

CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 26, 2021 @ 5:30 P.M.

**MUSKEGON CITY COMMISSION CHAMBERS
933 TERRACE STREET, MUSKEGON, MI 49440**

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, October 26, 2021, Pastor Tim Cross, Living Word Church, opened the meeting with a prayer, after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen J. Gawron, Vice Mayor Eric Hood, Commissioners Dan Rinsema-Sybenga, Willie German, Jr., and Michael Ramsey, City Manager Frank Peterson, City Attorney John Schrier, and City Clerk Ann Meisch.

Absent: Commissioners Ken Johnson and Teresa Emory

PUBLIC COMMENT ON AGENDA ITEMS: Public comments were received.

2021-95 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the October 11, 2021 Worksession and the October 12, 2021 Regular Meeting.

STAFF RECOMMENDATION: To approve the minutes.

C. Michigrown – Consumption Event City Clerk

SUMMARY OF REQUEST: Michigrown is planning a consumption event with music and entertainment at 331 W. Laketon from noon until 11 pm on June 4, 2022. The City Clerk's signature is required on the attestation for the event permit filed with the State of Michigan.

This event was approved on July 27, 2021 and is being rescheduled. They do plan to provide live music at the event.

STAFF RECOMMENDATION: To authorize the Clerk to sign the attestation and approve live music at the event contingent upon a meeting and approval with the special event staff.

D. Request to Purchase AED's Public Safety

SUMMARY OF REQUEST: Requesting the approval to purchase eight AED units to replace the current aging units.

The Fire Department requests approval to purchase eight (8) AED's "Automated External Defibrillators." Currently, the fire department uses two different models of AED's. There are six (6) units we are no longer able to obtain batteries for. Currently, we pay for the pads placed on a patient's chest at the cost of \$99.00. Anytime the pads are opened or used, they must be replaced. Pro-Med now uses Zoll equipment and will provide replacement pads at no cost.

In August, the department received a grant for the purchase of a Zoll AutoPulse Resuscitation System. The Zoll AutoPulse and AED will interface with each other as one resuscitation system. Zoll's offers a buyback program. Zoll will pay \$1,350 for 11 AED units. The buyback credit applies to all AED models.

AMOUNT REQUESTED: \$26,088.00 AMOUNT BUDGETED: \$28,000.00

STAFF RECOMMENDATION: Authorize the fire department to purchase eight AED's from Zoll Medical Corporation for the amount of \$26,088.00

E. Request to Purchase Portable Fire Pump for the Fireboat Public Safety

SUMMARY OF REQUEST: Requesting the approval to purchase one portable fire pump.

The Fire Department requests approval to purchase one (1) portable fire pump for the fireboat. The current fire pump (trash pump) is approximately 20 years old and it has become unreliable. Replacement parts have been difficult to obtain. The Tohatsu pump will be approximately nine pounds lighter, be able to pump more water for a longer period. The new pump is designed for the fire service and for firefighting.

AMOUNT REQUESTED: \$9,199.00 AMOUNT BUDGETED: \$10,000.00

STAFF RECOMMENDATION: Authorize the fire department to purchase the Tohatsu fire pump for the fire department fireboat for the amount of \$9,675.00

G. MiDeal with Staples Finance

SUMMARY OF REQUEST: Enter into a MiDeal Participation Agreement with Staples.

Staples was selected by the State of Michigan for the MiDeal Participation Agreement. This agreement allows local units of government to get the same cost savings as the State of Michigan when ordering items through Staples. The savings are on paper, office supplies, furniture, janitorial supplies, and other goods. The MiDeal Participation Agreement goes until May 31, 2022 plus two 1-year optional extensions.

STAFF RECOMMENDATION: To allow the Finance Director to enter into a

MiDeal Participation Agreement with Staples.

H. Sale – 766 Leonard Economic Development

SUMMARY OF REQUEST: City staff is seeking authorization to sell the city-owned home at 766 Leonard in Jackson Hill to DeMarko Thomas.

The city is constructing this single family detached home as part of our infill housing program. Our contract to construct two homes was for \$425,000, and the estimated finished costs of this home will be \$215,000. We also anticipated \$12,900 in sales commissions. The accepted purchase price is \$201,000, and the incurred sales commissions are \$10,000. The City will not contribute funds toward closing costs outside of the seller's agent commission. The proceeds of this home will repay a portion of the Priority Related Investment made by the Community Foundation for Muskegon County. The sale of the second home in this project should repay the remainder, and any additional funds will reimburse the Economic Development Fund for the \$75,000 investment in the project.

STAFF RECOMMENDATION: Authorize the Code Coordinator to complete the sale of 766 Leonard Street, as described in the purchase agreement and for the Mayor and City Clerk to sign the deed.

J. Ice Rink Refrigeration System Arena

SUMMARY OF REQUEST: The current ice rink refrigeration system is 24 years old. It has become unreliable and uses an outdated refrigerant that is no longer manufactured.

The current refrigeration system was installed in 1998, the compressors and related equipment are unreliable, leaky, and showing their age. In just the past 12 months alone we have spent \$48,000 on repairs and replacement refrigerant. The R22 refrigerant used in our system is an environmental hazard and is no longer manufactured. Due to the scarcity of the product, this price will only increase.

If we were to have a leak or a system failure, we may not be able to source enough refrigerant to keep the ice, that type of situation would be detrimental for the arena and the Lumberjacks hockey season.

The new system will use ammonia as the refrigerant which is about 30 times cheaper, more readily available, and more environmentally friendly. The new system will use brand new energy efficient compressors and be easier and less expensive to operate and maintain, significantly reducing labor hours and repairs.

As we started this process we intended to get 3+ quotes, we soon realized there is a limited supply and long order time for the necessary equipment. If we did a formal RFP process, we would never be able to complete the project during our open timeline in Spring of 2022.

In order to have the parts available by the end of this season, the equipment needs to be ordered as soon as possible. The lead-time on new equipment is up to 30 weeks, which puts us right up the edge of our time frame during the off-season. If we are able to order equipment soon, we will be able to schedule the change-over to happen during a 6-8 week down period during the summer.

Serv-Ice is the closest contractor capable of completing this project. Their proposal covers the entire change over 100%, including removal off all existing equipment (entire walls need to be removed), compressor installation, plumbing, electrical, pipe-fitting, and final setup. Serv-Ice has serviced and repaired our machines over the years, and knows our building and setup very well.

AMOUNT REQUESTED: \$718,000 AMOUNT BUDGETED: \$625,000
from the Shuttered Venue Operators Grant. Additional grant funds may be available to cover the full amount, or remaining funds to come from the Arena.

FUND OR ACCOUNT: 254

STAFF RECOMMENDATION: To approve the refrigeration upgrade by Serv-Ice of Michigan for \$718,000.00

K. Contract for Stormwater Management Review Engineering

SUMMARY OF REQUEST: Staff is requesting approval of an as needed services contract with Eng. to review stormwater management for development within the city limits.

Many of the developments within our city limits are experiencing delays when working with the county's water resources office. Staff worked with the Water Resources Commissioner to discuss alternatives, and all agree that the best option is for city staff to manage the process moving into the future. Eng., Inc. currently provides stormwater management review services for the county Water Resources Commissioner so staff requested a proposal from Eng., Inc. to provide consistency and experience for future developments. New fees will cover the expenses to review the projects.

STAFF RECOMMENDATION: To approve the as need services contract with Eng., Inc.

L. Stormwater Management Review Fees Engineering

SUMMARY OF REQUEST: Set the fees for stormwater management review.

The stormwater management review fees are used to cover expenses necessary for the review of proposed development within the City of Muskegon, including but not limited to: review of development plans and on-site inspections. If the expense to review the proposed development exceeds the amount of fees collected, the Developer will be responsible for the payment of all additional costs.

Stormwater Review Base Fee \$2,000.00

STAFF RECOMMENDATION: Approve the fees.

Motion by Commissioner German, second by Vice Mayor Hood, to accept the consent agenda as presented minus items, B, F, and I.

ROLL VOTE: Ayes: Rinsema-Sybenga, Gawron, Hood, Ramsey, and German
Nays: None

MOTION PASSES

2021-96 REMOVED FROM CONSENT AGENDA:

B. Adelaide Point Development Agreement Economic Development

SUMMARY OF REQUEST: The team has been working with the developer at Adelaide Pointe to negotiate mutually favorable terms on a development agreement that will stipulate funding and incentives for the project. The final draft is mutually agreed upon by staff and Ryan Leetsma, the project's owner and developer.

The structure of this development agreement is quite different than other recent projects due to the large amount of new public infrastructure that is required to build out the project. We would essentially be funding the roads, water, sewer, boat ramp/lift well and other public amenities for a whole new district of the Nims neighborhood and an extension/connection of downtown to the lakefront. Tonight, staff will give one final walkthrough of the city and developers obligations pursuant to this agreement, and take final questions before the recommended ratification of the document.

AMOUNT REQUESTED: Bond Issue for Public Infrastructure estimated at \$10,000,000

AMOUNT BUDGETED: To be completed no later than fiscal 22/23

STAFF RECOMMENDATION: Motion to accept the development agreement as presented, and authorize the mayor and clerk to sign.

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to approve the Adelaide Pointe Development Agreement.

ROLL VOTE: Ayes: Gawron, Hood, Ramsey, German, and Rinsema-Sybenga
Nays: None

MOTION PASSES

F. Local Officers Compensation Commission Recommendation City Clerk

SUMMARY OF REQUEST: The City of Muskegon's Local Officers Compensation Commission met on October 18, 2021 and is recommending a salary increase of \$500 for the Mayor (\$8,100 to \$8,600) and \$400 for City Commissioners (\$6,500 to

\$6,900). No increase was recommended for the travel budget.

STAFF RECOMMENDATION: No action is required unless City Commission rejects the Committee Recommendation.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Ramsey, to reject the recommendation of the Local Officers Compensation Commission.

ROLL VOTE: Ayes: Gawron and Rinsema-Sybenga

Nays: Hood, Ramsey, and German

MOTION FAILS

I. Contract for Critical Dune Enforcement Planning

SUMMARY OF REQUEST: Prism Engineering has been the consultant for reviewing critical dune applications for the City since 2018, however, the company has recently disbanded. One of the consultants has started a new firm, Point Blue, LLC. Staff is recommending entering into the contract with Point Blue, LLC.

STAFF RECOMMENDATION: To approve the services contract with Point Blue, LLC.

Motion by Commissioner Ramsey, second by Commissioner Rinsema-Sybenga, to approve the services contract with Point Blue, LLC.

ROLL VOTE: Ayes: Gawron, Hood, Ramsey, German, and Rinsema-Sybenga

Nays: None

MOTION PASSES

2021-97 PUBLIC HEARINGS:

A. Brownfield Plan Amendment Public Hearing – Harbor 31 LLC (Trilogy Senior Housing Redevelopment Project), 60 Viridian Drive Economic Development

SUMMARY OF REQUEST: To hold a public hearing on the request for a Brownfield Plan Amendment for Harbor 31, LLC (Trilogy Senior Housing Redevelopment Project) and to consider the resolution.

Harbor 31, LLC requests a Brownfield Plan Amendment for a portion of the 5-acre site at 60 Viridian Drive, site of the former Teledyne Continental Motors industrial facility. Proposed redevelopment activities include the construction of an approximately 63,000 square foot multi-story 118-unit senior living building with surrounding asphalt parking areas, concrete walkways and landscaping. The project will create a walkable community that provides access to Muskegon lake, greenspace areas, and downtown Muskegon.

Total private investment, for this phase, not including property acquisition, is approximately \$15M. The development is expected to start in Spring 2022 and continue through 2023. A revised Planned Unit Development (PUD) site plan was

approved by the City Commission in January. This impactful waterfront multi-use project is another initiative which is key to the continued redevelopment of our downtown area.

The initial plan includes \$4,378,740 in eligible costs. It is a local-only property tax capture plan, although through statute the plan is eligible for \$119,500 for eligible environmental costs captured by state educational millage through EGLE. The local-only EGLE. Eligible costs are \$920,000 and include \$800,000 for due care. Local only MSF eligible costs are \$3,339,240 and include \$10,000 demolition, \$781,968 site preparation and \$490,000 for infrastructure improvements. The initial capture for phase one is estimate at \$598,353 over the 27 years.

Capture of tax increment revenues for Developer reimbursement is anticipated to commence in 2025 (after the sunset of the Smart Zone tax abatement for the property) and end in 2049, a total of 27 years. This Plan Amendment assumes approximately three years of additional capture of tax increment revenues (following Developer reimbursement) for deposit into a Local Brownfield Revolving Fund, if available.

There is a 15 percent contingency in the plan. A request for 4% interest is included for all accrued and unreimbursed eligible activities on a yearly basis. There is an annual \$10,000 administrative fee paid to the BRA.

In addition, the City has recently secured a State enhancement grant of \$2.3M to be used to remediate contaminated soil and mitigate adjacent wetlands on site. A soil cap will be installed over the site to prevent human and animal interaction with previously impacted soils.

STAFF RECOMMENDATION: To close the public hearing and approve the Brownfield Plan Amendment for Harbor 31 LLC (Trilogy Senior Housing Redevelopment Project at Harbor 31) at 60 Viridian Drive with the resolution, authorizing the Mayor and City Clerk to sign.

PUBLIC HEARING COMMENCED: Mike Houseman, representing Harbor 31, LLC – the site developer and Peter Massey, representing the real estate division of Trilogy Health Services both spoke briefly about the project.

No other public comments were made.

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to close the public hearing and approve the Brownfield Plan Amendment for Harbor 31 LLC (Trilogy Senior Housing Redevelopment Project at Harbor 31) at 60 Viridian Drive with the resolution, authorizing the Mayor and City Clerk to sign.

ROLL VOTE: Ayes: Hood, Ramsey, German, Rinsema-Sybenga, and Gawron

Nays: None

MOTION PASSES

**B. Public Hearing on Adelaide Pointe Project Brownfield Plan Amendment,
1148 and 1204 West Western Avenue** Economic Development

SUMMARY OF REQUEST: To hold a public hearing on the request for a Brownfield Plan Amendment for Adelaide Pointe QOZB, LLC (Adelaide Pointe Project) and to consider the resolution.

Adelaide Pointe QOZB, LLC proposes a Brownfield Amendment for its Adelaide Pointe Project; a 35-acre mixed use waterfront development project including winter boat storage, 280 slip marina, In/Out forklift boat storage, commercial/retail, and up to 400 new residential condominium units. Total private investment, not including property acquisition, is approximately \$250 million.

This sustainably designed multi-use project is intended to improve the existing 3,500-foot Muskegon Lake shoreline through the expansion of public access for waterfront activities such as swimming, fishing, boating, inviting peninsula park/greenspace areas, and transient docking. The project will create a walkable community which will further connect to an existing bike trail, our vibrant downtown and other recreational activities.

The developer's environmental consultant completed a Phase II Environmental Site Assessment (ESA) and a Baseline Environmental Assessment in December 2020. This plan is for \$54,166,757 in eligible costs. It is a local-only property tax capture plan, although through statute, the plan is eligible for \$350,000 for eligible environmental costs captured by state educational millage through EGLE. There is no need for state approval. The local-only ELGE eligible costs are \$3,250,000 which include due care activities - \$500,000 vapor intrusion mitigation, \$1,500,000 soil capping, \$250,000 dewatering and \$1,000,000 for the dredging and removal of soil contaminants. Local-only MSF eligible costs are \$21,295,000 which include \$1,500,000 demolition, \$1,250,000 asbestos abatement, \$5,545,000 site preparation and \$13,000,000 public infrastructure improvements.

The City is proposing to use bond proceeds of \$10,000,000 to pay certain eligible site preparation and public infrastructure costs incurred by the City; which will be repaid via tax increment revenues: \$6,840,000 for creation of new roadways to support the development; \$1,035,000 for reconfiguration of West Western; \$1,615,000 for an East Basin Launch Well; Total City Bond eligible costs would be \$12,608,621 (including interest of \$2,608,621).

Capture of tax increment revenues for City reimbursement is anticipated to commence in 2023 and end in 2029. Developer reimbursement will follow with an estimated start date of 2029. The anticipated end date for Developer reimbursement is 2048. It is projected that the Plan Amendment will extend 30 years, which assumes four years of additional capture of tax increment revenues for deposit into a Local Brownfield Revolving Fund, if available.

There is a 15% contingency in the plan. A request for 5% interest in included for all accrued and unreimbursed eligible activities on a yearly basis. There is an annual \$10,000 administrative fee paid to the BRA. The BRA-DDA approved the Adelaide Pointe Project Brownfield Plan Amendment on October 12, 2021.

STAFF RECOMMENDATION: To close the public hearing and approve the Brownfield Plan Amendment for the Adelaide Pointe Project at 1148 and 1204 West Western Avenue with the resolution, authorizing the Mayor and City Clerk to sign.

PUBLIC HEARING COMMENCED: No public comments were received.

Motion by Commissioner Ramsey, second by Commissioner Rinsema-Sybenga, to close the public hearing and approve the Brownfield Plan Amendment for the Adelaide Pointe Project at 1148 and 1204 West Western Avenue with the resolution, authorizing the Mayor and City Clerk to sign.

ROLL VOTE: Ayes: Ramsey, German, Rinsema-Sybenga, Gawron, and Hood

Nays: None

MOTION PASSES

C. Establishment of an Obsolete Property District – 221 W Webster Avenue Planning

SUMMARY OF REQUEST: Pursuant to Public Act 146 of the Michigan Public Acts of 2000, 221 W Webster LLC and Western Land Co LLC (Divisions of Core Development Corp), have requested the establishment of an Obsolete Property District for their property at 221 W Webster Avenue. The establishment of the Obsolete Property District would allow them to apply for an Obsolete Property Rehabilitation Exemption Certificate. This is the former Huntington Bank property downtown.

STAFF RECOMMENDATION: To approve the request to establish an Obsolete Property District at 221 W Webster Ave.

PUBLIC HEARING COMMENCED: Brian Bench, 794 Pine Street – with Core Realty Partners and Core Development spoke briefly. No other public comments were received.

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to close the public hearing and approve the request to establish an Obsolete Property District at 221 W. Webster Avenue.

ROLL VOTE: Ayes: German, Rinsema-Sybenga, Gawron, Hood, and Ramsey

Nays: None

MOTION PASSES

D. Issuance of an Obsolete Property Certificate Planning

SUMMARY OF REQUEST: Pursuant to Public Act 146 of the Michigan Public Acts of 2000, 221 W Webster LLC and Western Land Co, LLC (Divisions of Core Development), have requested the issuance of an Obsolete Property Certificate for their property located at 221 W Webster Avenue. Total capital investment for this project is estimated to be \$6,000,000.

The applicant has requested the full 12-year abatement, however, after reviewing the tax abatement policy, the tax abatement committee is recommending an eight-year abatement. The tax abatement scoring sheet is attached. Please also see the answers to questions A through F on the tax abatement application.

STAFF RECOMMENDATION: To approve the request to establish an Obsolete Property Certificate for a length of eight (8) years, with no extensions granted.

PUBLIC HEARING COMMENCED: No public comments were received.

Motion by Vice Mayor Hood, second by Commissioner Rinsema-Sybenga, to close the public hearing and approve the request to establish an Obsolete Property Certificate for a length of eight (8) years, with no extensions granted.

ROLL VOTE: Ayes: Rinsema-Sybenga, Gawron, Hood, Ramsey, and German

Nays: None

MOTION PASSES

E. Inclusive Zoning Manager's Office

SUMMARY OF REQUEST: Staff is presenting on the proposed expansion of inclusive zoning to additional neighborhoods in a continued effort to educate the public. Comments from the public and commissioners will be used to finalize the request to rezone for an eventual vote in November.

Staff were given direction to offer more education to our neighbors on this topic. In response, staff has done the following.

- Developed and recorded a presentation
<https://www.youtube.com/watch?v=rHLVQS6lF24>
- Shared the presentation on the city's website, on social media, and with the affected neighborhood associations
- Held a public meeting
- Provided an email address and phone number for comments
- Heard comments and deliberation at the October Planning Commission meeting
- Included this item as a public hearing at the regular City Commission meeting.

As a reminder, the expansion of Urban Residential zoning is being requested to

benefit existing and future residents.

- Housing choices at every price point and for all income levels is more inclusive
- Choices for people to stay in one neighborhood for a lifetime as their housing needs change
- Lease options for those who cannot or prefer not to own
- Options for people to build generational wealth
- Homes that allow multi-generational families to live at one address
- Limits gentrification often seen in exclusive single-family zoning
- Honors existing neighborhoods and residents living in them by providing options that fit the neighborhood
- More choices for existing and future neighbors
- Builds a sense of place where neighbors feel connected

Staff will use the information gathered through the above activities and input from commissioners to determine a proposal for the City Commission to consider in November.

STAFF RECOMMENDATION: Item presented as information only.

PUBLIC HEARING COMMENCED: Comments were received from the following:

Dave Medendorp – 2314 Harrison Street – supports Form Based Code

Randy Vanderwhite – 1577 Clinton – unsure of support, concerned about gentrification

Rashard Thrower – 701 Orchard – supports Form Based Code

Maria McIntosh – 644 Jackson – thinks we should explore more areas of concern

Anna DeRouin – 1391 W Laketon - who decides what will be built where

Trinell Scott – 3029 Maffett – owns property in the City of Muskegon – concerns is with Angell Neighborhood, how is it determined what housing type goes where

Calvin McLaurin – 223 Amity – in support of Form Based Code but has concerns about potential close proximity of buildings/his view

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to close the public hearing.

ROLL VOTE: Ayes: Gawron, Hood, Ramsey, German, and Rinsema-Sybenga

Nays: None

MOTION PASSES

2021-98 NEW BUSINESS:

A. HBA Demolitions – 181 Irwin Public Safety

SUMMARY OF REQUEST: HBA approved the demolition of 181 Irwin.

This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structure located at 181 Irwin Avenue (between Hoyt Street and Leahy Street) 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 or staff may issue infraction tickets to the owner, agent, or responsible bidder if they do not demolish the structure.

FUND OR ACCOUNT: 101-80387-5356

STAFF RECOMMENDATION: Staff recommends that the City Commission concur with HBA to demo of 181 Irwin and approval from commission to accept bids on this demolition.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Ramsey, to concur with the Housing Board of Appeals to demo 181 Irwin and approval to accept bids on this demolition.

ROLL VOTE: Ayes: Gawron, Hood, Ramsey, German, and Rinsema-Sybenga

Nays: None

MOTION PASSES

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

ADJOURNMENT: The City Commission meeting adjourned at 7:45 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk