

# CITY OF MUSKEGON

## CITY COMMISSION MEETING

**SEPTEMBER 24, 2019 @ 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 24, 2019, Pastor Leroy Lockhart, New Birth Ministries, 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 Byron Turnquist, Ken Johnson, Debra Warren, Dan Rinsema-Sybenga, and Willie German, Jr., City Manager Frank Peterson, City Attorney John Schrier, and City Clerk Ann Meisch.

**PUBLIC COMMENT ON AGENDA ITEMS:** Public comments were received.

#### **2019-75 CONSENT AGENDA:**

##### **A. Approval of Minutes** City Clerk

SUMMARY OF REQUEST: To approve the minutes of the September 9, 2019 Worksession meeting and the September 10, 2019 Regular meeting.

STAFF RECOMMENDATION: Approval of the minutes.

##### **B. Financial Policy Update** City Treasurer

SUMMARY OF REQUEST: To update the Poverty Exemption Income Guidelines used to determine poverty tax exemptions.

In recent years, the State of Michigan has undertaken significant Property Assessing Reform in an effort to ensure high quality assessments for taxpayers and local units. One of the many reforms is a mandatory AMAR (Audit of Minimum Assessing Requirements) to be conducted every five years in each local unit. The local units in the County of Muskegon are scheduled to receive their AMAR in 2020.

As part of our efforts to ensure we are complying with all State requirements for the AMAR, we reviewed our Poverty Exemption Policy with our assessor of record, Donna VanderVries, and determined changes to the policy were necessary. On page 25 of the attached Financial Policies, in the Poverty Exemption Income Guidelines, the requirements of items 7) and 8) do not comply with state regulation and must be removed from the policy. Also, for item 2), we cannot require the taxpayer to provide the property tax credit regurns. The State Tax Tribunal has ruled that we cannot go above what the state statute dictates, and each of these requirements are considered to be beyond the limits of the statute.

On the advice of Muskegon County Equalization Director Donna VanderVries, we are requesting that you update item 2) and eliminate items 7) and 8) from the current Poverty Exemption Income Guidelines in the City's Financial Policies.

STAFF RECOMMENDATION: To approve the updated Poverty Exemption Income Guidelines in the City of Muskegon's Financial Policies as presented.

**C. Equipment Replacement** DPW/Equipment

SUMMARY OF REQUEST: The Equipment Division is requesting permission to purchase one Caterpillar Backhoe coming from Michigan CAT, the Mi Deal State Contract holder. This machine will replace one we are trading in.

Amount requested is \$109,290.05 less trade in of \$20,00.00 for our machine. Final price of \$89,290.05.

STAFF RECOMMENDATION: Authorize staff to purchase on Caterpillar backhoe for a final price of \$89,290.05.

**E. Thermal Imaging Cameras (TIC)** Public Safety/Fire Department

SUMMARY OF REQUEST: Seeking approval to purchase two (2) Avon Thermal Imaging Cameras (TIC) at a cost of \$10,060.00 and six (6) Seek units at a cost of \$3,957.50. The total cost of \$13,748.80 is below the approved 2019/2020 budgeted amount of \$14,096.00. Thermal Imaging Cameras are used to locate victims and hidden fires during fire-fighting efforts. The two (2) Avon TIC units will be placed on Engines 23 & 25. The six (6) personal size TIC units are to be worn by the firefighters.

STAFF RECOMMENDATION: To approve the purchase of eight (8) Thermal Imaging Cameras for Fire Department use in detection and rescue efforts for a total cost of \$13,748.80.

**F. Melching – Change Order #005** Public Work

SUMMARY OF REQUEST: Melching Demolition has provided a proposal to crush all of the existing concrete and asphalt and leave it on site at the West Shoreline Correctional Facility. The crushed concrete and asphalt would be used by city crews performing maintenance work and for city funded public projects with

excess material to be sold.

