CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 24, 2006

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 24, 2006.

Mayor Warmington opened the meeting with a prayer from Vice Mayor Gawron after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioner Chris Carter, Kevin Davis, Clara Shepherd, and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier, and Acting City Clerk Linda Potter.

Absent: Commissioner Sue Wierengo (excused)

HONORS AND AWARDS:

A. Community Relations Committee Members. Mayor Warmington recognized and thanked the committee members for their service.

2006-87 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the October 9th Commission Worksession, and the October 10th Regular Commission Meeting.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Housing Commission Appointment. CITY MANAGER

SUMMARY OF REQUEST: To appoint Angela Anthony to the Housing Commission as the Resident Commissioner, to serve out the remaining term (expires 1/31/07) of Bobbie Jones who no longer resides at Hartford Terrace.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To confirm the appointment.

C. Vacation of the Alley in Block 12 of the Continental Addition. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request for vacation of the alley located in Block 12, Continental Addition bounded by E. Keating Avenue, Brunswick Street, E. Holbrook Avenue, and Huizenga Street.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

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

COMMITTEE RECOMMENDATION: The Planning Commission recommended vacation of the alley at their October 12th meeting, with the condition that all utility easement rights be retained. The vote was unanimous with T. Harryman, S. Warmington, and J. Aslakson absent.

D. FIRST READING: Zoning Ordinance Amendment – Planning Commission Notice Mailing Area. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2405 (Petitions, Fees, paragraph #2) of Article XXIV (Administration and Enforcement) regarding the 300 foot notice mailing area for Planning Commission public hearings.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend the language for Planning Commission public hearing notices.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their October 12th meeting. The vote was unanimous with T. Harryman, S. Warmington, and J. Aslakson absent.

(Requires second reading)

E. FIRST READING: Zoning Ordinance Amendment – Aggrieved Parties Language. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2503 (Appeals, Applications, Filing Procedure and Fees, paragraph #1) of Article XXV (Zoning Board of Appeals) regarding “aggrieved parties” language.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend the language for "aggrieved parties".

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their October 12th meeting. The vote was unanimous with T. Harryman, S. Warmington, and J. Aslakson absent.

(Requires second reading)

F. **FIRST READING: Zoning Ordinance Amendment – Zoning Board of Appeals Newspaper Public Notice.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2504 (Hearings, Notices, and Adjournments, #1) of Article XXV (Zoning Board of Appeals) regarding newspaper public notice for Zoning Board of Appeals public hearings.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend the language regarding newspaper notice of Zoning Board of Appeals public hearings.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their October 12th meeting. The vote was unanimous with T. Harryman, S. Warmington, and J. Aslakson absent.

(Requires second reading)

G. **City – Michigan Department of Transportation Agreement for the Reconstruction of Getty Street, Hovey to Keating.** ENGINEERING

SUMMARY OF REQUEST: To approve the contract with Michigan Department of Transportation for the reconstruction of Getty Street from Hovey Avenue to Keating Avenue and to approve the resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT: MDOT's participation is limited to the federal funds of $467,448 and $116,862 of state funds for a total grant of $584,310. The estimated total construction cost, without engineering, including the non-participating item of watermain is $750,200. The engineering cost is estimated at 15% of the construction cost, which would be split equally with the City of Muskegon Heights.

BUDGET ACTION REQUIRED: None at this time. The City's share of the cost will come out of the Major Street and water funds as shown in the 2007 budget.

STAFF RECOMMENDATION: Approve the contract and resolution and authorize the Mayor and Clerk to sign both.

H. City – Michigan Department of Transportation Agreement for Federal Money Loan to Reconstruct Getty Street, Hovey to Keating. ENGINEERING

SUMMARY OF REQUEST: To approve the contract with Michigan Department of Transportation for the reconstruction of Getty Street from Hovey Avenue to Keating Avenue and to approve the resolution authorizing the Mayor and Clerk to sign the contract. As part of the "jobs today's program" the state made available to local governments the ability to advance construct projects on the 2007 and 2008 transportation plan by lending the federal allocation for those projects as long as the local governments agreed to two conditions:

1. The projects would be advertised and awarded a year ahead of their scheduled time (Getty was scheduled for 2007 and we completed the design in 2006).
2. The local governments would have to enter into the agreement with the state which outlines the terms and conditions of the loan.

The advantage on this project is that this whole agreement is merely a paper work matter since the city could not have spent any money against the federal funds to accrue any interest since the actual construction will take place in the 2007 fiscal year.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None at this time. The City's share of the cost will come out of the Major Street and water funds as shown in the 2007 budget.

STAFF RECOMMENDATION: Approve the contract and resolution and authorize the Mayor and Clerk to sign both.

I. Michigan Main Street/Community Requirements and Expectations Agreement. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The Michigan Economic Development Corporation (MEDC) requires that the local community (i.e., City of Muskegon) enter into an agreement with the local Main Street Board and MEDC. The Commission approved the Agreement in 2005. However, the Michigan Main Street has revised the Agreement from three years to five years. They have also made the reporting requirements stricter. Therefore, the Commission is being asked to approve the new Agreement. The Agreement outlines the support to be provided. There is no financial obligation by the City of Muskegon to support the program. The commitments relate to cooperation and support. If, for some reason, the Agreement is not adhered to, the only repercussion is that the Agreement would be null and void.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the Agreement and authorize the City Manager to sign.

J. **Lead-Based Paint Abatement at 1122 Spring Street.** COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the contract with Success Enterprise of 2722 East Broadway, Michigan, for the lead base paint abatement of the city-owned home at 1122 Spring for the cost of $24,400. The City received two additional bids:

- Specialty Builders, 2434 Annette, Muskegon, MI for $25,650
- Statewide Abatement, 1720 Creston, North Muskegon, MI for $27,810

After the lead base paint abatement is complete, the structure will be totally rehabilitated and then sold to a qualified low to moderate income homebuyer. The structure at 1122 Spring is a part of the Community and Neighborhood Services departments' Operation R & R (Resurgence and Reawakening), which is an attempt to rehabilitate ten houses throughout the City before the end of this fiscal year.

FINANCIAL IMPACT: Cost of the abatement will be allocated from the 2006-2007 HOME budget.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve Community and Neighborhood Services office to develop a contract with Success Enterprises of Muskegon, Michigan, and direct the Mayor and Clerk to sign the contract.

COMMITTEE RECOMMENDATION: The Operation R & R project was approved by the Land Reutilization Committee.

K. **Approval of Contractor for Rehabilitation of House at 1122 Spring Street.** COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the contract with Beattie Bros. Construction LLC, 2786 Holton-Whitehall Road, Twin Lake, MI for the completion of the rehabilitation to be located at 1122 Spring Street for the cost of $43,065. After the total rehabilitation is completed, the home will be sold to a qualified first-time homebuyer; continuing the City's aggressive neighborhood revitalization efforts in the McLaughlin Neighborhood area under the Operation: Spring Street Reawakening. This is under the umbrella of Operation R & R (Resurgence and Reawakening) which is a planned rehabilitation blitz by the Community and Neighborhood Services department to rehabilitate ten houses throughout the City before May 31, 2006.

The City received three additional bids:

- Obenauf DePender Construction LLC, 4471 Thompkins Trail, Muskegon, MI, for $45,195

- Specialty Builders, 2434 Annette Ave., Muskegon, MI, for $55,195
- J2 Development & Construction, 109 West Laketon Avenue, Muskegon, MI, for $60,894

FINANCIAL IMPACT: The funding for the project will be taken from the City's 2006-2007 HOME funds.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the Community and Neighborhood Services office to develop a contract with Beattie Bros. Construction of Twin Lake, MI, and direct the Mayor and Clerk to sign the contract.

COMMITTEE RECOMMENDATION: Operation R & R was approved by the Land Reutilization Committee.

Motion by Commissioner Carter, second by Commissioner Davis to approve the Consent Agenda as read.

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

Nays: None

MOTION PASSES

2006-88 PUBLIC HEARINGS:

A. <u>Amendments to Brownfield Plan – Viridian Place at Edison Landing.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To hold a public hearing and approve the resolution approving and adopting amendments for the Brownfield Plan. The amendments are for the inclusion of property owned by Edison Landing Lot I, LLC ("ELLI") in the Brownfield Plan.

FINANCIAL IMPACT: There is no direct financial impact in approving the Brownfield Plan amendments, although the redevelopment of the property into a mixed-use development will add to the tax base of the City of Muskegon.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To hold the public hearing and approve the resolution and authorize the Mayor and Clerk to sign the resolution.

COMMITTEE RECOMMENDATION: The Muskegon City Commission set the public hearing for October 24, 2006, at their September 26, 2006, meeting. Since that time, a notice of the public hearing has been sent to taxing jurisdictions, and it has been published twice in the Muskegon Chronicle. In addition, the Brownfield Redevelopment Authority approved the Plan amendment on September 18, 2006, and further recommends that the Muskegon City Commission approve the Plan amendment.

The Public Hearing opened at 5:48 p.m. to hear and consider any comments from the public. No public comments were heard.

Motion by Commissioner Carter, second by Commissioner Shepherd to close the Public Hearing at 5:52 p.m. and approve the amendments to the Brownfield Plan for Viridian Place at Edison Landing.

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

Nays: None

MOTION PASSES

B. Request to Establish an Obsolete Property District - 67 W. Western Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 146 of the Michigan Public Acts of 2000, Witt Buick, 67 W. Western Avenue, Muskegon, MI 49442, has requested the establishment of an Obsolete Property District. The district would be located at 67 W. Western Avenue, Muskegon, MI. Total capital investment for this project is $60,000.

FINANCIAL IMPACT: If an Obsolete Property Certificate is issued, the property taxes would be frozen for the duration of the certificate.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval.

The Public Hearing opened at 5:55 p.m. to hear and consider any comments from the public. No public comments were heard.

Motion by Commissioner Spataro, second by Commissioner Shepherd to close the Public Hearing at 5:59 p.m. and approve the request to establish an Obsolete Property District at 67 W. Western Avenue.

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

Nays: None

MOTION PASSES

C. Request to Issue an Obsolete Property Certificate - Witt Buick, 67 W. Western Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 146 of the Michigan Public Acts of 2000, Witt Buick, 67 W. Western Avenue, Muskegon, MI has requested the issuance of an Obsolete Property Certificate for the property located at 67 W. Western Avenue, Muskegon, MI. Total capital investment for this project is $60,000. Because of the amount of investment, the applicant is eligible for an eight-year certificate.

FINANCIAL IMPACT: If an Obsolete Property Certificate is issued, the property taxes would be frozen for the duration of the certificate.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval.

The Public Hearing opened at 6:01 p.m. to hear and consider any comments from the public. No public comments were heard.

Motion by Vice Mayor Gawron, second by Commissioner Carter to close the Public Hearing at 6:03 p.m. and issue an Obsolete Property Certificate to Witt Buick at 67 W. Western Avenue for eight years.

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

Nays: None

MOTION PASSES

2006-89 NEW BUSINESS:

A. Donation Program for 2006 Individual Income Tax Returns. INCOME TAX

SUMMARY OF REQUEST: Approval to designate donations from the 2006 income tax returns towards the upkeep of the Dog Park or the Muskegon's Smith Ryerson Recreational Center. Income tax refunds voluntarily donated from taxpayers will go to either the Dog Park or the Recreational Center.

FINANCIAL IMPACT: The average amount collected each year is $2,000.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval recommended.

Motion by Commissioner Spataro, second by Commissioner Shepherd to approve the designated donations from the 2006 income tax returns to go to the Smith Ryerson Recreational Center.

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

Nays: None

MOTION PASSES

B. Request to Construct Improvements in Right-of-Way and Maintenance Agreement with Witt Buick. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Witt Buick, 67 W. Western Avenue, Muskegon, MI 49442, has requested to be allowed to construct certain improvements on the City rights-of-way at the locations on the map.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of the maintenance agreement, allowing Witt Buick to construct improvements on the City rights-of-way.

Motion by Vice Mayor Gawron, second by Commissioner Spataro to approve the maintenance agreement with Witt Buick.

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

Nays: None

MOTION PASSES

C. <u>Harbour Towne Dockominium.</u> CITY MANAGER

SUMMARY OF REQUEST: To approve an agreement with Harbour Towne Commercial Development and Harbour Towne Marina Association to complete a development component of the Harbour Towne Condominium project.

FINANCIAL IMPACT: $3,000

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the agreement.

Motion by Vice Mayor Gawron, second by Commissioner Spataro to approve the agreement with Harbour Towne Commercial Development and Harbour Towne Marina Association to complete a development component of the Harbour Towne Condominium project.

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

Nays: None

MOTION PASSES

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

856 Fork – Area 11 (*REMOVED PER STAFF REQUEST)*

775 Washington – Area 12

1957 Continental

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: General Funds

BUDGET ACTION REQUIRED: None

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

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 1957 Continental.

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

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Commissioner Carter to concur with the Housing Board of Appeals notice and order to demolish 775 Washington, but not proceed with the demolition for 60 days allowing it to be brought up to code.

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

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Commission discussed various items.

PUBLIC PARTICIPATION: Various comments were heard from the public.

ADJOURNMENT: The City Commission Meeting adjourned at 6:40 p.m.

Respectfully submitted,

Linda Potter, CMC
Acting City Clerk