Article XII
New #11.

11. Wind Turbine Facilities.

Section 1301, #13 of Article XIII
New #13.

13. Wind Turbine Facilities.

Section 1306, #6 of Article XIII
New #6.

6. Wind Turbine Facilities.

Section 1401, #7 of Article XIV
New #7,

7. Wind Turbine Facilities.

Section 1501, #5 of Article XV
New #5

5. Wind Turbine Facilities

DELIBERATION

I move that the amendment to Section 1101, #14, of Article XI, Section 1201, #11 of Article XII, Section 1301, #13 of Article XIII, Section 1306, #6 of Article XIII, Section 1401, #7 of Article XIV, Section 1501, #5 of Section XV, of the City of Muskegon Zoning Ordinance to add "Wind Turbine Facilities" as special land uses, be recommended to the City Commission for (approval/denial).

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO._____

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

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

Amendment to
NEW LANGUAGE
Deletions are ~~crossed out~~ and additions are in **bold:**

Section 1101, #14 of Article XI
New #14.

14. Wind Turbine Facilities.

Section 1201, #11 of Article XII
New #11.

11. Wind Turbine Facilities.

Section 1301, #13 of Article XIII
New #13.

13. Wind Turbine Facilities.

Section 1306, #6 of Article XIII
New #6.

6. Wind Turbine Facilities.

Section 1401, #7 of Article XIV
New #7,

7. Wind Turbine Facilities.

Section 1501, #5 of Article XV
New #5

5. Wind Turbine Facilities

This ordinance adopted:

Ayes:_____

Nayes:_____

Adoption Date:_____

Effective Date:_____

First Reading:_____

Second Reading:_____

CITY OF MUSKEGON

By: _____
Ann Marie Becker, MMC, City Clerk

CERTIFICATE

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 27th day of January, 2009, 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: _____, 2009.

_____
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 15, 2009, the City Commission of the City of Muskegon adopted an ordinance to amend Section 1101, #14, of Article XI, Section 1201, #11 of Article XII, Section 1301, #13 of Article XIII, Section 1306, #6 of Article XIII, Section 1401, #7 of Article XIV, Section 1501, #5 of Section XV, of the City of Muskegon Zoning Ordinance to add "Wind Turbine Facilities" as special land uses in business and industrial zones.

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 _____, 2009.

CITY OF MUSKEGON

By _____
Ann Marie Becker, MMC
City Clerk

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

Account No. 101-80400-5354

AGENDA ITEM No. _____

MUSKEGON CITY COMMISSION – October 27, 2009

TO:	Honorable Mayor & City Commissioners
FROM:	Planning Department CBC
DATE:	October 19, 2009
SUBJECT:	Revocation of a Neighborhood Enterprise Zone Certificate – 1709 Pine

SUMMARY OF REQUEST

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

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

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

FINANCIAL IMPACT

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

BUDGET ACTION REQUIRED

None.

STAFF RECOMMENDATION

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

COMMITTEE RECOMMENDATION

None.

Resolution No. _____

MUSKEGON CITY COMMISSION

RESOLUTION TO REVOKE THE NEIGHBORHOOD ENTERPISE ZONE CERTIFICATE # 97-049

WHEREAS, Sabrina Petty has not paid their property taxes for the property located at 1709 Pine in the McLaughlin neighborhood, and;

WHEREAS, the applicant owes for property taxes for the parcels # 24-205-298-0020-00 for the tax year 2009 and # 24-946-097-0049-00 for the tax year 2009, which does not meet the eligibility criteria for a Neighborhood Enterprise Zone Certificate;

NOW, THEREFORE, BE IT RESOLVED that the Neighborhood Enterprise Zone Certificate # 97-049 be revoked.

Adopted this, 27th day of October 2009.

Ayes:

Nays:

Absent:

By: _____
Stephen J. Warmington, Mayor

Attest: _____
Ann Marie Becker, MMC
City Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on August 8, 2006.

By: _____
Ann Marie Becker, MMC
City Clerk

Date: October 20, 2009

To: Honorable Mayor and City Commissioners

From: Assistant Finance Director

RE: Public Hearing - Completion of Neighborhood Of Choice and Blight Elimination in Downtown Muskegon CDBG Grants

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

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None.

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

COMMITTEE RECOMMENATION:

Commission Meeting Date: October 27, 2009

Date: **October 20, 2009**

To: **Honorable Mayor and City Commissioners**

From: **Planning & Economic Development** CBC

RE: **Revocation of Eight (8) IFT's – Sappi Fine Paper**

SUMMARY OF REQUEST:

Pursuant to Public Act 198 of 1974, as amended, the City of Muskegon requests that the eight (8) current Industrial Facilities Tax Exemption (IFT) Certificates for Sappi Fine Paper at 2400 Lakeshore Drive be revoked. The industrial activity for which the certificate was granted is no longer in production at this location.

FINANCIAL IMPACT:

The business will now be charged the full tax rate.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends revocation of the IFT.

COMMITTEE RECOMMENDATION:

None

Resolution No. _____

MUSKEGON CITY COMMISSION

RESOLUTION REVOKING INDUSTRIAL FACILITIES EXEMPTION CERTIFICATES NUMBERS 98-181; 99-100; 99-479; 200-492; 201-413; 204-289; 206-502; and 208-270
Sappi Fine Paper

WHEREAS, pursuant to P.A. 198 of 1974 as amended, after duly noticed pubic hearing held on December 13, 1983, this Commission by resolution established an Industrial Development District as requested by Sappi Fine Paper North America, 2400 Lakeshore Drive, Muskegon, Michigan 49441; and

WHERAS, The City of Muskegon, by resolution, approved Sappi Fine Paper for Industrial Facilities Exemption Certificates Numbers 98-181; 99-100; 99-479; 200-492; 201-413; 204-289; 206-502; and 208-270; and

WHEREAS, Sappi Fine Paper is no longer in business at 2400 Lakeshore Drive, Muskegon, Michigan 49441; and

WHEREAS, appropriate certified notice has been sent to Sappi Fine Paper, on October 14, 2009, notifying the company of the intent to revoke the Industrial Facilities Exemption Certificate No. 98-624; and

NOW THEREFORE BE IT RESOLVED by the Muskegon City Commission that Industrial Facilities Exemption Certificates Numbers 98-181; 99-100; 99-479; 200-492; 201-413; 204-289; 206-502; and 208-270, for Sappi Fine Paper, are revoked.

Adopted this 27th day of October, 2009

Ayes:

Nays:

Absent

By: _____
Stephen J. Warmington
Mayor

Attest: _____
Ann Marie Becker
City Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on October 27, 2009.

By: _____
Ann Marie Becker
City Clerk

Commission Meeting Date: October 27, 2009

Date: **October 20, 2009**

To: **Honorable Mayor and City Commissioners**

From: **Planning & Economic Development** CBC

RE: **Revocation of IFT – RC Productions**

SUMMARY OF REQUEST:

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

FINANCIAL IMPACT:

The business will now be charged the full tax rate.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends revocation of the IFT.

COMMITTEE RECOMMENDATION:

None

Resolution No. _____

MUSKEGON CITY COMMISSION

RESOLUTION REVOKING INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE NO 98-624

RC Productions

WHEREAS, Pursuant to PA 198 of 1974 as amended, after duly noticed public hearing held on October 26, 1999, this Commission by resolution established an Industrial Development District #99-102(b) as requested by Source One Signs, 1756 Lakeshore Drive, Muskegon, Michigan 49442; and

WHERAS, The City of Muskegon, by resolution, approved Source One Signs, Inc. for the transfer of Industrial Facilities Tax Exemption Certificate No. 98-624 on January 25, 2000; and

WHEREAS, Source One Signs was renamed RC Productions; and

WHERAS, the manufacturing activity for which the Industrial Facilities Tax Exemption was granted is no longer in production at 1756 Lakeshore Drive; and

WHEREAS, appropriate certified notice has been sent to RC Productions, on October 14, 2009, notifying the company of the intent to revoke the Industrial Facilities Exemption Certificate No. 98-624; and

NOW THEREFORE BE IT RESOLVED by the Muskegon City Commission that Industrial Facilities Exemption Certificate No. 98-624, for RC Productions, is revoked.

Adopted this 27th day of October, 2009

Ayes:

Nays:

Absent

By: _____
Stephen J. Warmington
Mayor

Attest: _____
Ann Marie Becker
City Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on October 27, 2009.

By: _____

Ann Marie Becker
City Clerk