CITY OF MUSKEGON

CITY COMMISSION MEETING

SEPTEMBER 25, 2018 @ 5:30 P.M.

MUSKEGON CITY COMMISSION CHAMBERS

933 TERRACE STREET, MUSKEGON, MI 49440

AGENDA

- □ **CALL TO ORDER:**
- □ **PRAYER:**
- □ **PLEDGE OF ALLEGIANCE:**
- □ **ROLL CALL:**
- □ **HONORS AND AWARDS:**
- □ **INTRODUCTIONS/PRESENTATION:**
- □ **CITY MANAGER'S REPORT:**
- □ **CONSENT AGENDA:**
  - **A. Approval of Minutes** City Clerk
  - **B. Fleet Vehicle Replacement – Chevy 1 Ton 3500 Cab and Chassis** DPW/Equipment
  - **C. Fleet Vehicle Replacement – Chevy Colorado Pickup** DPW/Equipment
  - **D. Fleet Vehicle Replacement – 2019 International Plow Truck Cab and Chassis** DPW/Equipment
  - **E. Fleet Vehicle Replacement – Three (3) Chevy ½ Ton Pickups** DPW/Equipment
  - **F. Resolution of Authority to Sign Street Lighting Contracts with Consumers Energy** Department of Public Works
  - **G. Resolution for Designation of Street Administrator** Department of Public Works
  - **H. Remembrance Drive Construction and Maintenance** Engineering
  - **I. Termination of Purchase and Option Agreement – Port City Construction** City Manager
- □ **PUBLIC HEARINGS:**

□ **COMMUNICATIONS:**

□ **UNFINISHED BUSINESS:**

□ **NEW BUSINESS:**

A. <u>Concurrence with the Housing Board of Appeals Notice and Order to Demolish</u> Public Safety

2084 Morton Avenue (garage only)

987 E. Forest Avenue (garage only)

B. <u>DDA On-Premise Liquor License for Rolf's Barbeque, LLC</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 MEISCH, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TTY/TDD DIAL 7-1-1- TO REQUEST A REPRESENTATIVE TO DIAL (231) 724-6705.

Memorandum

To: Mayor and Commissioners

From: Frank Peterson

Re: City Commission Meeting

Date: September 25 2018

Note: I will not be in attendance Tuesday. Beth Lewis will be serving as Acting City Manager.

Here is a quick outline of the items on our very full agenda(s):

1. Under the Consent Agenda, we are asking the Commission to consider the following:
    a. Approval of meeting minutes from the most-recent City Commission meeting.
    b. Authorization to purchase a Chevrolet one-ton truck.
    c. Authorization to purchase a Chevrolet Colorado pickup truck.
    d. Authorization to purchase a 2019 International plow truck and chassis.
    e. Authorization to purchase three Chevrolet ½ ton pickup trucks.
    f. Resolution granting LeighAnn Mikesell authority to sign streetlight contracts on behalf of the city.
    g. Resolution designating LeighAnn Mikesell as the City's street administrator.
    h. Authorization to sign an agreement with MDOT for the construction and maintenance of Remembrance Drive.
    i. Authorization to sign option termination agreement with Port City Construction regarding 880 First Street.

2. Under the New Business, we are asking the Commission to consider the following:
    a. Concurrence with the Housing Board of Appeals on the demolition of two structures.
    b. Approval of an on-site liquor license for Rolf's BBQ. This restaurant will be opening on Western Ave across from the LC Walker Arena.

Let me know if you have any questions/comments/concerns

Date: September 19, 2018

To: Honorable Mayor and City Commissioners

From: Ann Marie Meisch, City Clerk

RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes of the September 10, 2018 Worksession and September 11, 2018 Regular Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON
CITY COMMISSION WORKSESSION

Monday, September 10, 2018
5:30 p.m.
City Commission Chambers

Minutes

2018-65

Present: Johnson, Hood, Turnquist (left at 7:45 p.m.), Gawron, Warren, Rinsema-Sybenga and German.
Absent: None

Rental Ordinance Change

The Director of Public Safety requests that the Commission authorize the approval of the Rental Ordinance changes. This will allow Building Safety Inspections (Rental) to get more detailed information and create timelines to remedy violations. The Rental Ordinance sections include;

- 10-329 – Time to correct violation
- 10-351(d) – Change in register information
- 10-351(e) – Application; contents
- 10-351(h) – Exemption from registration requirement
- 10-352(b) – Issuances
- 10-352(d) – Validity
- 10-352(f) – Length of time certificate of compliance is valid

This item will be on the September 11, 2018 City Commission for consideration.

1000 West Western Purchase Agreement Extension

Staff is seeking approval for an extension to the purchase agreement for 1000 West Western to work out a number of title issues. Asking to close on the transaction by October 4, 2018.

This item will be on the September 11, 2018 City Commission for consideration.

Sale of the Property at 1078 Second Street

Staff initiated request to approve the purchase agreement for the sale of the home at 1078 Second Street to Rachel Stewart. This home was recently purchased by the city, rehabbed and converted back into a single-family home from a three-unit home.

This item will be on the September 11, 2018 City Commission for consideration.

Mid-Town Square 2

We have three responses to the Mid-Town Square 2 request for proposals. Staff will soon be finalizing our recommendation to the Commission. If there is an agreement in direction, we will plan to present it to the neighborhood at an upcoming neighborhood meeting.

ADA Department of Justice Overview

Dwana Thompson, Affirmative Action/Equal Employment Opportunity staff, presented information on items worked on or completed in reference to the Settlement Agreement between the United States and City of Muskegon. A copy of the Settlement Agreement, from 2010, was distributed.

Public Participation: Public comments were received.

The Worksession Meeting adjourned at 8:27 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk

CITY OF MUSKEGON

CITY COMMISSION MEETING

SEPTEMBER 11, 2018 @ 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, September 11, 2018. Pastor Wally Reames, Central Assembly of God, opened the meeting with 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 Ken Johnson, Byron Turnquist, Willie German, Jr., Debra Warren, and Dan Rinsema-Sybenga, City Manager Frank Peterson, City Attorney John Schrier, and City Clerk Ann Meisch.

2018-66 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve minutes of the August 28, 2018 Regular Meeting.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Approval of a Neighborhood Enterprise Zone Certificate – 662 Terrace Point Circle Planning & Economic Development

SUMMARY OF REQUEST: An application for a Neighborhood Enterprise Zone (NEZ) Certificate has been received from Terrace Point Landing, LLC for the new construction of a home at 662 Terrace Point Circle. The estimated cost for construction is $203,417. The applicant has met local and state requirements for the issuance of the NEZ certificate.

FINANCIAL IMPACT: Taxation will be applied as one-half of the previous year's state average principal residence millage rate to the value of the facility.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the NEZ Certificate.

C. Approval of a Neighborhood Enterprise Zone Certificate – 664 Terrace Point Circle Planning & Economic Development

SUMMARY OF REQUEST: An application for a Neighborhood Enterprise Zone (NEZ) Certificate has been received from Terrace Point Landing, LLC for the new construction of a home at 664 Terrace Point Circle. The estimated cost for construction is $199,760. The applicant has met local and state requirements for the issuance of the NEZ certificate.

FINANCIAL IMPACT: Taxation will be applied as one-half of the previous year's state average principal residence millage rate to the value of the facility.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the NEZ Certificate.

D. Approval of a Neighborhood Enterprise Zone Certificate – 668 Terrace Point Circle Planning & Economic Development

SUMMARY OF REQUEST: An application for a Neighborhood Enterprise Zone (NEZ) Certificate has been received from Terrace Point Landing, LLC for the new construction of a home at 668 Terrace Point Circle. The estimated cost for construction is $168,739. The applicant has met local and state requirements for the issuance of the NEZ certificate.

FINANCIAL IMPACT: Taxation will be applied as one-half of the previous year's state average principal residence millage rate to the value of the facility.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the NEZ Certificate.

E. Approval of a Neighborhood Enterprise Zone Certificate – 670 Terrace Point Circle Planning & Economic Development

SUMMARY OF REQUEST: An application for a Neighborhood Enterprise Zone (NEZ) Certificate has been received from Terrace Point Landing, LLC for the new construction of a home at 670 Terrace Point Circle. The estimated cost for construction is $168,739. The applicant has met local and state requirements for the issuance of the NEZ certificate.

FINANCIAL IMPACT: Taxation will be applied as one-half of the previous year's state average principal residence millage rate to the value of the facility.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the NEZ Certificate.

F. <u>Sale of Property at 1078 Second Street</u> Planning & Economic Development

SUMMARY OF REQUEST: Staff initiated request to approve the purchase agreement for the sale of the home at 1078 2nd Street to Rachel Stewart. This home was recently purchased by the city, rehabbed and converted back into a single-family home from a three-unit home.

FINANCIAL IMPACT: The City will receive the amount of money as described in the purchase agreement.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the purchase agreement.

G. <u>Sale of A Buildable Lot at 654 Allen Avenue</u> Planning & Economic Development

SUMMARY OF REQUEST: To approve the sale of a vacant buildable lot at 654 Allen Avenue to Denise Koetje to combine with her property at 650 Allen Avenue, Muskegon, MI. The lot is 50 x 132 ft. and Ms. Koetje has offered $500 for the property plus the fee to register the deed. She has a licensed day care out of her home and would like to fence the property, install play equipment and provide more space for the children in her care. She had already purchased 16 feet of this property in 2017. The City has owned the property since August 12, 2003 with no inquiries for potential construction. By combining this with Ms. Koetje's property; this will alleviate the city from continued maintenance and place the property back on the tax rolls. The City has spent an average of $395.00 per year in maintenance of the vacant lot since 2002.

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 authorize both the Mayor and the Clerk to sign the resolution and deed.

I. <u>Certification of MERS Representatives</u> Finance

SUMMARY OF REQUEST: The MERS plan document provides that "the governing body for each municipality shall certify the names of two (2) delegates to the Annual Meeting. One delegate shall be a member who is an officer of the municipality appointed by the governing body of the municipality. The other delegate shall be a member who is not an officer of the municipality, elected by the member officer/employees of the municipality."

The City's employee units previously agreed to a rotating system (based on date of joining MERS) to select one official employee representative. This year the official employee representative attending the MERS conference will be Diane

Renkenberger from the Non Union.

It is recommended that Elizabeth Lewis (Finance Director) be designated as the City's employer delegate.

FINANCIAL IMPACT: Registration for the MERS conference in Grand Rapids, MI is $250 per person. Additionally, mileage, hotel and related costs will be incurred.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Certification of Elizabeth Lewis and Diane Renkenberger to be the City's officer and employee delegates at the MERS annual meeting in Grand Rapids on October 4 and 5, 2018.

J. <u>Supplemental MERS Contribution</u> Finance

SUMMARY OF REQUEST: For the fiscal year that ended June 30, 2018, staff conservatively budgeted for pension costs. The amount the City was expensing each pay period for our pension costs was conservatively calculated, this created a surplus. At this time staff believes it is appropriate to take this opportunity to make a $111,257.58 supplemental payment (above the actuarial computed amount) to MERS. This is money that the city would be required to pay to MERS eventually. Paying early, while the city is in a position to do so, may help to ease some pressure on future city budgets.

FINANCIAL IMPACT: $111,257.58 supplemental payment to MERS. $111,257.58 will be paid from monies already set aside for MERS in the collector fund.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to make a supplemental $111,257.58 payment to MERS.

K. <u>1000 W. Western - Approve First Amendment to First Amended and Restated Real Estate Sale and Development Agreement</u> City Manger

SUMMARY OF REQUEST: To approve the First Amendment and Restated Real Estate Sale and Development Agreement for 1000 W. Western.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To authorize the city manager to enter into the Agreement.

L. <u>Approve CRC Recommendations to Accept Resignations and Appoint Members to Fill Various Vacancies</u> City Clerk

SUMMARY OF REQUEST: To accept resignations and appointment recommendations for various community relations committees, boards,

authorities, and commissions, as follows:

Citizen Police Review Board

Accept the resignation of Ellouise Hieftje (Neighborhood Association Representative) and Carlos Flores (Member of a Minority Based Organization) and to appoint Teresa Emory (Neighborhood Association Representative)

CDBG/CDC

Accept the resignation of Tom Pastoor (Citizen at Large) and to appoint Eleanor Canter (Citizen at Large)

Construction Code Board of Appeals

To Appoint Brion Boucher (Architect)

Housing Commission

Accept the resignation of Maxine Lenear (Citizen) and to affirm the City Manager's Appointment of Ken Grant

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To concur with the recommendations of the Community Relations Committee and approve the resignations and appointments.

Motion by Commissioner Warren, second by Commissioner Johnson, to approve the consent agenda as presented, except item H.

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Warren, German, Rinsema-Sybenga, and Turnquist

Nays: None

MOTION PASSES

2018-67 ITEMS REMOVED FROM CONSENT:

H. Police Cruisers DPW/Equipment

SUMMARY OF REQUEST: The Equipment Division is requesting permission to purchase seven (7) new police cruisers from Berger Chevrolet, off the Oakland County Contract, which is the lowest price available. This will create a financial impact of $250,117.00 that was budgeted for out of the Equipment Division.

FINANCIAL IMPACT: $250,117.00

BUDGET ACTION REQUIRED: None. Amount is what was budgeted.

STAFF RECOMMENDATION: Authorize staff to purchase seven (7) new police cruisers from Berger Chevrolet.

Motion by Commissioner German, second by Commissioner Warren, to authorize staff to purchase seven new police cruisers from Berger Chevrolet.

ROLL VOTE: Ayes: Gawron, Hood, Warren, German, Rinsema-Sybenga, Turnquist, and Johnson

Nays: None

MOTION PASSES

2018-68 PUBLIC HEARINGS:

A. <u>Request to Conduct a Public Hearing of the Community & Neighborhood Services Department Consolidated Annual Performance Evaluation Report (CAPER 2017)</u> Community & Neighborhood Services

SUMMARY OF REQUEST: To conduct a public hearing of the 2017 CAPER for projects funded with CDBG and HOME HUD Entitlements to the City of Muskegon Community and Neighborhood Services Department.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To submit the 2017 CAPER including any public comments received during the 20-day comment period ending September 26, 2018.

Motion by Commissioner Johnson, second by Commissioner German, to close the public hearing and to submit the 2017 CAPER including any public comments received during the 20 day comment period ending September 26, 2018.

ROLL VOTE: Ayes: Hood, Warren, German, Rinsema-Sybenga, Turnquist, Johnson, and Gawron

Nays: None

MOTION PASSES

2018-69 NEW BUSINESS:

A. <u>2018 Capital Improvement Projects – Remembrance Drive Reconstruction</u> Department of Public Works

SUMMARY OF REQUEST: Award contract (H-1720) for reconstruction, storm sewer installation, sanitary sewer, curb and gutters on Remembrance Drive from Keating Avenue south to the entrance of the new KL Industries facility. Four contractors submitted bids for this project as follows:

Jackson-Merkey Contractors, Inc.	$454,559.00
Connan Inc.	$497,572.55
Diversco Construction Co.	$593,926.80

Dykema Excavators, Inc. $672,897.00

FINANCIAL IMPACT: $454,559.00

BUDGET ACTION REQUIRED: None. The project will be funded through planned capital improvement project.

STAFF RECOMMENDATION: Award the project to the low bidder, Jackson-Merkey Contractors, Inc.

Motion by Commissioner Johnson, second by Vice Mayor Hood, to award the project to the low bidder, Jackson-Merkey Contractors, Inc.

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Warren, German, Rinsema-Sybenga, and Turnquist

Nays: None

MOTION PASSES

B. <u>Rental Ordinance Changes</u> Public Safety

SUMMARY OF REQUEST: The Director of Public Safety requests that the Commission authorize the approval of the Rental Ordinance changes. This will allow Building Safety Inspections (Rental) to get more detailed information and create timelines to remedy violations. The Rental Ordinance sections include;

10-329 – Time to correct violation

10-351(d) – Change in register information

10-351(e) – Application; contents

10-351(h) – Exemption from registration requirement

10-352(b) – Issuances

10-352(d) – Validity

10-352(f) – Length of time certificate of compliance is valid

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of the Rental Ordinance changes.

Motion by Commissioner German, second by Commission Rinsema-Sybenga, to approve the rental ordinance changes.

ROLL VOTE: Ayes: German, Rinsema-Sybenga, Turnquist, Johnson, Gawron, Hood, and Warren

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Public Comments were received.

ADJOURNMENT: The City Commission meeting adjourned at 6:08 p.m.

Respectfully Submitted,

Ann Marie Meisch, City Clerk, MMC

Date: 9/25/2018

To: Honorable Mayor and City Commissioners

From: DPW/Equipment

RE: Fleet Vehicle Replacement

SUMMARY OF REQUEST:

The Equipment Division is requesting permission to purchase one (1) Chevy 1 ton 3500 Cab and Chassis coming from Berger Chevrolet off the Oakland County Contract, the lowest available price. The Equipment Division is also requesting permission for Arista Truck Systems to build and install the construction bed for this vehicle. $28,803.00 will be coming from the Equipment Dept. Budget for the Cab and Chassis along with $9,553.00 for the construction bed for a total purchase of $38,356.00.

FINANCIAL IMPACT:

$38,356.00

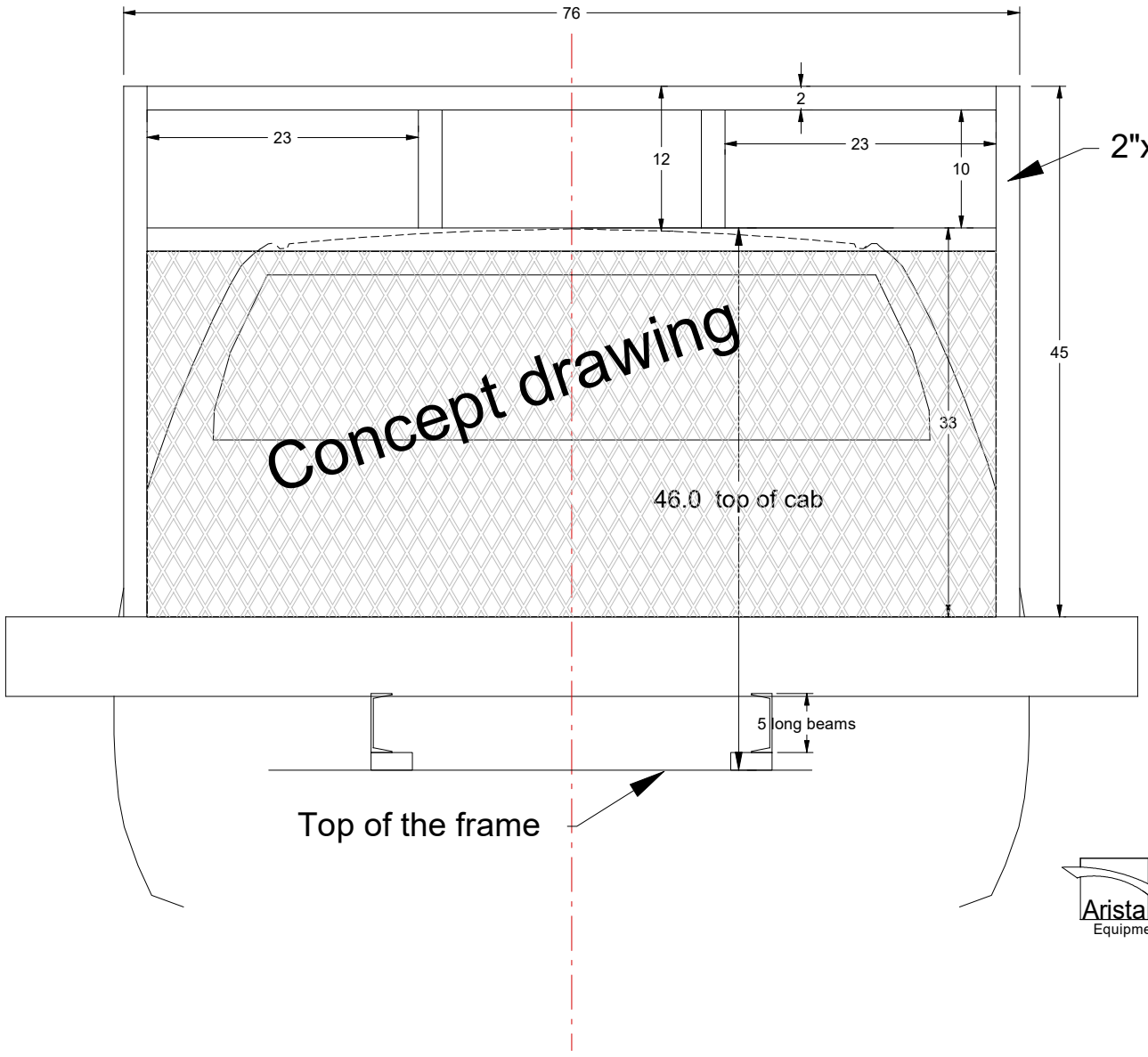
BUDGET ACTION REQUIRED:

None. Amount is what was budgeted.

STAFF RECOMMENDATION:

Authorize staff to purchase one (1) Chevy 1 ton 3500 construction truck from Berger Chevrolet.

Muskegon City GM 3500 Custom bulkhead 9-18-18



Arista Truck Systems, Inc.
Equipment & Design for Commercial Trucks
1-800-858-3659

Date: 9/25/2018

To: Honorable Mayor and City Commissioners

From: DPW/Equipment

RE: Fleet Vehicle Replacement

SUMMARY OF REQUEST:

The Equipment Division is requesting permission to purchase one (1) Chevy Colorado pickup coming from Berger Chevrolet off the Oakland County Contract, the lowest available price. The price of this vehicle is $33,216.00 coming from the Equipment Division Budget.

FINANCIAL IMPACT:

$33,216.00

BUDGET ACTION REQUIRED:

None. Amount is what was budgeted.

STAFF RECOMMENDATION:

Authorize staff to purchase one (1) Chevy Colorado pickup truck from Berger Chevrolet.

Date: 9/25/2018

To: Honorable Mayor and City Commissioners

From: DPW/Equipment

RE: Fleet Vehicle Replacement

SUMMARY OF REQUEST:

The Equipment Division is requesting permission to purchase one (1) 2019 International plow truck cab and chassis coming from West Michigan International the State Mi-Deal contractor for a price of $88,487.08. We are also requesting that Arista Truck Systems build the dump body and underbody plow for an additional price of $63,994.00 coming from what was budgeted for from the Equipment Div. fund.

FINANCIAL IMPACT:

$152,481.08

BUDGET ACTION REQUIRED:

None. Amount is what was budgeted.

STAFF RECOMMENDATION:

Authorize staff to purchase one (1) 2019 International Plow truck cab and chassis and Arista Truck systems to build the Dump body and underbody plow.

©GraniteFan713

Date: 9/25/2018

To: Honorable Mayor and City Commissioners

From: DPW/Equipment

RE: Fleet Vehicle Replacement

SUMMARY OF REQUEST:

The Equipment Division is requesting permission to purchase Three (3) Chevy ½ ton pickup trucks coming from Berger Chevrolet off the Oakland County Contract, the lowest available price. $35,704.00 per vehicle will be coming from the Equipment Dept. Budget.

FINANCIAL IMPACT:

$35,704.00 x three for a total of $107,112.00

BUDGET ACTION REQUIRED:

None. Amount is what was budgeted.

STAFF RECOMMENDATION:

Authorize staff to purchase three (3) Chevy ½ ton pickups from Berger Chevrolet.

Date: 9/25/2018

To: Honorable Mayor and City Commissioners

From: Department of Public Works

RE: Resolution of Authority to Sign Street Lighting Contracts with Consumers Energy

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SUMMARY OF REQUEST:

Approve the resolution of authority to sign contracts with Consumers Energy to facilitate modifications to no more than 10 street lights per contract.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approve the resolution.

City of Muskegon

RESOLUTION

AUTHORITY TO SIGN
CONTRACTS WITH CONSUMERS ENERGY FOR STREETLIGHT MODIFICATIONS

WHEREAS, Muskegon City Commissioners desire efficient government; and

WHEREAS, Muskegon City Commissioners understand that modifications to the street lighting system are needed on a fairly regular basis; and

NOW, THEREFORE LET IT BE RESOLVED, that Muskegon City Commissioners give the Director of Municipal Services authority to sign street lighting contracts with Consumers Energy for no more than 10 individual street light modifications.

Dated this _____ of _____ 20__.

_____
Stephen J. Gawron
Mayor

_____
Ann Marie Meisch
City Clerk

Date: 9/25/2018

To: Honorable Mayor and City Commissioners

From: Department of Public Works

RE: Street Administrator Resolution

SUMMARY OF REQUEST:

Approve the resolution to designate LeighAnn Mikesell, Director of Municipal Services, as the street administrator in all transactions with the Michigan Department of Transportation.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approve the resolution.

Michigan Department
of Transportation
2012 (07/09)

RESOLUTION FOR DESIGNATION OF STREET ADMINISTRATOR

Clear Form

This information is required by Act 51, P.A. 1951 as amended. Failure to supply this information will result in funds being withheld.

MAIL TO: Michigan Department of Transportation, Bureau of Finance and Administration, P.O. Box 30050, **Lansing, MI 48909.** or Fax to: 517-241-2589

NOTE: Indicate, if possible, where Street Administrator can usually be reached during normal working hours, if different than City or Village Office. List any other office held by the Administrator.

Councilperson or Commissioner _____

offered the following resolution and moved its adoption:

Whereas, Section 13(9) of Act 51, Public Acts of 1951 provided that each incorporated city and village to which funds are returned under the provisions of this section, that, "the responsibility for street improvements, maintenance, and traffic operations work, and the development, construction, or repair of off-street parking facilities and construction or repair of street lighting shall be coordinated by a single administrator to be designated by the governing body who shall be responsible for and shall represent the municipality in transactions with the State Transportation Department pursuant to this act."

Therefore, be it resolved, that this Honorable Body designate LeighAnn Mikesell,

Director of Municipal Services as the single Street Administrator for the City or Village of

Muskegon in all transactions with the State Transportation Department as provided in Section 13 of the Act.

Supported by the Councilperson or Commissioner _____

Yeas _____

Nays _____

I hereby certify that the foregoing is a true and correct copy of a resolution made and adopted at a regular meeting of the governing body of this municipality on the _____ day of

_____

CITY OR VILLAGE CLERK (SIGNATURE)	EMAIL ADDRESS	DATE
STREET ADMINISTRATOR (SIGNATURE)	EMAIL ADDRESS	DATE
ADDRESS OF CITY OR VILLAGE OFFICE		P.O.BOX
CITY OR VILLAGE	ZIP CODE	PHONE NUMBER

Date: September 11th, 2018

To: Honorable Mayor and City Commissioners

From: Engineering

RE: City – MDOT Agreement;
Remembrance Drive Construction & Maintenance

SUMMARY OF REQUEST:

Approve the attached contract with MDOT for the Remembrance Drive construction from Keating Avenue south to the road terminus and approve the attached resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT:

None.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Approve the attached contract and resolution authorizing the mayor & clerk to sign both.

COMMITTEE RECOMMENDATION:

RESOLUTION

RESOLUTION FOR APPROVAL OF A CONTRACT AGREEMENT BETWEEN THE MICHIGAN DEPARTMENT OF TRANSPORTATION AND THE CITY OF MUSKEGON FOR THE ROAD RECONSTRUCTION AND SANITARY SEWER INSTALLATION ALONG REMEMBRANCE DRIVE FROM KEATING AVENUE SOUTH TO THE ROAD TERMINUS TOGETHER WITH OTHER NECESSARY RELATED WORK ITEMS AND AUTHORIZATION FOR MAYOR STEPHEN J. GAWRON AND CITY CLERK, ANN MEISCH, TO EXECUTE SAID CONTRACT.

Moved by _____ and supported by _____ that the following Resolution be adopted:

WHEREAS, entry by the City of Muskegon into Contract no. **18-5421** between the Michigan Department of Transportation and the City of Muskegon for the **Road reconstruction and sanitary sewer installation on Remembrance Drive** within the City is in the best interest of the City of Muskegon.

RESOLVED, that entry by the City into Contract Agreement Number **18-5421** be and the same is hereby authorized and approved and the Mayor and Clerk are authorized to execute said contract for and on behalf of the City of Muskegon.

Adopted this ___ day of _____, _____.

BY

_____

Stephen J. Gawron, Mayor

ATTEST

_____

Ann Meisch, City Clerk

CERTIFICATION

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

CITY OF MUSKEGON

By_____

Ann Meisch, City Clerk

PERMIT
SPECIAL TRUNKLINE
MAINTENANCE

DA

Control Section	61072
Permit Reference Number	56820
Contract	18-5421

THIS CONTRACT is made and entered into this date of _____, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF MUSKEGON, a Michigan municipal corporation, hereinafter referred to as the "AGENCY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the maintenance and operation of utility improvements and roadway resurfacing constructed by the AGENCY.

WITNESSETH:

WHEREAS, the AGENCY is proposing the installation of storm sewer and sanitary sewer within the trunkline roadway right-of-way; and

WHEREAS, the DEPARTMENT has determined it to be acceptable to have the AGENCY construct the proposed work which is hereinafter referred to as the "PROJECT" and are further described and located as follows:

> Sanitary and storm sewer reconstruction work along Remembrance Drive from K L Outdoor to Keating Avenue including aggregate base, concrete curb and gutter, sidewalk ramp upgrades, hot mix asphalt resurfacing and pavement marking work; together with necessary related work, located within the corporate limits of the AGENCY; and

WHEREAS, the AGENCY will be responsible for the entire cost of the PROJECT; and

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and the maintenance and operation of the facility to be constructed as the PROJECT and desire to set forth this understanding in the form of a written agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The AGENCY will construct the PROJECT at no cost to the DEPARTMENT.

2. The AGENCY shall cause to be performed all the PROJECT work as defined in the permit obtained from the DEPARTMENT. It is understood that portions or all of the

PROJECT work will be placed under contract by the AGENCY. The performance of the PROJECT work will be subject to the conditions established in PERMIT REFERENCE NUMBER 56820.

3. Upon completion of construction, the AGENCY will, at its sole cost and expense, inspect, maintain and operate the facility constructed as the PROJECT. All future maintenance activities will require a permit from the DEPARTMENT. The AGENCY shall conform with all DEPARTMENT permit requirements for any work to be performed within the state trunkline right-of-way. As built plans will be provided to the Muskegon Transportation Service Center.

A. The AGENCY agrees that the PROJECT location will be maintained so as to assure that any Trunkline facilities, structures and the area within the Trunkline right-of-way boundaries will be kept in good condition, both as to safety and appearance. The maintenance of the facilities by the AGENCY will be accomplished in a manner so as not to cause interference with the reconstruction, maintenance or operation of the Trunkline facility and right-of-way.

B. The DEPARTMENT reserves the right to enter the PROJECT location for the purpose of inspection, maintenance or reconstruction of the Trunkline facility when necessary. Additionally, the DEPARTMENT reserves the right to access the PROJECT location as deemed necessary for inspection relating to the DEPARTMENT'S interests. Such inspections are made for the DEPARTMENT'S own purposes and shall not relieve the AGENCY of its duties and obligations under the terms of this agreement. Any deficiencies discovered will be corrected or repaired by the AGENCY at no cost to the DEPARTMENT.

C. Prior to occupancy and/or use of the PROJECT location, the DEPARTMENT will inspect and approve the construction of the PROJECT.

4. The parties hereto agree to comply with all applicable requirements of the Natural Resources and Environmental Protection Act, 1994 P.A., 451, MCL 324.01 et. Seq. for all PROJECT work performed under this contract and future maintenance work, and the AGENCY shall require its contractors and subcontractors to comply with the same.

5. The AGENCY will not store, allow the storage of or discharge of any radioactive, toxic, flammable, poisonous, explosive or other dangerous, hazardous materials, or waste on the said premises. In addition, the AGENCY will not permit objectionable smoke, fumes, vapors, or odors to rise above the grade line of the Trunkline. No signs, displays or devices may be erected on the right-of-way for the PROJECT unless specified herein or approved by the DEPARTMENT.

DRAFT

6. It is expressly understood and agreed that in case of non-performance of any of the covenants herein made by the AGENCY and after said AGENCY has been furnished written notice of same by the DEPARTMENT and has been granted a reasonable period of time as determined by the DEPARTMENT for performance or correction thereof, this agreement shall be terminated and said AGENCY shall lose and be barred from all rights, remedies, and actions both at law and in equity upon or under this agreement.

7. It is expressly understood that use of the trunkline right-of-way is subject to the paramount right of the DEPARTMENT and that upon a determination by the DEPARTMENT that such right-of-way is required for the construction, operation, and/or maintenance of any present or proposed trunkline or trunkline use, this contract may be terminated at the discretion of the DEPARTMENT and the facility constructed as the PROJECT may be removed without reimbursement to the AGENCY.

8. Upon termination of this agreement, the AGENCY will peacefully yield up said PROJECT in as good order and condition as when delivered to the AGENCY at no cost to the DEPARTMENT. In the event this agreement is terminated and if the DEPARTMENT deems it necessary to request the removal of any facility occupying the premises, such removal shall be accomplished by the AGENCY in a manner as prescribed by the DEPARTMENT, at no cost to the DEPARTMENT or the Federal Highway Administration.

9. Any removal or modification of the facilities of the AGENCY, when necessary for Trunkline purposes, shall be performed by the AGENCY at no cost to the DEPARTMENT. Upon failure to so perform, the DEPARTMENT at its discretion may perform such work at the cost of the AGENCY or terminate this agreement.

10. The AGENCY recognizes and acknowledges that private and/or public utility companies may require the modification of the AGENCY'S facilities and it shall cooperate with the utility when requested by the DEPARTMENT at no cost to the DEPARTMENT, or interference with the Trunkline right of way and Trunkline facility.

11. It is understood that if the AGENCY discontinues, abandons or changes the usage of the PROJECT right-of-way, then this agreement shall be terminated and the DEPARTMENT shall have the right to immediately remove the facility constructed as the PROJECT without reimbursement to the AGENCY.

12. Each party to this Contract will remain responsive for any and all claims arising out of its own acts and/or omissions during the performance of the Contract, as provided by this contract or by law. In addition, this is not intended to increase or decrease either party's liability for or immunity from tort claims. This Contract is also not intended to nor will it be interpreted as giving either party a right of indemnification, either by contract or by law, for claims arising out of the performance of this Contract.

DRAFT

13. This contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the AGENCY and for the DEPARTMENT and upon the adoption of a resolution approving said contract and authorizing the signatures thereto of the respective officials of the AGENCY, a certified copy of which resolution shall be attached to this contract.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CITY OF MUSKEGON

By_____
Title:

By_____
Title:

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By_____
Department Director MDOT

DRAFT

AGENDA ITEM NO. _____
CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Frank Peterson, City Manager

DATE: September 25, 2018

RE: Termination of Purchase and Option Agreement-Port City Construction

SUMMARY OF REQUEST:
To authorize the City Manager to sign Termination of Purchase and Option Agreement with Port City Construction regarding 880 First Street.

FINANCIAL IMPACT:
None

BUDGET ACTION REQUIRED:
None at this time.

STAFF RECOMMENDATION:
To authorize the city manager to sign the Agreement.

COMMITTEE RECOMMENDATION:
None.

Termination of Purchase and Option Agreement

This Agreement is effective on SEPT. 14, 2018 between the **City of Muskegon** ("City") and **Port City Construction & Development Services, LLC** ("Port City") with reference to the following facts:

Background

A. The City and Port City entered into a certain Option Agreement for Purchase of Real Property effective as of April 29, 2016 ("Option Agreement") giving Port City an option ("Option") to purchase the property located at 880 First Street, 216 Clay Avenue, and 208 Clay Avenue in the City of Muskegon ("Properties"). The Properties are legally described on Exhibit A. The Option Agreement provided, in part, that Port City had to meet certain requirements before the City would be obligated to close on the sale of the Properties ("Requirements").

B. The term during which Port City exercise the Option was extended two times.

C. Port City exercised its option to purchase the Properties pursuant to the Option Agreement on June 30, 2017. As required under the Option Agreement, Port City made an earnest money deposit of $20,000 to the City ("Earnest Money").

D. Port City was not able to satisfy the Requirements and the City elected to the terminate Port City's rights to purchase the Properties as provided in the Option Agreement.

Therefore, the parties agree as follows:

1. **Termination of Option Agreement.** The parties agree that the Option Agreement is terminated and that all rights of Port City to the purchase or otherwise acquire the Properties are terminated as of the date of this Agreement.

2. **Earnest Money.** In consideration of Port City releasing all claims to purchase or otherwise acquire the Properties, upon execution of this Agreement and the approval required under Section 5 of this Agreement, the Earnest Money shall be released to Port City upon execution of this Agreement.

3. **Option Price.** The purchase price for the Option and for the extensions to the term of the Option paid by Port City ($5,000) shall be retained by the City.

4. **Mutual Release.** Other than the obligations set forth in this Agreement and the obligations of the City and Port City under an agreement to partially demolish the structure located on the Properties, the parties release each other from any and all claims related to the Option Agreement, the Option, or the Properties.

5. **City Approval.** The obligations of the City under this Agreement are contingent upon the approval by City of Muskegon Commission.

6. **Miscellaneous.** This Agreement shall be governed by Michigan law. This Agreement is the complete and final expression of the terms of the parties' settlement and all prior understandings and agreements are merged into this Agreement.

The parties have executed this Agreement on the date written below their signatures to be effective as of the date written above.

CITY:

CITY OF MUSKEGON GSS, LLC

By:_____
Name: Frank Peterson
Title: Manager
Date: _____, 2018

PORT CITY:

PORT CITY CONSTRUCTION & DEVELOPMENT SERVICES, LLC

By:_____
Name: Gary Post
Date: 9/14/18, 2018

COMMISSION MEETING DATE: September 25, 2018

TO: Honorable Mayor and Commissioners

FROM: Jeffrey Lewis, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish.
Dangerous Building Case # EN1803701
2084 Morton Ave (garage only)

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the **Garage** structure located at **2084 Morton Ave** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder or staff may issue infraction tickets to the owner, agent or responsible party if they do not demolish the structure.

Location and ownership: This structure is located on Morton Ave between Denmark Street and McCracken Street in the Lakeside Neighborhood and is owned by Elizabeth Floyd, 2765 Woodlake Rd SW apt 1, Wyoming, MI 49519.

Staff Correspondence: A compliant regarding the condition of the garage was received in June of 2018.
June 19, 2018, a notice repair or remove the garage was sent, with no response from owner.
July 6, 2018, a final notice to repair or remove the garage was sent.
August 6, 2018, the owner's grandson called and said they have been getting prices on removing the garage.
August 6, 2018, the Notice & Order was sent and posted for the September 6, 2018 meeting.
August 29, 2018, a ten day notice was sent and posted
September 6, 2018, the HBA declared the garage as dangerous and a public nuisance. The owner did not attend the HBA hearing.

Financial Impact: General Funds

Budget action required: None

State Equalized value: $37,800 (entire property)

Garage Assessed Value: $10,928

Estimated cost to repair garage: $9,210 (estimated from an exterior only inspection)

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish the **garage structure only** on the property

Owner Contact:
Owner did not attend the HBA meeting.

Permits obtained: None

DANGEROUS BUILDING INSPECTION

Owner FLOYD ELIZABETH
2765 WOODLAKE RD SW APT 1
WYOMING, MI 49519

Enforcement # EN1803701
Property Address: 2084 MORTON AVE
Parcel # 24-205-643-0019-00

Date completed: June 18, 2018

DEFICENCIES:

1. Garage roof has collapsed
2. Roof shingles are rotted and must be replaced
3. "Car doors" have rotted doors, missing wood and do not shut correctly
4. Siding is missing, rotted, has peeling paint or no paint at all
5. Windows are broken or missing

Jay Paulson, Inspector

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

SECTION 116.3 Notice (UNSAFE STRUCTURES AND EQUIPMENT)
If an unsafe condition is found, the *building official* shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the *building official* acceptance or rejection of the terms of the order.

If you disagree with the decision of the City Commission, you have the right to file a petition for superintending control in the Circuit Court for the County of Muskegon within 21 days after the City Commission concurs.

PHOTOS OF THE GARAGE AT 2084 Morton Ave

COMMISSION MEETING DATE: September 25, 2018

TO: Honorable Mayor and Commissioners

FROM: Jeffrey Lewis, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish.
Dangerous Building Case #: EN1711935
987 E. Forest Ave (garage only)

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the **Garage** structure located at **987 E. Forest Ave** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder or staff may issue infraction tickets to the owner, agent or responsible party if they do not demolish the structure.

Location and ownership: This structure is located on East Forest Ave between S. Getty Street and Madison Street in the Oakview Neighborhood and is owned by Anthony & Kelley Sydnor, 987 E. Forest Ave, Muskegon, MI 49442.

Staff Correspondence: A compliant regarding the condition of the garage was received in May of 2017.
June 1, 2017, a notice repair or remove the garage was sent, with no response from owner.
July 17, 2017, a final notice to repair or remove the garage was sent. On July 31, 2017, the owner came into the inspection's office and said he would be demolishing the garage but needed extra time. The owner agreed he would have the garage removed by October 2, 2017.
October 2, 2017, the garage had not been removed and no permits have been issued. The case was placed on the agenda for the November 2, 2017 hearing.
November 2, 2017, the owner appeared at the HBA hearing and stated he wanted to keep the garage and needed time to repair the garage. The HBA granted the owner 90 days to repair the garage.
January 29, 2018, the owner obtained a permit to demolish the garage.
July 31, 2018, the demolition permit expired. An inspection indicated no work was completed on the removal of the garage. The case was sent back to the HBA.
September 6, 2018, the HBA declared the garage as dangerous and a public nuisance. The owner did not attend the HBA hearing.

Financial Impact: General Funds

Budget action required: None

State Equalized value: $24,400 (entire property)

Garage Assessed Value: $8,250

Estimated cost to repair garage: $7,500 (estimated from an exterior only inspection)

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish the **garage structure only** on the property

Owner Contact:
Owner(s) did not attend the HBA meeting.

Permits obtained: Demolition permit was issued but expired with no action taken.

DANGEROUS BUILDING INSPECTION

Owner SYDNOR KELLEY D/ANTHONY J
987 E FOREST AVE
MUSKEGON, MI 49442

Enforcement # EN1711935
Property Address: 987 E FOREST AVE
Parcel # 24-170-000-0002-00

Date completed: June 1, 2017

DEFICENCIES: (GARAGE ONLY)

1. The garage roof has a large hole and has partially collapsed
2. The roof shingles have deteriorated, are missing or not attached
3. Soffits and fascia is rotted, missing or not attached
4. The service door is rotted and must be replaced
5. The siding has peeling or no paint

NOTE: This is an exterior inspection only

Jay Paulson, Inspector

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

SECTION 116.3 Notice (UNSAFE STRUCTURES AND EQUIPMENT)
If an unsafe condition is found, the *building official* shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the *building official* acceptance or rejection of the terms of the order.

If you disagree with the decision of the City Commission, you have the right to file a petition for superintending control in the Circuit Court for the County of Muskegon within 21 days after the City Commission concurs.

PHOTOS OF THE GARAGE AT 987 E. Forest Ave

Commission Meeting Date: September 25, 2018

Date: **September 18, 2018**

To: **Honorable Mayor & City Commission**

From: **Planning & Economic Development Department**

RE: **DDA On-Premise Liquor License for Rolf's Barbeque, LLC**

SUMMARY OF REQUEST: To approve the Resolution for a Downtown Development Authority On-Premise Liquor License for Rolf's Barbecue, LLC. The Liquor Control Commission allows for additional liquor licenses within Downtown Development Authority Districts under certain conditions.

FINANCIAL IMPACT: Approving the Liquor License will allow for a new restaurant in the downtown area which should result in increased revenue for the City.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the attached resolution.

COMMITTEE RECOMMENDATION: None.

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

RESOLUTION NO. _____

A resolution concerning the issuance of a Downtown Development Authority District On-Premises Liquor License pursuant to 436.1521a(1)(b) of the Michigan Compiled Laws.

The City Commission of the City of Muskegon hereby RESOLVES:

Recitals

1. Rolf's Barbeque, LLC has applied for a Downtown Development Authority District On-Premises Liquor License for the premises at 477 W Western Ave, which is located within an area established by the City Commission as a redevelopment project area pursuant to 436.1521a(1)(b) of the Michigan Compiled Laws.

2. It is required that the City Commission approve a specific applicant, at a specific location "ABOVE ALL OTHERS".

3. This resolution was approved at the regular meeting of the City Commission on September 25, 2018.

City Commission Findings

The City Commission is satisfied that:

1. That the applicant has sufficiently demonstrated a commitment for a capital investment of not less than $75,000 for the build-out and improvements of the building that will house the licensed premises, which amounts shall be expended before the issuance of the license.

2. That the licensed business shall be engaged in dining, entertainment or recreation, that is open to the general public, with a seating capacity of not less than 50 persons.

NOW, THEREFORE, THE CITY COMMISSION RESOLVES:

The City Commission deems it to be in the best interest of the City of Muskegon to approve the application of Rolf's Barbeque, LLC, for a Downtown Development Authority District On-Premises Liquor License for the premises at 477 W Western Ave, pursuant to 436.1521a(1)(b) of the Michigan Compiled Laws, and recommends to the Michigan Liquor Control Commission the issuance of said requested license "ABOVE ALL OTHERS".

Adopted this 25th day of September, 2018.

AYES: _____

NAYES: _____

ABSENT: _____

By: _____
Stephen J. Gawron
Its Mayor

By: _____
Ann Meisch, MMC
Its Clerk