Change Order #005 represents an approximately \$100,000 increase in the contract value with Melching. For this price Melching will crush all of the existing concrete and asphalt on site. Concrete will be crushed into popular gradations that can be used for city project, or sold to private developments. Asphalt will be crushed into millings for use on city projects, and/or to be sold for private developments. Payment for the contract increase will be made from the grant funds allocated towards this site. Any proceeds from sale of excess material are proposed to be deposited into the Local Street Fund to potentially be used to fund a future project.

STAFF RECOMMENDATION: Authorize staff to sign Change Order #005 to the demolition contract with Melching Demolition in the amount of \$101,250.

**G. Water Filtration Plant – CE Contract** Public Works

SUMMARY OF REQUEST: Consumers Energy has provided a contract relative to the water filtration plant that allows them to suspend electrical service to the water filtration plant under certain peak conditions at which time the water filtration plant will operate under generator power.

Consumers Energy retains the right to suspend electrical service to the water filtration plant under certain peak conditions and provided proper notice to the plant. These occurrences are limited to five (5) occurrences annually each not to exceed 4 hours. Consumers Energy will compensate the City for enrollment in this program. Staff has reviewed the contract and performed the necessary load testing of the plant to ensure compliance with the agreement. The contract has been reviewed by legal counsel. Staff is recommending the 4-year option, which includes an annual payment in the amount of \$28,000 per year to the city.

STAFF RECOMMENDATION: Authorize staff to sign the 2020 Emergency with Generator Commercial and Industrial Demand Response Customer Agreement with Consumers Energy for a period of 4 years.

**J. Community Relations Committee Recommendations** Clerk

SUMMARY OF REQUEST: Staff is seeking approval of the recommendations by the Community Relations Committee to accept the resignations of Scott Banninga from the CDBG/Citizen's District Council-Citizen representing Ward 2 and Clyde Whitehouse – Business Improvement District – Assessed property owner and to accept the appointment of Kathy Dennison to the Business Improvement District.

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

**Motion by Commissioner Warren, second by Commissioner German, to accept the consent agenda, as presented, minus items D, H, and I.**

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

**Nays: None**

**MOTION PASSES**

**2019-76 ITEMS REMOVED FROM CONSENT AGENDA:**

**D. Development and Reimbursement Agreement, Midtown/Nelson Brownfield Economic Development**

SUMMARY OF REQUEST: Approval of the Development and Reimbursement Agreement for the Midtown Square II and Nelson Neighborhood Infill Housing Brownfield between the city and its Brownfield Redevelopment Authority.

The Brownfield Plan Amendment for Midtown Square II and the Nelson Neighborhood Infill Housing was approved by the Authority on April 9, 2019. This agreement outlines how the Authority will reimburse the city for eligible costs in the construction of 20 housing units in the Nelson Neighborhood through future tax capture. The city will seek an approximately \$3 million commercial loan and have the residential units built by Dusendang Contractors. The city will receive reimbursement of 5 percent per annum for the cost of borrowing for an estimated total amount of \$302,406. The Muskegon Brownfield Redevelopment Authority approved the agreement at its September 10, 2019 meeting.

STAFF RECOMMENDATION: To approve the Midtown Square II and Nelson Neighborhood Infill Housing Development and Reimbursement Agreement and authorize the Mayor and City Clerk to sign the same.

**Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to approve the Midtown Square II and Nelson Neighborhood Infill Housing Development and Reimbursement Agreement and authorize the mayor and city clerk to sign the same.**

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

**Nays: None**

**MOTION PASSES**

**H. Establish Policy and Application for Block Parties Planning**

SUMMARY OF REQUEST: Staff is seeking to establish a policy, application, and fees to allow for block parties which close city streets. The goal is to encourage neighborhood cohesion while placing reasonable restrictions to ensure safety and minimize risk for complaints.

- Application Fee - \$50
  - Application fee may be refunded if the application is denied by the city.
  - Application fee will not be refunded if event is cancelled by the applicant.
- Cleaning Fee - \$60/hour (if required)
  - Will be charged to the applicant after the event if city property is not returned to its original condition and/or trash is left on city property.

STAFF RECOMMENDATION: Approve the block party policy, application, and fees as proposed.

**Motion by Commissioner Turnquist, second by Commissioner Rinsema-Sybenga, to approve the block party policy, application, and fees as proposed.**

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

**Nays: None**

#### **MOTION PASSES**

##### **I. Rezoning of 1713 7<sup>th</sup> Street      Planning**

SUMMARY OF REQUEST: Staff initiated request to rezone the property at 1713 7<sup>th</sup> Street from I-2, Heavy Industrial to B-4 General Business and MC, Medical Care. This area is categorized by many different uses. In addition to residential homes, the Rescue Mission, Norchuck Supply, Keene Lumber, a carpentry shop and other small businesses are located in the direct vicinity. Staff feels that downzoning from heavy industrial to general business is appropriate for this neighborhood.

The Planning Commission unanimously recommended approval at their September meeting.

STAFF RECOMMENDATION: To approve the rezoning from I-2, Heavy Industrial to B-4 General Business and MC, Medical Care.

**Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to approve the rezoning from I-2, Heavy Industrial to B-4 General Business and MC, Medical Care.**

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

**Nays: None**

#### **MOTION PASSES**

## **2019-77 PUBLIC HEARINGS:**

### **A. CAPER 2018 Community & Neighborhood Services**

SUMMARY OF REQUEST: Request to conduct a Public Hearing of the 2018 Consolidated Annual Performance Evaluation Report (CAPER) for projects funded with CDBG and HOME HUD Entitlements to the City of Muskegon, Community & Neighborhood Services Department.

STAFF RECOMMENDATION: To submit the 2018 CAPER including any public comments received during the 20 day comment period ending September 27, 2019.

PUBLIC HEARING COMMENCED: No public comments were received.

**Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to close the public hearing and submit the 2018 CAPER including any public comments received during the 20-day comment period ending September 27, 2019.**

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

**Nays: None**

### **MOTION PASSES**

## **2019-78 NEW BUSINESS:**

### **A. Royal Glen Partnership City Manager**

SUMMARY OF REQUEST: The owners of Royale Glen are requesting a five-year term extension and a 3 percentage point reduction in the annual PILOT Payments at Royale Glen Apartments. In exchange, the ownership group is committing to invest \$600,000 in apartment upgrades/improvements and \$156,000 for improvements at Campbell Field.

Campbell Field previously housed the West Little League Program. Over the past 20+ years, local participation in little league baseball has waned significantly. As a result, Campbell Field has only one field that is properly maintained by Muskegon Catholic Central, and three fields that are poorly maintained for the majority of the year. Staff is proposing that the three unmaintained fields be removed, and the space be reforested with appropriate trees. Additionally, the currently playground would be removed and replaced, and a walking trail would be added, connecting Royale Glen Apartments to the new playground. Royale Glen is home to many families with children that would benefit from additional access to the park as well as the upgrades to the rental units. We envision Campbell Field eventually functioning similarly to Seyferth Park. The park project would be at least partially financed by a \$156,000 contribution from Royale Glen Apartments. Any cost above that amount would be financed by the City's General Fund. The PILOT reduction is expected to cost the city

approximately \$5,500 annually. If this is agreeable to Commissioners, staff will begin engaging the neighborhood relative to their desires for the park.

**STAFF RECOMMENDATION:** To authorize staff to negotiate an amendment to the Royale Glen PILOT Agreement to include an extension to April 1, 2030, a 1% City Service Fee, 1% PILOT Fee, and a requirement to invest at least \$600,000 in capital maintenance at Royale Glen and at least \$156,000 in capital improvements at Campbell Field Park.

**Motion by Commissioner Rinsema-Sybenga, second by Commissioner Johnson, to authorize staff to negotiate an amendment to the Royale Glen PILOT Agreement to include an extension to April 1, 2030, a 1% City Service Fee, 1% PILOT Fee, and a requirement to invest at least \$600,000 in capital maintenance at Royale Glen and at least \$156,000 in capital improvements at Campbell Field Park.**

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

**Nays: Turnquist**

#### **MOTION PASSES**

##### **B. Construction Agreement – Clark      City Manager**

**SUMMARY OF REQUEST:** Staff is seeking authorization to enter into the construction management agreement with Clark Construction for the construction of the Downtown Convention Center. The Construction costs are \$17,203,211 which is on target with the latest engineer estimate and will keep the entire project within the current \$19.4 Million budget.

The convention center will be funded via a 30-year general obligation bond, which is expected to be issued in October. The annual payments, currently estimated at \$1,050,000 annually will be paid via the terms of a development agreement that sets aside hotel room revenues to meet the debt obligations. Staff is recommending that Clark not be obligated to obtain a performance bond as part of this project, as all subcontractors have completed background evaluations and staff is confident in their respective ability to perform.

**STAFF RECOMMENDATION:** To waive the performance bond requirements for the Convention Center Project, authorize the Construction Management Contract with Clark Construction in the amount of \$17,203,211, and authorize the Mayor to sign the contract.

**Motion by Commissioner Rinsema-Sybenga, second by Commissioner Warren, to waive the performance bond requirements for the Convention Center Project, authorize the Construction Management Contract with Clark Construction in the amount of \$17,203,211, and authorize the Mayor to sign the contract.**

**ROLL VOTE: Ayes: German, Rinsema-Sybenga, Turnquist, Johnson, Gawron,**

Hood, and Warren

Nays: None

**MOTION PASSES**

**C. DDA On-Premise Liquor License for the LC Walker Arena** Planning

SUMMARY OF REQUEST: To approve the Resolution for a Downtown Development Authority On-Premise Liquor License for the LC Walker Arena. The Liquor Control Commission allows for additional liquor licenses within Downtown Development Authority Districts under certain conditions.

This license would cover all alcohol sales within the arena; including Rad Dad's, Carlisle's and concessions.

STAFF RECOMMENDATION: To approve the DDA On-Premise Liquor License for the L.C. Walker Arena and authorize the Mayor and Clerk to sign the resolution.

**Motion by Commissioner Warren, second by Commissioner Johnson, to approve the DDA On-Premise Liquor License for the L.C. Walker Arena and authorize the Mayor and Clerk to sign the resolution.**

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

**Nays: None**

**MOTION PASSES**

**D. Recreational Marihuana Regulatory Ordinance** Planning

SUMMARY OF REQUEST: Staff initiated request to amend the City Code of Ordinances and adopt a Recreational Marihuana Regulatory Ordinance under the Michigan Regulation of Taxation of Marihuana Act.

STAFF RECOMMENDATION: To approve the Recreational Marihuana Regulatory Ordinance as part of the City Code of Ordinances.

**Motion by Commissioner Johnson, second by Vice Mayor Hood, to approve the Recreational Marihuana Regulatory Ordinance as part of the City Code of Ordinances.**

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

**Nays: Warren and German**

**MOTION PASSES**

**SECOND READING REQUIRED**

**E. Amendment to the Medical Marihuana Facilities Overlay District to also allow Recreational Marihuana facilities** Planning

SUMMARY OF REQUEST: Staff initiated request to amend Section 2330 of the zoning ordinance, the Medical Marihuana Facilities Overlay District, to also allow for Recreational Marihuana facilities under the Michigan Regulation and Taxation of Marihuana Act.

Staff is proposing to amend the current Medical Marihuana Facilities Overlay District to also allow for Recreational Marihuana Facilities. The building and site requirements are essentially the same for recreational and medicinal facilities and they would be allowed within the same overlay district, as depicted on the map. The Planning Commission voted 7-1 in favor of recommending approval of the ordinance.

STAFF RECOMMENDATION: To approve the amendments to Section 2330 of the Zoning Ordinance to also allow for Recreational Marihuana Facilities.

**Motion by Vice Mayor Hood, second by Commissioner Johnson, to approve the amendments to Section 2330 of the Zoning Ordinance to also allow for Recreational Marihuana Facilities.**

**ROLL VOTE: Ayes: Johnson, Gawron, Hood, and Warren**

**Nays: German, Rinsema-Sybenga, and Turnquist**

**MOTION PASSES**

**SECOND READING REQUIRED**

**ANY OTHER BUSINESS:** Comments received by Commissioners.

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

**ADJOURNMENT:** The City Commission meeting adjourned at 9:23 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk