

CITY OF MUSKEGON

CITY COMMISSION MEETING

SEPTEMBER 23, 2014

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ☐ CALL TO ORDER:
- ☐ PRAYER:
- ☐ PLEDGE OF ALLEGIANCE:
- ☐ ROLL CALL:
- ☐ HONORS AND AWARDS:
- ☐ INTRODUCTIONS/PRESENTATION:
 - A. Presentation of Beautification Awards.
- ☐ CITY MANAGER'S REPORT:
- ☐ CONSENT AGENDA:
 - A. Approval of Minutes. CITY CLERK
 - B. Small Wine Maker License – Pigeon Hill Brewing Co., 500 W. Western. CITY CLERK
 - C. Roof Maintenance/Repair Fire Station #4 (Robinson Street). PUBLIC SAFETY
 - D. T.V. Truck and Camera System. PUBLIC WORKS
 - E. City-MDOT Agreement for Veteran Park Improvements. ENGINEERING
 - F. New Cingular Wireless Third Amended Tower Lease Agreement. PUBLIC WORKS
 - G. Request to Proceed with the Redevelopment Ready Communities Program. PLANNING & ECONOMIC DEVELOPMENT
 - H. Sale of the Property at 481 Monroe Avenue. PLANNING & ECONOMIC DEVELOPMENT
 - I. Sale of the Property at 816 Marquette Avenue. PLANNING & ECONOMIC DEVELOPMENT
 - J. Nims Elevated Storage Tank Interior Coating and Repairs. PUBLIC WORKS

☐ **PUBLIC HEARINGS:**

- A. Consolidated Annual Performance Evaluation Report (CAPER 2013).
COMMUNITY & NEIGHBORHOOD SERVICES

☐ **COMMUNICATIONS:**

☐ **UNFINISHED BUSINESS:**

- A. Road Millage Resolution. CITY MANAGER

☐ **NEW BUSINESS:**

- A. Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Following: PUBLIC SAFETY

703 Amity Avenue

717 Amity Avenue

- B. Marihuana Ordinance. CITY CLERK

☐ **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 CUMMINGS, 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 18 2014

We have a number of items on the agenda, and I thought you could use a little background on some of them as you prepare for our meeting next week.

1. We have a number of items under consent. Of them, you'll notice the sale of the property at 816 Marquette to James Williams. The sales price for this property is the result of a negotiation session with Mr. Williams. We did not receive an appraisal for the sale, but instead used 75% of the Assessing Department's true cash value estimate as a starting point for negotiation. At this point, I do not believe formally marketing the property for sale with a realtor would generate a significant increase in the next sales price. The benefit to the community will be the new residential development and the associated property and income taxes.
2. Under Unfinished Business, we are presenting an amended road millage resolution. After more research, it was determined that street sweeping costs were previously removed from the general fund, and relocated to the Major and Local Street funds. Accordingly, none of the new millage dollars would need to be allocated for street sweeping. The resolution has been adjusted accordingly.
3. We have two properties awaiting concurrence with the HBA's request for demolition.
4. The final medical marihuana ordinance is ready for Commission action. This draft represents what was discussed at the last Commission work session.

If there are questions on any agenda items, please try to let staff know in advance, and we will be sure to have the appropriate data/research available at the meeting.

Date: September 23, 2014
To: Honorable Mayor and City Commissioners
From: Ann Marie Cummings, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes of the September 8th Commission Worksession Meeting, and the September 9th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

City of Muskegon
City Commission Worksession
September 8, 2014
City Commission Chambers
5:30 PM

MINUTES

2014-65

Present: Commissioners Hood, Rinsema-Sybenga, Gawron, Johnson, Turnquist, and Spataro.

Absent: Commissioner German.

Discussion on a Proposed Marihuana Ordinance Revision.

Four changes were made to the proposed ordinance by recommendation of the Commission at the last meeting and an additional statement was made to prohibit provision centers..

Commissioner Johnson asked whether the Commission supported a bi-annual renewal of the license for those growing in their home. The Commissioners indicated they support an annual license renewal as other businesses currently do.

Commissioner Hood asked what an inspection would include. It will include an administrative inspection including HVAC, electrical, and plumbing inspection.

Commissioner Johnson suggested language be added to the ordinance to indicate times of inspection. The language of regular inspections will take place between 9 a.m. – 5 p.m. will be added to the ordinance.

This item will be brought to the September 23, 2014 Commission Meeting.

Discussion on Moving Commission Election Dates to Even Years.

In December 2012 the Governor signed a bill into law that authorizes cities that hold odd-year elections to move to the November general date by adoption of a resolution. The Election date becomes effective after December 31st in the year in which the resolution is adopted.

If the Commission chooses, staff can draft a resolution for the Commission to consider at the second meeting in September that would be extended by one year for all current Commissioners. The cost savings could be as much as \$35,000 every other year by eliminating a Primary and General Election and also free staff time to work on special projects involving the City's image, licensing, and records management.

The City Clerk presented a list of the last 30 plus years of Elections that indicated the percentage of voter turn-out. Odd year Election dates consistently indicate a 6% - 12% turn-out while an even year Election date has a 35% - 55% turn-out.

Commissioner Johnson expressed concern at extending current terms by one year to accommodate a new rotation in the Election cycle. He also stated it might deter some candidates from seeking office if they were to be placed on an even year General ballot.

Several other Commissioners indicated the numbers consistently show voters prefer voting in an even year and the desire to be on a ballot with more voter participation.

This proposal will be shared with the public and brought back to a November Commission meeting.

Adjournment.

Motion by Commissioner Hood, seconded by Commissioner Johnson to adjourn at 6:54 p.m.

MOTION PASSES

**Ann Marie Cummings, MMC
City Clerk**

CITY OF MUSKEGON

CITY COMMISSION MEETING

SEPTEMBER 9, 2014

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, MI at 5:30 p.m., Tuesday, September 9, 2014.

Mayor Gawron opened the meeting with prayer from Mr. George Monroe from Evanston Avenue Baptist Church after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Gawron, Vice Mayor Lawrence Spataro, Commissioners Willie German, Dan Rinsema-Sybenga, Byron Turnquist, Ken Johnson, and Eric Hood, City Manager Franklin Peterson, City Attorney John Schrier, and City Clerk Ann Marie Cummings.

2014-66 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes of the August 26th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Certification of MERS Representatives. FINANCE

SUMMARY OF REQUEST: The MERS plan document provides that "the governing body for each municipality shall certify the names of two 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 Steve Waltz (Police Lieutenant) from the police command employee union group.

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

FINANCIAL IMPACT: Registration for the MERS conference in Detroit is \$200 per person. Additionally, mileage, hotel, and related costs will be incurred.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Certification of Elizabeth Lewis and Steve Waltz to be the City's officer and employee delegates at the MERS annual meeting in Detroit on September 24-26.

D. Approval of Transfer of City-Owned Property at 2355 Lincoln.
COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the Quit Claim Deed and direct the Mayor and Clerk to sign the Quit Claim Deed to Muskegon County Habitat for Humanity, 280 Ottawa St., for the vacant property located at 2355 Lincoln.

FINANCIAL IMPACT: The property transfer will relieve the City of the financial obligation to keep it cleared.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Quit Claim Deed and direct CNS staff to file the Quit Claim Deed.

E. Renewal of Maintenance Contract with MDOT Trunkline within the City of Muskegon. PUBLIC WORKS

SUMMARY OF REQUEST: The Michigan Department of Transportation (MDOT) seeks to renew its contract with the City of Muskegon for road maintenance on State Highways located within the City of Muskegon.

The City of Muskegon designates Mohammed Al-Shatel, its Director of Public Works, as the Contract Administrator and Maintenance Superintendent on state trunkline highways, and authorizes him and Ann Marie Cummings, City Clerk, to execute this contract on the City's behalf.

This is a five-year, renewable contract.

FINANCIAL IMPACT: Our annual contract with MDOT is approximately \$230,000.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of five-year contract and the designation of Mohammed Al-Shatel as the Contract Administrator and Maintenance Superintendent, and authorize him and Ann Marie Cummings, City Clerk, to execute the contract on the City's behalf.

F. Muskegon High School Community Officer Agreement. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety requests that the City Commission review and approve the agreement between the City of Muskegon Police Department and the Muskegon Public Schools.

The agreement is for a Community Officer at the High School during the 2014-2015 school year.

FINANCIAL IMPACT: This agreement is a three percent increase from last year's (2013-2014) agreement.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approving the agreement between the City of Muskegon Police Department and the Muskegon Public Schools for a Community Officer for the school year 2014-2015.

G. Youth Basketball League and Open Gym Proposal – Muskegon Public Schools. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The City of Muskegon has contracted with the Muskegon Public Schools ("Schools") for the management of the Youth Basketball League and Open Gym since 2010. The program has been successful and the Schools would like to manage the program for the 2014-2015 school year. The Commission is requested to approve the proposal and authorize staff to enter into an agreement with the Schools for oversight of the basketball program and the Open Gym program.

FINANCIAL IMPACT: The cost for the program is \$18,500 (which has not changed since 2010).

BUDGET ACTION REQUIRED: Funds are available through the Leisure Services budget.

STAFF RECOMMENDATION: To approve the "Youth Basketball League and Open Gym Proposal" and authorize staff to enter into a formal agreement with the Schools.

H. Consideration of Bids – HVAC Work at Public Service Building. PUBLIC WORKS

SUMMARY OF REQUEST: Authorize staff to enter into a contract with American Mechanical to install heating pumps for three offices at public service building to enhance heating and cooling at a total cost of \$9,843.25. Quotes were solicited from three qualified contractors, however, only two submitted bids.

FINANCIAL IMPACT: The cost of \$9,843.25 from PSB funds.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with American Mechanical to install the pumps for the HVAC system at the Public Service Building for \$9,843.25.

I. Snow Plows. PUBLIC WORKS

SUMMARY OF REQUEST: Per the request of our Highway Department, and checking with surrounding communities, we have decided to purchase three front plows: (1) Hydro-turn, and (2) Stationary, from Truck and Trailer Specialties, Dutton, MI, the sole source provider of the preferred front plows being used by several surrounding municipalities.

FINANCIAL IMPACT: \$20,415.

BUDGET ACTION REQUIRED: None, this is the amount budgeted for.

STAFF RECOMMENDATION: Authorize staff to purchase (1) Hydro-turn, and (2) Stationary front plows from Truck and Trailer Specialties, Dutton, MI.

Motion by Vice Mayor Spataro, second by Commissioner Rinsema-Sybenga to approve the Consent Agenda as read with the exception of Item C.

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

Nays: None

MOTION PASSES

2014-67 ITEM REMOVED FROM THE CONSENT AGENDA:

C. Part Time Wage Scale (Police Officer). PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety requests that the City Commission review and authorize the proposed amendment to the wage matrix for non-union part-time employees (police).

The police department will begin to implement part time police officers per section 38 of the current (2014-2016) POLC Police Officers contract.

Step 9:

Evidence/Court Officer Grade 1: **20.00** Grade 2: **21.00** Grade 3: **22.00**

Start 1,000 hours 2,000 hours of service

Police Officer (PT) Grade 1: **14.35** Grade 2: **14.86** Grade 3: **15.37**

Start 1,000 hours 2,000 hours of service

- Officer(s) *may* start at a higher grade based on experience.

FINANCIAL IMPACT: Positive financial impact – contract limits PT to 7,000 max working hours annually.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends adopting this amendment to the non-union part time wage matrix to include part time police officers.

Motion by Commissioner Turnquist, second by Commissioner Johnson to adopt the amendment to the non-union part time wage matrix to include part time

police officers.

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

Nays: None

MOTION PASSES

2014-68 NEW BUSINESS:

A. Road Millage Resolution.

Motion by Vice Mayor Spataro, second by Commissioner Rinsema-Sybenga to adopt the Road Millage Resolution.

Motion by Commissioner Johnson, second by Commissioner Turnquist to amend the motion to move the annual street sweeping funding to street maintenance construction.

Motion by Vice Mayor Spataro, second by Commissioner Rinsema-Sybenga to table action on this item to the October 13, 2014, Worksession.

ROLL VOTE: Ayes: Johnson, Spataro, German, Rinsema-Sybenga, and Turnquist

Nays: Gawron and Hood

MOTION TO TABLE PASSES

2014-69 ANY OTHER BUSINESS:

Motion by Commissioner German, second by Commission Hood to start up the Equal Employment Opportunity Committee.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga to table the establishment of the Equal Employment Opportunity Committee to the October 13, 2014, Community Relations Committee Meeting.

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

Nays: None

MOTION TO TABLE PASSES

PUBLIC PARTICIPATION: Public comments were received.

ADJOURNMENT: The City Commission Meeting adjourned at 6:48 pm.

Respectfully submitted,

Ann Marie Cummings, MMC
City Clerk

Date: September 23, 2014
To: Honorable Mayor and City Commissioners
From: Ann Marie Cummings, City Clerk
RE: Small Wine Maker License
Pigeon Hill Brewing Company
500 W. Western, Suite 1

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Pigeon Hill Brewing Company, LLC for a Small Wine Maker License to be located at 500 W. Western, Suite 1.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.



Michigan Department of Licensing and Regulatory Affairs
Liquor Control Commission (MLCC)
Constitution Hall - 525 W. Allegan, Lansing, MI 48933
Mailing Address: PO Box 30005, Lansing, MI 48909
Toll Free (866) 813-0011 • www.michigan.gov/lcc

Business ID: 232478
Request ID: _____
(For MLCC use only)

Local Government Approval
(Authorized by MCL 436.1501)

Instructions for Applicants:

- You must obtain a recommendation from the local legislative body for a new license application and/or a new banquet facility permit.

Instructions for Local Legislative Body:

- Complete this resolution, or provide a resolution, along with certification from the clerk, or adopted minutes from the meeting at which this request was considered.

At a _____ meeting of the _____ City of Muskegon _____ council/board
(regular or special) (township, city, village)
called to order by _____ on _____ at _____
the following resolution was offered: (date) (time)
Moved by _____ and supported by _____
that the application from Pigeon Hill Brewing Company, LLC
(name of applicant)
for the following license(s): Small Wine Maker

to be located at 500 W. Western Ave, Suite 1, Muskegon, MI 49440

and the following permit, if applied for:

☐ Banquet Facility Permit Address of Banquet Facility: _____

It is the consensus of this body that it _____ this application be considered for
(recommends/does not recommend)
approval by the Michigan Liquor Control Commission.

If disapproved, the reasons for disapproval are _____

Vote

Yeas: _____

Nays: _____

Absent: _____

I hereby certify that the foregoing is true and is a complete copy of the resolution offered and adopted by the _____
council/board at a _____ meeting held on _____ (township, city, village)
(regular or special) (date)

Name and title of authorized clerk (please print): _____

Signature of authorized clerk and date: _____

Phone number and e-mail of authorized officer: _____

Under Article IV, Section 40, of the Constitution of Michigan (1963), the Commission shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof, subject to statutory limitations. Further, the Commission shall have the sole right, power, and duty to control the alcoholic beverage traffic and traffic in other alcoholic liquor within this state, including the licensure of businesses and individuals.

Date: September 15th, 2014
To: Honorable Mayor and City Commissioners
From: Director of Public Safety Jeffrey Lewis
RE: Roof Maintenance/Repair Fire Station # 4 (Robinson St.)

SUMMARY OF REQUEST:

The Director of Public Safety requests that the Commission authorize the amount of \$9,600.00 for the roof repair to Fire Station # 4. It was determined that the aging roof was leaking and causing damage to the roof structure, which needs immediate attention. Roofing bids were requested, Mikalan Roof Inc. (sub contracted to Werner & Sons) was selected from the process (*see attachment for details*).

FINANCIAL IMPACT:

N/A

BUDGET ACTION REQUIRED:

Repairs to Fire Station (# 4) roof were requested in the 2014/2015 budget cycle to assure proper maintenance at this fire facility.

STAFF RECOMMENDATION:

Staff recommends approval of this repair request.

AUG 29 2004

MUSKIEGON
MANAGER'S OFFICE

Employee: Director Lewis

[illegible]

Bidder N/A approved by [Signature]



www.WernerRoofing.com

PROPOSAL

This contract made this 9th day of Sept, 2014, by & between Muskegon Fire and Werner and Sons' Roofing and Exteriors, LLC.

Work to be done at property located at: _____

The title of the property of work address is in the name of: _____

Building Permit Required: ☒ Yes ☐ No Governing Authority: City of Muskegon City/Twp

Type of materials to be used: GAF Timberline HD Laminated Shingles

Description of work: Tear off old roofing and re-roof front and west portions of roof,

Includes; New aluminum drip edge on all edges, Ice and water shield on all eaves (6ft up), Synthetic underlayment
on remaining areas of roof deck, starter course shingles, Laminated shingles, pipe boot flashings,
chimney and wall flashings as needed, Ridge vent and cap, building permit, dumpster, Full ground clean up,
labor, Roof deck board repair is additional charge if needed.

Our guarantee: Werner & Son's Roofing L.L.C. agrees to guarantee all workmanship and repair any leaks in the roof, due to workmanship, for a period of 20 years after completion of the work.

Exclusions from this guarantee are wind/storm damage(s), leaks caused by ice dam/water backup, and any leaks or damages caused by anything other than workmanship.

Mold and Asbestos Disclaimer: This contract does not include, unless expressly specified, any mold or asbestos abatement, removal or cleaning. If mold or asbestos is found existing on the premises, any cost to abate, remove or clean shall be paid by you as an extra. In addition, any warranty given to you under this contract does not include the cost to abate, remove or clean mold or asbestos that may be found on the premises in the future.

Limitation of Damages: There are no implied warranties of merchantability or fitness for a particular purpose in connection with any sale of products under this contract. The only warranties applicable to such sales shall be with those expressly set forth in this contract by Werner & Son's Roofing L.L.C. Such express warranties shall be in lieu of any other warranties, whether express or implied. Werner & Son's Roofing L.L.C.'s liability for any defective products or service or damages caused by the same, shall be limited to replacing the product.

Under no circumstances shall Werner & Son's Roofing L.L.C. be liable for incidental or consequential damages related to defective products or service. Although Werner & Son's Roofing L.L.C. makes every reasonable effort to avoid and minimize any property damage (including damage to driveways) in connection with our work, you agree that we are not responsible for any property damage (including damage to driveways) that results from our deliveries and work on your property if we have not been negligent.

Notice to Purchaser: You may cancel this contract without penalty or obligation for any reason within 3 business days from the date you signed this contract. Any payments made by you shall be returned within 10 business days following receipt by WSR of your cancellation notice. You may mail or deliver a written notice to the WSR. If mailed, it must be postmarked before midnight of the third business day after you sign the contract. Deliver or mail the notice to: 13750 172nd Ave Grand Haven, MI 49417.

Cash Price \$ 9,600.00

Down Payment \$ _____

Terms: _____

Balance of \$ _____

To be paid: _____

X

Buyer _____ Date _____

Buyer _____ Date _____

Werner & Sons' Roofing, LLC

Kris Werner 09/09 /2014

Representative _____ Date _____

Date: September 23, 2014

To: Honorable Mayor and City Commissioners

From: DPW/Equipment

RE: T.V. Truck and Camera System

SUMMARY OF REQUEST:

The Equipment Division has requested bids from Jack Doheny Companies and Fredrickson Supply Company for a new T.V. Truck and camera system. After several attempts to contact the Aries camera rep from Fredrickson and no return calls we are requesting permission to purchase the T.V. Truck and camera system from Jack Dohey Companies.

FINANCIAL IMPACT:

\$189,867.95

BUDGET ACTION REQUIRED:

Authorize staff to move the budgeted purchase amount from the 2013/2014 budget to the 2014/2015 budget at the time of the first quarterly reforecast.

STAFF RECOMMENDATION:

Authorize staff to purchase (1) T.V. Truck and Camera System from Jack Doheny Companies for \$189,867.95

Date: September 23, 2014
To: Honorable Mayor and City Commissioners
From: Engineering
**RE: City – MDOT Agreement for:
Veteran Park Improvements**

SUMMARY OF REQUEST:

Approve a contract with MDOT amending the previously signed contract No. 14-5155 increasing the grant amount by \$123,200 by approving the attached resolution authorizing the Mayor and City Clerk to sign the amended contract # 14-5519.

The amendment is purely to increase the

FINANCIAL IMPACT:

No change from what was previously approved since the entire increase is in federal grant.

BUDGET ACTION REQUIRED:

None at this time as this project was budgeted for, however, the revised cost/grant amount will be reflected in the upcoming budget re-forecast.

STAFF RECOMMENDATION:

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

COMMITTEE RECOMMENDATION:

RESOLUTION _____

RESOLUTION FOR APPROVAL OF AMEDMENT TO CONTRACT AGREEMENT BETWEEN THE MICHIGAN DEPARTMENT OF TRANSPORTATION AND THE CITY OF MUSKEGON FOR THE PEDESTRIAN MOBILITY IMPROVEMENT WORK BETWEEN NORTHBOUND AND SOUTHBOUND OF M-120 (VETERAN PARK) INCLUDING SIDEWALKS, DECORATIVE LIGHTING TOGETHER WITH OTHER NECESSARY RELATED WORK ITEMS AND AUTHORIZATION FOR MAYOR STEPHEN J. GAWRON AND CITY CLERK, ANN CUMMINGS, TO EXECUTE SAID CONTRACT

Moved by _____ and supported by _____

Commissioner _____ that the following Resolution be adopted:

WHEREAS, entry by the City of Muskegon into Contract no. **14-5519** between the Michigan Department of Transportation and the City of Muskegon for the **pedestrian mobility improvement work between northbound and southbound of M-120 (veteran park)** within the Cities of Muskegon & N. Muskegon is in the best interest of the City of Muskegon.

RESOLVED, that entry by the City into Contract Agreement Number **14-5519** 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 _____, 2014.

BY

Stephen J. Gawron, Mayor

ATTEST

Ann Cummings, City Clerk

CERTIFICATION

This resolution was adopted at a meeting of the City Commission, held on _____, **2014**. 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 Cummings, City Clerk

AMENDMENT TO CONTRACT 14-5155	DA	
	Control Section	TAUL 61076
	Job Number	118272
	Project	TAP 1461(009)
	Federal Item No.	RR 8730
	CFDA No.	20.205 (Highway Research Planning & Construction)
	Contract No.	14-5519

THIS AMENDATORY 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 "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to this Amendment to CONTRACT #14-5155.

WITNESSETH:

WHEREAS, the parties to the Amendment have heretofore, by a Contract dated April 29, 2014, hereinafter referred to as "CONTRACT 14-5155" provided for the construction and financing of that which is hereinafter referred to as the "PROJECT" and is described as follows:

Pedestrian mobility improvement work between northbound Highway M-120 and southbound Highway M-120 at the Muskegon Veterans' Memorial Site; including sidewalk, decorative lighting, and landscaping work; and all together with necessary related work.

WHEREAS, the DEPARTMENT and the REQUESTING PARTY having appropriate authority desire to amend CONTRACT 14-5155 to provide for an increase in the dollar amount from \$784,000 to \$907,200 associated with the determination of the maximum Federal Funds to be applied to the eligible items of the PROJECT COST based on the low bid amount.

NOW, THEREFORE, it is hereby agreed by and between the parties hereto that:

1. Section 5 of CONTRACT 14-5155 is revised to read as follows:

5. The PROJECT COST shall be met in part by contributions by the Federal Government. Federal Funds shall be applied to the eligible items of the PROJECT COST up to the lesser of: (1) \$907,200, or (2) an amount such that 80 percent, the normal Federal participation ratio for such funds, is not exceeded at the time of the award of the construction

contract. REQUESTING PARTY Funds shall be applied to the eligible items of the PROJECT COST at a participation ratio equal to 4 percent up to an amount not to exceed \$45,000. The balance of the PROJECT COST, after deduction of Federal Funds and REQUESTING PARTY Funds, shall be paid by the DEPARTMENT.

2. EXHIBIT I of CONTRACT 14-5155 is superseded by EXHIBIT I REVISED, dated August 27, 2014, attached hereto and made a part hereof. Any references to EXHIBIT I in CONTRACT 14-5155 shall be construed to mean EXHIBIT I REVISED.

3. Except as amended by the provisions herein, all of the provisions, covenants, and obligations of the parties contained in CONTRACT 14-5155 shall remain in full force and effect.

4. The REQUESTING PARTY waives any and all claims it has or may have against the DEPARTMENT which arise out of the need to amend CONTRACT 14-5155.

5. This Amendatory 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 parties hereto; upon the adoption of the necessary resolution approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, 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.

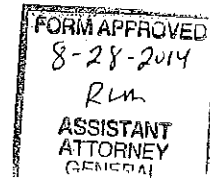
CITY OF MUSKEGON

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By _____
Title:

By _____
Department Director MDOT

By _____
Title:



APPROVED BY:

Administrator
Real Estate

8/28/14
Date

August 27, 2014

EXHIBIT I REVISED

CONTROL SECTION	TAUL 61076
JOB NUMBER	118272
PROJECT	TAP 1461(009)

ESTIMATED COST

CONTRACTED WORK

Estimated Cost	\$1,132,300
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COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	\$1,132,300
Less Federal Funds*	\$ 905,800
REQUESTING PARTY Funds**	<u>\$ 45,000</u>
BALANCE (DEPARTMENT'S SHARE)	\$ 181,500

*Federal Funds for the PROJECT are limited to an amount as described in Section 5.

**REQUESTING PARTY Funds shall be applied to the eligible items of the PROJECT COST at a participation ratio equal to 4 percent up to an amount not to exceed \$45,000.

NO DEPOSIT

Date: September 23, 2014

To: Honorable Mayor and City Commission

From: Department of Public Works

RE: New Cingular Wireless Third Amended Tower Lease Agreement

SUMMARY OF REQUEST:

Approve the staff negotiated amendment to the contract with New Cingular Wireless to add three more antennas to the Nims' street water tower and authorize the mayor and clerk to sign said amendment.

New Cingular Wireless PCS, LLC a Delaware Corporation and the Department of Public Works have been in negotiations to amend the Second Amendment to the 1998 Lease Agreement for the Nims Street and Marshall Street Water Towers.

This third amendment would allow New Cingular Wireless to install, on Nims Street Water Tower only, up to a total of 12 antennas, 3 additional antennas from the current number of 9.

FINANCIAL IMPACT:

Monthly rental will increase from \$7,772.54 per month to \$9,077.54 escalating at the rate of 3% annually for the life of the contract which ends in 2018.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

To approve of the Third Amendment to the 1998 Lease Agreement and to authorize the Mayor and Clerk to sign.



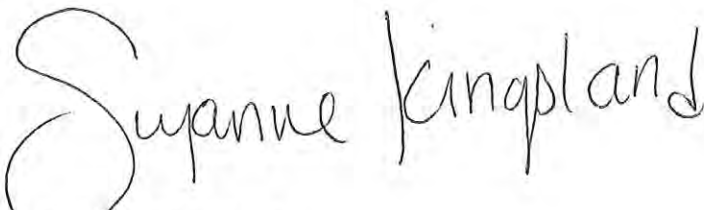
September 15, 2014

Dave Baker
Department of Public Works
1350 East Keating Avenue
Muskegon, MI 49442

Re: #GRANMI5603/10124755-Project: LTE 2C

Find enclosed four (4) original copies of the partially executed amendment for the site listed above. Please sign each copy as tabbed. Upon completion, return at least two (2) executed copies back to me. We will then submit the fully executed copies to AT&T National Real Estate for final processing.

Should you have any questions kindly call or email me.


Suzanne Kingsland

SA Coordinator
Goodman Networks
820 Kirts Blvd Ste 400
Troy, MI 48084-4836

skingsland@goodmannetworks.com

Office: 248-519-2259

Market: MI / IN
GRANMI5602 / Muskegon Marshall Water Tank / FA# 10124756
GRANMI5603 / Muskegon Nims Water Tank / FA# 10124755

THIRD AMENDMENT TO THE SITE LEASE

THIS THIRD AMENDMENT TO THE SITE LEASE ("Third Amendment") is made this _____ day of _____, 2014, by and between City of Muskegon, a Michigan Municipal Corporation, whose mailing address is 933 Terrace Street, Muskegon, Michigan 49443 ("Owner"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, with an address of 12555 Cingular Way, Suite 300, Alpharetta, Georgia 30004, as successor in interest to Dobson Cellular Systems, Inc. ("Tenant").

WITNESSETH:

WHEREAS, Owner and Tenant's predecessor-in-interest entered into that certain Site Lease on October 1, 1998 (the "Site Lease"), whereby Tenant was granted the right to use certain space on the Property of existing Water Tanks commonly known as "Marshall Street Water Tank" and "Nims Street Water Tank", for the construction, operation and maintenance of a telecommunications facility; and where Owner and Tenant entered in the First Amendment To The Site Lease Agreement on January 29, 2009, to modify the antenna installation on both Water Tanks (collectively, the "Water Tank"); and where Owner and Tenant entered in the Second Amendment To The Site Lease Agreement on August 17, 2012 to modify the antenna installation on this site;

WHEREAS, the parties agree to modify certain terms of the Site Lease and First and Second Amendments To The Site Lease as more particularly described below; and

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. Owner and Tenant agree and acknowledge that Tenant may install on each Water Tank the equipment described in exhibit A-1, however this amendment shows installation changes on the **Nims Street Water Tank only**, as part of the Antenna Facilities.
2. Owner and Tenant agree and acknowledge that the rent shall increase by \$1,305.00 effective September 1, 2014. The rent increase breaks down to \$400 per each additional antenna with 3 new antennas being installed and \$35 per rrh with 3 new rrhs being installed. Current rent is \$7,772.54 and the new rent will be \$9077.54 per month for both water tanks on this lease. The rent escalation of 3% annually will be in force during the remainder of the term of the Site Lease.
3. Except as provided in this Third Amendment, every term, condition and agreement contained in the Site Lease and Second Amendment To The Site Lease will remain in full force and effect. If there is any inconsistency between the terms of the Site Lease or the terms of the Second Amendment To The Site Lease, the terms of this Third Amendment will govern.

IN WITNESS WHEREOF, Owner and Tenant have executed this Third Amendment on the day and year first above written.

Owner:

**City of Muskegon,
A Michigan Municipal Corporation**

By: _____

Name: _____

Its: Mayor

Date: _____

By: _____

Name: _____

Its: City Clerk

Date: _____

Tenant:

**New Cingular Wireless PCS, LLC,
Delaware limited liability company
By: AT&T Mobility Corporation
Its: Manager**

By: 

Name: Marc Driscoll
Sr. Real Estate Construction Manager

Its: Manager

Date: 9/12/14

EXHIBIT "A-1"

Communications Equipment

GRANMI5603 / Muskegon Nims Water Tank / FA# 10124755:

- (3) Powerwave RA21.7770.00 antennas (147' rad)
- (3) Powerwave RA11.7740.00 antennas (147' rad)
- (6) Commscope SBNHH-1D65C antennas (147' rad)

- (6) Powerwave LGP21401 TMAs
- (3) Powerwave LGP18601 TMAs
- (3) TMA (future)

- (12) 1-5/8" coax cables
- (1) 3/8" RET cable (remote electric tilt)
- (1) Fiber trunk
- (4) DC power trucks

- (6) Alcatel-Lucent rrh (remote radio heads)
- (3) RRH (future)

- (1) DC6-48-60-18-8F Raycap DC Surge Suppression unit
- (1) DC6-48-60-0-8F Raycap DC Surge Suppression unit
- (1) Surge Suppression Unit (future)

12'x20' lease space

GRANMI5602 / Muskegon Marshall Water Tank / FA# 10124756:

- (9) antenna
- (6) TMA + (6) TMA (future)
- (12) 1-5/8" coax cables
- (1) 3/8" RET cable (remote electric tilt)
- (1) Fiber trunk
- (2) DC power trucks
- (3) RRH / RRU + (3) RRH (future)
- (3) COVP

Commission Meeting Date: September 23, 2014

Date: September 18, 2014
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Request to proceed with the Redevelopment Ready Communities program

SUMMARY OF REQUEST:

The City of Muskegon is one of eight communities selected to participate in the Michigan Economic Development Corporations (MEDC) Redevelopment Ready Communities program. The program supports communities to become redevelopment ready and to adopt innovative strategies and efficient processes which build confidence among businesses and developers. The MEDC recently released its evaluation of Muskegon and shared the findings at a recent commission meeting. The MEDC is requesting a resolution in support of continuing the certification process.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval of the resolution and to proceed with the Redevelopment Ready Communities program.

COMMITTEE RECOMMENDATION:

None

Resolution No. _____

MUSKEGON CITY COMMISSION

**RESOLUTION APPROVING THE CITY MANAGER TO PROCEED TOWARD IMPLEMENTATION OF
RECOMMENDATIONS NECESSARY TO RECEIVE REDEVELOPMENT READY COMMUNITIES (RRC)
CERTIFICATION FROM THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION (MEDC)**

WHEREAS, the MEDC selected the City of Muskegon as one of eight communities to participate in the RRC program; and

WHEREAS, the expectation of the program is to complete a comprehensive review of the City of Muskegon development process, to make improvements in transparency and effective communication; and

WHEREAS, the MEDC has completed its evaluation of the City's redevelopment readiness and has made recommendations toward a more proactive, efficient and transparent process; and

WHEREAS, the City Commission is willing to complete the tasks as outlined in the evaluation report; and

NOW, THEREFORE, BE IT RESOLVED, that the City Commission of the City of Muskegon, Michigan, hereby authorizes the City Manager to proceed toward implementation of the recommendations necessary to receive RRC certification from the MEDC.

Adopted this 23rd Day of September, 2014.

Ayes:

Nays:

Absent:

BY: _____
Stephen J. Gawron
Mayor

ATTEST: _____
Ann Cummings
Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on September 23, 2014.

Ann Cummings
Clerk

Commission Meeting Date: September 23, 2014

Date: September 18, 2014
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Sale of the property at 481 Monroe Ave

SUMMARY OF REQUEST:

Staff is seeking approval to sell the vacant, buildable, residentially zoned lot at 481 Monroe Ave to the Shoreline Branch Lions Club. The non-profit organization plans on working in conjunction with Love Community Garden to expand their current community garden. The lot is considered buildable because of its size, however; the odd shape of it would make development difficult and would require variances to meet current setback requirements. There are several other city-owned buildable lots in the area. The asking price for the lot is \$3,600 and the Shoreline Branch Lions Club is offering \$50.

FINANCIAL IMPACT:

The City would receive \$50 and help Love Community Garden expand its operations.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval and signature of the attached resolution.

COMMITTEE RECOMMENDATION:

None

City-owned lots in the area

Yellow – Buildable

Red – Non-Buildable



Resolution No. _____

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING THE SALE OF A BUILDABLE LOT AT 481 MONROE AVE FOR \$50.

WHEREAS, The Lions Club will be allowed to purchase the parcel designated as number 24-205-374-0001-00, located at 481 Monroe Ave for \$50; and

WHEREAS, The Lions Club will work in conjunction with Love Community Garden to expand the current community garden at 1404 8th St; and

NOW THEREFORE BE IT RESOLVED, that parcel number 24-205-374-0001-00, located at 481 Monroe Ave be sold to The Lions Club for \$50.

CITY OF MUSKEGON REVISED PLAT OF 1903 PT LOT 1 BLK 374 COM AT A PT ON E LINE LOT 1 37.5 FT N OF SE COR LOT 1 TH W 87 FT TO PT OF BEG N 118.4 FT TO NLY LINE LOT 1 SWLY 105.55 FT TO NW COR LOT 1 S 49.9 FT E 80 FT TO BEG BLK 374 ALSO E 1/2 VAC ADJ ALLEY

Adopted this 23rd day of September, 2014

Ayes:

Nays:

Absent

By: _____
Stephen J. Gawron
Mayor

Attest: _____
Ann Cummings, MMC
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on September 23, 2014.

By: _____
Ann Cummings, MMC
City Clerk

Commission Meeting Date: September 23, 2014

Date: September 18, 2014
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Sale of the property at 816 Marquette Ave

SUMMARY OF REQUEST:

Staff is seeking approval to sell the vacant, buildable, residentially zoned lot at 816 Marquette Ave to James Williams, owner of the multi-family residential complexes at 860 Marquette Ave. He plans on constructing two more multi-family residential units and an office on the property. The property is 6.1 acres; however, more than an acre of it is undevelopable due to the ravine to the north of the property.

FINANCIAL IMPACT:

Staff recommends a sale price of \$11,000.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval and signature of the attached purchase agreement and resolution.

COMMITTEE RECOMMENDATION:

None



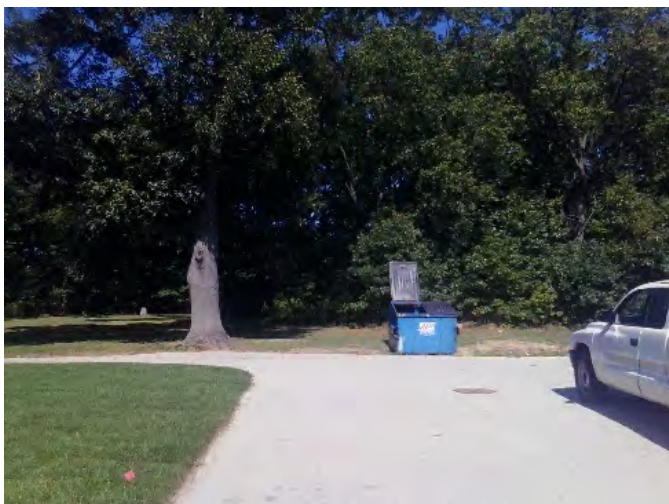
Looking east from Getty St



Looking west from the property



Looking north from 860 Marquette Ave



Ravine to the north



Resolution No. _____

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING THE SALE OF A BUILDABLE LOT AT 816 MARQUETTE AVE FOR \$11,000.

WHEREAS, James Williams will be allowed to purchase the parcel designated as number 24-613-000-0655-00, located at 816 Marquette Ave for \$11,000; and

WHEREAS, James Williams will combine this property with his other property at 860 Marquette Ave; and

WHEREAS, the sale would generate additional tax revenue for the City and relieve the City of further maintenance costs; and

NOW THEREFORE BE IT RESOLVED, that parcel number 24-613-000-0655-00, located at 816 Marquette Ave be sold to James Williams for \$11,000.

CITY OF MUSKEGON URBAN RENEWAL PLAT NO 4 LOT 655 & 658 & S 60' OF LOT 659 (AS MEASURED AT RT ANGLES TO S LINE LOT 659)

Adopted this 23rd day of September, 2014

Ayes:

Nays:

Absent

By: _____
Stephen J. Gawron
Mayor

Attest: _____
Ann Cummings, MMC
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on September 23, 2014.

By: _____
Ann Cummings, MMC
City Clerk

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT is made _____, 2014 ("Effective Date"), by and between the **CITY OF MUSKEGON**, a municipal corporation, with offices at 933 Terrace, Muskegon, Michigan 49440 ("Seller"), and **James Williams**, of 1482 Morgan Ave, Muskegon, MI 49442 ("Buyer").

1. **General Agreement and Description of Premises.** Seller agrees to sell, and Buyer agrees to buy, the real estate, and all improvements thereon, with all beneficial easements, and with all of Seller's right, title and interest in all adjoining public ways, located in the City of Muskegon, Muskegon County, Michigan ("Premises"), and specifically described as:

SEE ATTACHMENT A

Subject to the reservations, restrictions and easements of record, provided said reservations, restrictions and easements of record are acceptable to Buyer upon disclosure and review of the same, and subject to any governmental inspections required by law.

2. **Purchase Price and Manner of Payment.** The purchase price for the Premises shall be Eleven Thousand and no/100 Dollars (\$11,000), payable in cash at the closing. The parties acknowledge that Buyer has already given a \$500 earnest money deposit to the Seller ("Deposit"). The Deposit shall be applied to the purchase price at closing. If the Closing, as defined in paragraph 8, does not occur as scheduled due to default by the Buyer, the Deposit shall be forfeited to the Seller and will not be refunded.

3. **Taxes and Assessments.** All taxes and assessments that are due and payable at the time of Closing shall be paid by Seller prior to or at Closing. All taxes and special assessments that become due and payable after Closing shall be the responsibility of Buyer.

4. **Title Insurance.** Seller agrees to deliver to Buyer, on or before the closing date, a commitment for title insurance, issued by Land America Transnation Title Insurance Company, for an amount not less than the purchase price stated in this Agreement, guaranteeing title on the conditions required herein. In the event the reservations, restrictions or easements of record disclosed by said title commitment is, in the sole discretion of Buyer, deemed unreasonable, Seller shall have forty-five (45) days from the date Seller is notified in writing of such unreasonableness of restriction and such unmarketability of title, to remedy such objections. If Seller resolves such restrictions and remedies the title (by obtaining satisfactory title insurance or otherwise) within the time specified, Buyer agrees to complete this sale as herein provided, within ten (10) days of written notification thereof. If Buyer closes on the Premises, any objections to the title are deemed waived. If Seller fails to resolve such restrictions or remedy the title within the time above specified or fails to obtain satisfactory title insurance, this Agreement will be terminated at Buyer's option. The premium for the owner's title policy shall be paid by Seller.

5. **Covenant to Construct Improvements and Use.** Buyer acknowledges that, as part of the consideration inuring to the City, Buyer covenants and agrees to construct on the premises one (1) multi-family home, up to all codes, within twenty-four (24) months of the closing of this transaction. The home shall be substantially completed within twenty-four (24) months and, in the event said substantial completion has not occurred, or the restriction of this paragraph relating to tree removal is violated, in the sole judgment of the City, the property and all improvements then installed shall revert in title to the City, without any compensation or credit to Buyer, and free of all liens. The covenants in this paragraph shall survive the closing and run with the land.

6. **Survey.** Buyer at its own expense may obtain a survey of the Premises, and Buyer or its surveyor or other agents may enter the Premises for that purpose prior to Closing. If no survey is obtained, Buyer agrees that Buyer is relying solely upon Buyer's own judgment as to the location, boundaries and area of the Premises and improvements thereon without regard to any representations that may have been made by Seller or any other person. In the event that a survey by a registered land surveyor made prior to closing discloses an encroachment or substantial variation from the presumed land boundaries or area, Seller shall have the option of effecting a remedy within thirty (30) days after disclosure, or tendering Buyer's deposit in full termination of this Purchase Agreement, and paying the cost of such survey. Buyer may elect to purchase the Premises subject to said encroachment or variation.

7. **Condition of Premises and Examination by Buyer.** NO IMPLIED WARRANTIES OF HABITABILITY, QUALITY, CONDITION, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER IMPLIED WARRANTIES SHALL OPERATE BETWEEN SELLER AND BUYER, AND BUYER EXPRESSLY WAIVES ANY AND ALL SUCH IMPLIED WARRANTIES. BUYER UNDERSTANDS AND AGREES THAT THE PREMISES ARE TAKEN "AS IS," SUBJECT TO THE EXPRESS COVENANTS, CONDITIONS AND/OR EXPRESS WARRANTIES CONTAINED IN THIS PURCHASE AGREEMENT. BUYER FURTHER SAYS THAT HE HAS PERSONALLY INSPECTED THE PREMISES AND IS SATISFIED WITH THE CONDITION OF THE LAND, AND THE BUILDINGS AND IMPROVEMENTS THEREON, AND THAT THE PROPERTY IS BEING PURCHASED AS A RESULT OF SUCH INSPECTION AND INVESTIGATION AND NOT DUE TO ANY REPRESENTATIONS MADE BY OR ON BEHALF OF SELLER. SELLER KNOWS OF NO HAZARDOUS SUBSTANCES OR CONTAMINATION, AND BUYER WAIVES ANY CLAIM AGAINST SELLER IN THE EVENT SUCH SUBSTANCES ARE FOUND.

8. **Closing.** The closing date of this sale shall be on or before 90 days after the Effective Date ("Closing"). The Closing shall be conducted at Land America Transnation Title Insurance Company, 570 Seminole Road, Ste. 102, Muskegon, MI 49444. If necessary, the parties shall execute an IRS closing report at the Closing.

9. **Delivery of Deed.** Seller shall execute and deliver a quitclaim deed to Buyer at Closing for the Premises.

10. **Affidavit of Title.** At the Closing, Seller shall deliver to Buyer an executed Affidavit of Title.

11. **Date of Possession.** Possession of Premises is to be delivered to Buyer by Seller on the date of Closing.

12. **Costs.** Seller shall be responsible to pay the Michigan transfer tax, if any, in the amount required by law. In addition, Seller shall be responsible to pay for the recording of any instrument that must be recorded to clear title to the Premises, to the extent required by this Agreement. Buyer shall pay for the cost of recording the deed to be delivered at Closing.

13. **General Provisions.**

a. **Paragraph Headings.** The paragraph headings are inserted in this Agreement only for convenience.

b. **Pronouns.** When applicable, pronouns and relative words shall be read as plural, feminine or neuter.

c. **Merger.** It is understood and agreed that all understandings and agreements previously made between Buyer and Seller are merged into this Agreement, which alone fully and completely expresses the agreement of the parties.

d. **Governing Law.** This Agreement shall be interpreted and enforced pursuant to the laws of the State of Michigan.

e. **Successors.** All terms and conditions of this Agreement shall be binding upon the parties, their successors and assigns.

f. **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision(s) had never been contained herein.

g. **Survival of Representations and Warranties.** The representations, warranties, covenants and agreements contained in this Agreement and in any instrument provided for herein shall survive the Closing and continue in full force and effect after the consummation of this purchase and sale.

h. **Modification of the Agreement.** This Agreement shall not be amended except by a writing signed by Seller and Buyer.

The parties have executed this Real Estate Purchase Agreement on the date written below their names, to be effective as of the day and year first above written.

WITNESSES:

SELLER: CITY OF MUSKEGON

By _____
Stephen J. Gawron, Mayor
Date: _____

Ann Cummings, MMC, Clerk
Date: _____

BUYER: James Williams

Name: _____
Title: _____
EIN#: _____
Date: _____

ATTACHMENT A

CITY OF MUSKEGON URBAN RENEWAL PLAT NO 4 LOT 655 & 658 & S 60' OF LOT
659 (AS MEASURED AT RT ANGLES TO S LINE LOT 659)

Date: September 23, 2014
To: Honorable Mayor and City Commission
From: DPW
RE: Nims Elevated Storage Tank Interior Coating and Repairs

SUMMARY OF REQUEST:

Authorize staff to award contracts to Seven Painting for the interior painting and miscellaneous repairs to the Nims Street elevated water storage tank and to Dixon Engineering for the project administration, pre-construction meeting and paint inspection services.

FINANCIAL IMPACT:

Seven Brothers Painting = \$204,700

Dixon Engineering = \$15,683

Total = \$220,383.00

BUDGET ACTION REQUIRED:

Budgeted capital improvement for 2014/15.

STAFF RECOMMENDATION:

Staff recommends acceptance of the bid from Seven Brothers Painting and Dixon Engineering for a total cost of \$220,383.00

9/17/2014

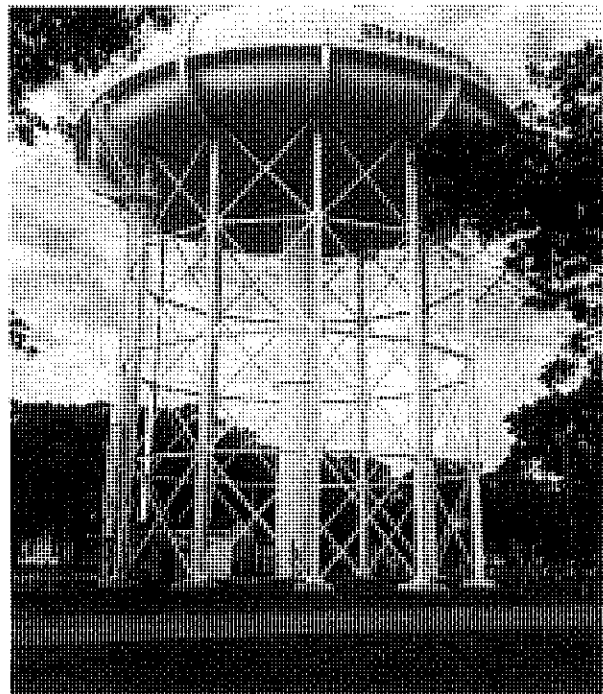
To: Mohammed Al-Shatel – Public Works Director
From: Kevin Herbert – Water Plant Interim Supervisor
Re: Interior Painting and Repairs of Nims Street Elevated Water Storage Tank (W-79)

In 2010 we contracted with Dixon Engineering to perform an inspection on our three elevated water storage tanks. The inspections found all three tanks were in need of interior coating rehabilitation as well as minor repairs and upgrades. The work was completed on Marshall and Roberts tanks in the fall of 2011. The remaining tank, Nims, was budgeted at \$225,000 and the work planned for spring of 2015.

Dixon Engineering solicited bids from 7 prequalified contractors, 4 responded with bids ranging from \$204,700 to \$428,500. (See Attached), Dixon Engineering reviewed the bids submitted for the repairs and repainting of the wet interior of the City's 1,000,000 gallon Nims tank and recommends awarding the contract to the lowest qualified bidder, Seven Brothers Painting.

I am seeking authorization to contract with Seven Brothers Painting located in Shelby Michigan with the lowest bid of \$204,700. Seven Brothers Painting intends to complete the project in the spring of 2015 as that option was given to the contractors in the bid documents. The permit application has been submitted and approved by the Michigan Department of Environmental Quality. I am also seeking authorization to contract with Dixon Engineering for project administration, pre-construction meetings and paint inspection services at a cost of \$15,683, Dixon is the preferred firm and has performed these services for the city on our elevated tanks in the past.

Total Cost of project is \$220,383.00



INVITATION FOR BIDS

CITY OF MUSKEGON, MICHIGAN

Project Title Nims Street Tank/Interior Painting W-749

The City of Muskegon, Michigan will receive sealed bids until 2:00 p.m. local time on September 2, 2014 at the City Clerk's Office, City Hall 933 Terrace Street, Muskegon, Michigan, at which time and place all bids will be publicly opened and read aloud for the following Project:

Items of work include: The structure is a 1,000,000 gallon radial arm water storage tank with an estimated low water line of 100 feet located on Nims Street in Muskegon, MI. Work to include an abrasive blast clean with a 3 coat epoxy coating system. Other work to include installation of riser manways, replacement of manway gaskets, replacement of wet interior roof hatch, installation of a wet interior ladder, enlargement of opening in the riser grate, installation of a painters rail and installation of roof couplings with safety clips.

Copies of Plans and Specifications may be obtained on or after August 6, 2014 in the City Clerk's office upon the submission of a non-refundable \$40.00 fee for each set. An amount equal to five percent (5%) of the Bid must be submitted with each Bid Proposal in one of three forms acceptable to the City of Muskegon. Contract documents may be examined at the following locations:

Builders & Traders Exchange, Grand Rapids, MI
City Clerk's Office, Muskegon City Hall Muskegon, MI

Attention is called to the fact that the City requires: that the Contractor consider hiring local work force insofar as possible; that not less than the salaries and wages set forth in the Specifications must be paid; that 14% minority and 6.9% female are the goals established for participation in each trade; that the Contractor must ensure employees and applicants for employment are not discriminated against based upon their race, creed, color, religion, sex, national origin, handicapped condition nor veteran background; and that all pertinent regulations must be complied with. No bid may be withdrawn within sixty (60) days after bid opening.

The City of Muskegon reserves the right to reject any or all bids or to waive any informalities or irregularities in the bidding.

CITY OF MUSKEGON, MICHIGAN
By: Ann, Cummings, City Clerk

PUBLISH: August 16, 2014

ADA POLICY

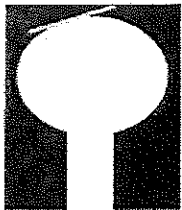
The City will provide necessary appropriate auxiliary aids services, for example, signers for the hearing impaired, audio tapes for the visually impaired, etc., for disabled persons who want to attend the meeting, upon twenty-four hours notice to the City. Contact:

Ann Marie Becker, City Clerk
933 Terrace Street, Muskegon, MI 49440
(231) 724-6705 or TDY/TTD Dial 7-1-1

Muskegon, Michigan - 1,000,000 Gallon Radial Arm (Nims) - W-749
2014 Water Tower Painting Project - September 2, 2014

	Seven Brothers Painting	Pittsburgh Tank & Tower	Classic Protective Coatings
	Shelby Township,	Hnderson,	Menomonie,
	MI	KY	WI
Section 05 00 00			
Riser Manway (1)	3,600.00		
Wet Interior Roof Hatch (2)	3,900.00		
New Wet Interior Ladder (3)	11,700.00		
Painter's Rail (4)	5,500.00		
Alter Riser Grate (5)	2,600.00		
Total Section 05 (1-5)	27,300.00		
Section 09 97 13			
Wet Interior Repaint (1)	177,400.00		
Project Total	204,700.00		
Bid Bond	5%		

LC United Painting	George Kountoupes Painting	Industrial Painting	TMI Coatings
Sterling Hgts,	Lincoln Park,	Taylor,	St. Paul,
MI	MI	MI	MN
8,000.00	7,000.00		11,000.00
3,000.00	2,000.00		7,000.00
9,600.00	5,500.00		10,000.00
4,500.00	6,000.00		30,000.00
3,500.00	3,000.00		5,000.00
28,000.00	23,500.00		63,000.00
224,000.00	290,000.00		365,500.00
TOTAL 252,600.00	313,500.00		428,500.00
5%	5%		5%



DIXON

ENGINEERING & INSPECTION SERVICES
FOR THE COATING INDUSTRY

1104 Third Avenue
Lake Odessa, MI 48849
Telephone: (616) 374-3221
Fax: (616) 374-7116

**Proposal/Contract Agreement
for Water Storage Tank
1,000,000 Gallon Radial Arm, (Nims), #22-61-06-01**

The Agreement is between Dixon Engineering, Inc. (DIXON) and the City of Muskegon, Michigan (Owner) to contract with DIXON for technical services for the 1,000,000 Gallon Radial Arm (Project). This Agreement inclusive together with any expressly incorporated appendix or Schedule constitutes the entire Agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

1.01 BASIC AGREEMENT

DIXON shall provide, or cause to be provided, services detailed in Scope of Services and Owner agrees to pay DIXON as compensation for their services the fee/lump sum of Fifteen Thousand, Six Hundred, and Eighty Three dollars (\$15,683.00). Terms of charges and payments per details in Schedule B. (Prices quoted are subject to change ninety (90) days after proposal date, if not contracted.)

2.01 SCOPE OF SERVICES

Project Administration, Pre-Construction Meeting, and Paint Inspection Services per Schedule A

3.01 SIGNATURES

Ira M. Gabin, P.E., Vice President

PROPOSED by DIXON (Not a contract until approved by an officer)

September 12, 2014

PROPOSAL DATE

CONTRACT APPROVED by OWNER

POSITION

DATE

CO SIGNATURE (if required)

POSITION

DATE

CONTRACT APPROVED by DIXON OFFICER

POSITION

EFFECTIVE CONTRACT DATE

Commission Meeting Date: September 23, 2014

Date: September 16, 2014
To: Honorable Mayor & City Commission
**From: Community and Neighborhood Services
Department**
**RE: Request to conduct a Public Hearing of the
Community & Neighborhood Services Department
Consolidated Annual Performance Evaluation
Report (CAPER 2013)**

SUMMARY OF REQUEST: To conduct a public hearing of the 2013-2014 CAPER projects funded through CDBG and HOME allocations to the City of Muskegon Community and Neighborhood Services department.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To submit the 2013-2014 CAPER, including any public comments received during the 30 day comment period ending September 25, 2014.

COMMITTEE RECOMMENDATION: None

RESOLUTION ROAD MILLAGE

Whereas, City Commissioners solicited community input through public forums and town meetings to obtain the residents' thoughts and concerns about the current condition of the streets and right-of-ways throughout the city; and

Whereas, residents indicated a need for streets and right-of-ways to be repaired, improved, and maintained for the benefit of the residents and visitors and they expressed a willingness to support a millage for such an effort; and

Whereas, under the Home Rule City Act, the city cannot specifically place language on the ballot to levy a dedicated street millage in the charter; the verbage in the charter states for municipal purposes; and

Whereas, the City Commission passed a resolution to place a question on the November ballot to give the City Commission the authority to raise the millage an additional 4 mills, increasing the maximum mills from the current 10 mills to 14 mills. The language on the ballot states, "This proposal would increase the maximum levy allowed to 14 mills to be used for municipal purposes, including but not limited to road maintenance and repair"; and

Whereas, the Commission is 100% committed to dedicating any additional mills above 10 mills and authorized by the voters to road-related investments only;

Now Therefore Be It Resolved the City Commission recognizes the importance of our roads, infrastructure, and right-of-ways to the residents, businesses, and visitors of the City and is dedicated to utilizing the additional 4 mills authorized by the voters strictly for roadway infrastructure repairs, resurfacing, reconstruction, street lighting, and other right-of-way improvements for a minimum of 15 years in the following fashion:

Estimated Annual Revenue: \$2,240,000

Annual Street Lighting: \$500,000 (cap)

Street Maintenance/Construction: \$1,740,000*

**an increase of \$1.2 Million + from recent years' contribution, and enough to reconstruct one mile of road annually*

Signed this ____ day of _____ 2014.

Stephen J. Gawron
Mayor

Lawrence Spataro
Vice Mayor

Eric Hood
City Commissioner

Dan Rinsema-Sybenga
City Commissioner

Willie German
City Commissioner

Ken Johnson
City Commissioner

Byron Turnquist
City Commissioner

COMMISSION DATE: 09/23/2014

DATE: 09/11/2014

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 #: EN142989

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **703 AMITY 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.

Case# & Project Address: # EN142989 - 703 AMITY AVE

Location and ownership: This structure is located on Amity Ave. between Scott and Getty Streets and is owned by GUZMAN CHRIS.

Staff Correspondence: A dangerous building inspection was conducted in 2012 & 2013. Due to the time lapse and ownership change; the City Attorney recommended to start this case over. The new Notice and Order to Repair was issued on 6/27/14. On 8/7/14 the HBA declared the structure substandard and dangerous.

Financial Impact: General Funds

Budget action required: None

State Equalized value: \$ 21,600

Estimated cost to repair: \$ 41,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

Additional Information (History):

Owner Contact: None – All certified mailings had been returned unsigned/unclaimed.

County Treasurer notifications have been returned signed. There are delinquent property taxes for this property for 2012 & 2013.

Permits obtained: None.



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.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Thursday, June 28, 2012

Enforcement # EN120073 **Property Address** 703 AMITY AVE **Parcel**
#24-205-051-0007-00 **Owner** GUZMAN CHRIS

Inspector: Henry Faltinowski (Original Inspector)

Date completed: 06/29/2012

DEFICENCIES:

1. Replace roof covering call for sheathing inspection when roof is stripped.
2. Porch on front collapsing remove or repair to Current code.
3. Replace all broken windows and doors.
4. Replace all damaged soffit and fascia.
5. Request interior inspection by trade inspectors.

**Request interior inspection by all trades, electrical, mechanical and plumbing.
Please contact Inspection Services with any questions or to schedule an
inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.**

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.

Henry Faltinowski, Building Inspector

Date

CITY OF MUSKEGON
933 Terrace St., P.O. Box 536, Muskegon, MI 49443 (231)724-6715
DANGEROUS BUILDING INTERIOR INSPECTION REPORT

703 AMITY AVE
08/16/2013

Inspection noted:

Uncorrected - Exterior

1. Replace roof covering call for sheathing inspection when roof is stripped.
2. Porch on front collapsing remove or repair to Current Code.
3. Replace all broken windows and doors.
4. Replace all damaged soffit and fascia.
5. Request interior inspection by trade inspectors.

Uncorrected – Interior Inspection

1. Pressure test gas line.
2. Inspect & certify chimney.
3. Inspect and certify, replace water heater.
4. Inspect & certify all house plumbing.
5. Inspect & certify all HVAC venting.
6. Inspect & certify building sewer & water service.
7. Must have HVAC system.
8. All work performed to conform with 09 MPC, MMC & fuel gas
9. Completely rewire to comply with current MRC
10. Install smoke detectors to comply with MRC
11. All water damaged ceilings and walls to stripped and replaced.
12. Framing to be inspected after ceilings and wall covering has been removed.
13. Floor supports appear to be failing
14. Replace rotted flooring and framing in rear mud room.
15. Note: Building appears to have suffers extensive water damage.

If there is a code that has changed since this inspection list was created; then it will be the required code to go by.

BASED UPON MY RECENT INSPECTION OF THE ABOVE PROPERTY, I HAVE DETERMINED THAT THE STRUCTURE MEETS THE DEFINITION OF A DANGEROUS AND/OR SUBSTANDARD BUILDING AS SET FORTH IN SECTION 10-61 OF THE MUSKEGON CITY CODE.

HENRY FALTINOWSKI, BUILDING INSPECTOR

DATE

COMMISSION DATE: 9/23/14

DATE: 09/11/2014

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 #: EN142990

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **717 AMITY 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.

Case# & Project Address: # EN142990 - 717 AMITY AVE

Location and ownership: This structure is located on Amity Ave. between Scott and Getty Streets and is owned by TREVINO JOE/KIMBERLY.

Staff Correspondence: A dangerous building inspection was conducted in 2011 & 2012. Due to the time lapse and ownership change; the City Attorney recommended to start this case over. The new Notice and Order to Repair was issued on 6/27/14. On 8/7/14 the HBA declared the structure substandard and dangerous.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: \$ 12,900

Estimated cost to repair: \$ 32,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

Additional Information (History):

Owner Contact: None since the Notice & Order being sent 6/27/2014 – All certified mailings to the owner have been returned “unclaimed”.

All certified notifications sent to the County Treasurer (due to 2012 & 2013 taxes being delinquent) have been signed & returned.

Permits obtained: The current owners had applied for 2 permits 11/2013 & worked out a timeline with SAFEbuilt for the repairs. Nothing had been completed & no further contact was made from the owner regarding the permits, etc.

- ✓ PB130908 for windows & siding. – Nothing done with the permit being closed 5/5/2014.
- ✓ PE130632 to upgrade the electrical to 150 – Nothing done & permit expired 7/12/2014.



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.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Wednesday, November 30, 2011

Enforcement # EN110204 **Property Address** 717 AMITY AVE **Parcel**
#24-205-051-0006-10 **Owner** FRANS CARL/MARIE

Inspector: Henry Faltinowski

Date completed: 11/30/2011

DEFICIENCIES:

1. Roof covering, deteriorated replace.
2. Chimney collapsing.
3. Missing siding.
4. Numerous broken windows.
5. Broken garage vehicle entry door.
6. Request interior inspection by trade inspectors

**Request interior inspection by all trades, electrical, mechanical and plumbing.
Please contact Inspection Services with any questions or to schedule an
inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.**

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.

Henry Faltinowski, Building Inspector

Date

SAFE built

Building Department Services

Dangerous Building inspection completed 12/17/2012

Please find the following items that need to be addressed in order to obtain a Certificate of Occupancy for 717 Amity Ave. and clear the property from the Dangerous Building process.

If you have any questions please call SAFE built at 231.724.6715.

1. Roof covering is deteriorated, must be replaced
2. Chimney is collapsing, must be repaired / replaced
3. Siding is missing in areas
4. Numerous broken windows, any new windows to meet Michigan Energy Code requirements
5. Broken garage vehicle door
6. Replace porch ceiling covering
7. Engineered wall bracing needed in basement, walls are bowing
8. Replaced damaged / missing floor covering
9. Hose spigots to have a backflow device
10. Ductwork to be cleaned
11. Need complete HVAC system
12. Need complete plumbing system with fixtures
13. Need water heater
14. Pressure test gas line
15. Inspect & certify water service
16. Inspect & certify building sewer
17. Provide laundry facility
18. Electric service to be replaced to 2009 MRC
19. All cut wires to be replaced to 2009 MRC
20. Smoke alarms to be installed to 2009 MRC
21. All wiring to be certified safe & code compliant
22. Garage wiring to be certified safe & code compliant


Henry Faltinowski, Building Inspector

12/18/2012
Date

(231)724-6715

FAX (231) 724-6750

Date: September 23, 2014
To: Honorable Mayor and City Commissioners
From: City Clerk's Office
RE: Marihuana Ordinance

SUMMARY OF REQUEST: The City Commission issued a moratorium on the current marihuana ordinance to give staff and counsel the opportunity to review the State law and make changes to in conformance. An extension of the moratorium was granted because of pending State legislation. Because it's unknown when the State may take action, staff is recommending to move forward.

Applicants will be responsible to pay a \$1,500 application fee and a \$1,100 renewal fee as well as all inspections required by the Building Inspection and Fire Marshall to ensure public safety of such operations. Signage will not be allowed.

Patients growing in their homes for themselves are subject to a \$100 application fee and the necessary safety inspections by the Building Inspector and Fire Marshall. The City Clerk will serve as the medical marijuana officer of the community.

Facilities used by a primary caregiver are permitted in the following zoning districts; B-2, B-3, B-4, B-5, MC, I-1, and I-2. No facility may be located within 1000 feet of a preschool, elementary school, middle school or high school.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the ordinance and authorize the fees as outlined above be added to the fee schedule.

CITY OF MUSKEGON RESOLUTION

WHEREAS, the City of Muskegon has restructured its fees for Marihuana Licensing;

NOW THEREFORE BE IT RESOLVED the City Commission authorizes staff to add a \$1500 application fee for a caregiver and an \$1100 annual renewal fee to the fee schedule as well as an annual \$100 fee to patients growing for themselves in their residential home or other location in the City of Muskegon.

Signed this 23rd day of September 2014.

Stephen J. Gawron
Mayor

City of Muskegon
Muskegon County, Michigan
Ordinance Amendment No. _____

Rev. 9-9-14

THE CITY OF MUSKEGON HEREBY ORDAINS:

Chapter 34, Article IV of the Code of Ordinances of the City of Muskegon, Michigan is amended in its entirety, replacing sections 34-101 through 34-115 with the following:

Sec. 34-101. Purpose and Intent.

It is the intent of this ordinance to give effect to the intent of Initiated Act 1 of 2008, MCL 333.26421, et seq, (the Act) as approved by the electors, and not to determine and establish an altered policy with regard to marihuana. The act authorizes a narrow exception to the general rule and state policy that the cultivation, distribution, and use of marihuana amount to criminal acts. It is the further intent of this ordinance to protect the public health, safety, and general welfare of persons and property, and to issue licenses. It is the further intent of this ordinance to comply with the Act while concurrently attempting to protect the health, safety, and welfare of law enforcement officers and other persons in the community, and also to address and minimize reasonably anticipated secondary effects upon children, other members of the public, and upon significant areas of the community, that would be reasonably expected to occur in the absence of the provisions of this ordinance. This ordinance is designed to recognize the fundamental intent of the Act to allow the creation and maintenance of a private and confidential patient-caregiver relationship to facilitate the statutory authorization for the limited cultivation, distribution, and use of marihuana for medical purposes; and to regulate around this fundamental intent in a manner that does not conflict with the Act so as to address issues that would otherwise expose the community and its residents to significant adverse conditions, including the following: adverse and long-term influence on children; substantial serious criminal activity; danger to law enforcement and other members of the public; discouragement and impairment of effective law enforcement with regard to unlawful activity involving the cultivation, distribution, and use of marihuana; the creation of a purportedly lawful commercial enterprise involving the cultivation, distribution and use of marihuana that is not reasonably susceptible of being distinguished from serious criminal enterprise; and, the uninspected installation of unlawful plumbing and electrical facilities that create dangerous health, safety, and fire conditions.

This ordinance permits authorization for activity based on the Act. Nothing in this ordinance shall be construed as allowing persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, cultivation, growth, possession or control of marihuana not in strict accordance with the express authorizations of the Act and this ordinance; and, nothing in this ordinance shall be construed to undermine or provide immunity from federal law as it may be enforced by the federal or state government relative to the cultivation, distribution, or use of marihuana. Thus, the authorization of activity, and the approval of a license under this ordinance shall not have the effect of superseding or nullifying federal law applicable to the cultivation, use, and possession of marihuana, and all applicants and grantees of licenses are on notice that they may be subject to prosecution and civil penalty, including forfeiture of property.

Sec. 34-102. Definitions.

Act means Initiated Law of 2008, MCL 333.26421, et seq., and Michigan Administrative Rules, R 333.101, et seq.

Department means the State of Michigan Department of Community Health.

Dispensary means one or more primary caregivers growing, storing, delivering, transferring, and/or providing qualifying patients with Medical marihuana out of a building or structure.

Qualifying patient or **patient** means a person as defined under MCL 333.26423(h) of the Act, who has been issued and possesses a Registry Identification Card under the Act.

Primary caregiver or **caregiver** means a person as defined under MCL 333.26423(g) of the Act, and who has been issued and possesses a Registry Identification Card under the Act.

Registry Identification Card means the document defined under MCL 333.26423(i) of the Act.

Distribution means the physical transfer of any amount of marihuana in any form by one person to any other person or persons, whether or not any consideration is paid or received.

Distributor means a primary caregiver who engages in any one or more acts of Distribution.

Facility or **Premises** means a commercial business having a separate or independent postal address, one private office having a separate or independent postal address, one single family residence having a separate or independent postal address, one apartment unit having a separate or independent postal address, one condominium unit having a separate or independent postal address, or one free-standing industrial building having a separate or independent postal address.

Medical Marihuana Home Cultivation Operation means the cultivation of marihuana by a registered patient within a single family dwelling that is the registered patient's primary residence and which cultivation is in conformity with the restrictions and regulation contained in the Act.

Marihuana means the substance or material defined in section 7106 of the public health code, 1976 PA 368, MCL 333.7106.

Principal residence means the place where a person resides more than half of the calendar year.

Sec. 34-103. Licensure requirements.

(1) The cultivation of marihuana by a caregiver or any other person permitted under the Act, and the provision of caregiver services relating to medical marihuana use, shall be permitted in accordance with the Act. No cultivation, distribution, and other assistance to patients shall be lawful in this community at a location unless and until such

location for such cultivation, distribution, and assistance shall have been licensed under this ordinance.

(2) The license requirements set forth in this chapter shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state or local law.

(3) Each caregiver operating at a facility or dispensary shall obtain a separate license prior to operating.

(4) The following locations shall require licensure:

- (a) A facility used for the cultivation of marihuana by caregivers or patients permitted under the Act;
- (b) A dispensary or facility used for distribution;
- (c) Any facility used to provide any other assistance to patients by caregivers permitted under the Act relating to medical marihuana;
- (d) A location other than a patient's principal residence where a patient cultivates or uses marihuana exclusively for such patient's personal consumption.
- (e) The principal residence of a patient where marihuana is cultivated exclusively for such patient's personal consumption.

(5) Operating as a primary caregiver is prohibited in a residence.

(6) Any portion of the structure where energy usage and heat exceeds typical residential use, such as a grow room, and the storage of any chemicals such as herbicides, pesticides, and fertilizers shall be subject to inspection and approval by the fire department to insure compliance with the City's adopted International Fire Code.

(7) The premises shall be open for inspection upon request by the City's appointed inspectors, building officials, fire department, and/or law enforcement officials for compliance with all applicable laws and rules, during normal business hours of 9:00 a.m. until 5:00 p.m. or as such other times as anyone is present on the premises.

Sec. 34-104. Application for license.

(1) An application for an annual license or renewal under this section shall be submitted to the City Clerk. A license shall be issued or renewed upon payment of the required fee and submission of a completed application in compliance with the provisions of this article, and compliance with all provisions and requirements of this article.

(2) An application renewal shall be submitted annually. Application to renew a license under this ordinance shall be filed at least 30 days prior to the date of expiration. Such renewal shall be accompanied by the annual fee.

(3) An application shall include the names of all caregivers operating in the same facility or on the same premises, with proof of registration, including current Registry Identification Card, pursuant to the Act.

(4) Pursuant to the Act, primary caregivers shall not have any felony convictions within the past ten years and shall not have ever been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a. If a criminal background check reveals any such felony conviction, no license shall be issued and/or an existing license shall be revoked.

(5) The application shall include the marihuana facility history of the applicant; whether such person has had a business license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such action of suspension or revocation.

(6) No license shall be issued and/or an existing license may be revoked if applicant or business owes to the City any outstanding back taxes, fines, fees or liens.

(7) Applications shall include the address of the precise premises at which there shall be possession, cultivation, distribution or other assistance in the use of marihuana.

(8) If the premises are rented and not owned by the applicant, the landlord/owner of the premises must sign the application acknowledging that they are aware of the legal growth, storage and/or distribution of medical marijuana on the premises.

(9) Specify the name and address of the place where all unused portions of marihuana plants cultivated in connection with the use of marihuana or caregiver activity at the premises shall be disposed.

(10) Describe the enclosed, locked facility in which any and all cultivation of marihuana is proposed to occur, or where marihuana is stored, with such description including: location in building, precise measurements in feet, of the floor dimensions and height; the security device for the facility; and in the case of facilities with more than one primary caregiver, the name of the single primary caregiver designated to solely oversee and have access to each separate enclosed, locked facility.

(11) Describe all locations in the premises where a caregiver or other person authorized under the Act shall render assistance to a qualifying patient.

(12) Specify the number of patients to be assisted by each caregiver, including the number of patients for whom marihuana is proposed to be cultivated, and the number of patients to be otherwise assisted on the premises, and the maximum number of plants to be grown or cultivated at any one time.

(13) For safety and other code inspection purposes, it shall describe and provide detailed specifications of all lights, equipment, and all other electrical, plumbing, and other means proposed to be used to facilitate the cultivation of marihuana plants.

(14) The initial application fee and renewal fees shall be established by special resolution of the City Commission; thereafter they shall be established by annual budget resolution of the City Commission.

(15) In the case of corporations, partnerships, non-profit organizations, or other business types, the applicant shall be the highest level official or employee of the entity such as, board President, Chief Executive Officer, Executive Director, or comparable position.

(16) If the applicant is a corporation, a copy of the articles of incorporation and current corporation records disclosing the identity and residential addresses of all directors, officers, and shareholders shall be included. Include the address of the corporation itself, if different from the address of the marihuana dispensary or growing/manufacturing facility and the name and address of the resident agent for the corporation.

(17) If the applicant is a partnership, the names and residence address of each of the partners and the partnership itself, if different from the address of the marihuana dispensary or growing/manufacturing facility, and the name and address of the resident agent.

Sec. 34-105. Number of Marijuana Plants.

(1) In a patient's principal residence, there shall be not more than twelve marihuana plants per licensed patient being cultivated at any one time.

(2) At a facility at which a caregiver cultivates marihuana for use by patients, there shall not be more than twelve marihuana plants being cultivated at any one time per patient, and in no event more than seventy-two marihuana plants being cultivated at any one time per caregiver (which assumes cultivation for five patients, plus an additional

twelve plants if the caregiver is also a patient that has not designated a caregiver to assist in providing medical marihuana).

Sec. 34-106. Locations

(1) Dispensaries used by a primary caregiver are permitted in the following zoning districts: B-2, B-3, B-4, B-5, MC, I-1 and I-2.

(2) No dispensary may be located within 1,000 feet of a preschool, elementary school, middle school or high school. Measurements for purposes of this section shall be made from property boundary to property boundary.

Sec. 34-107. No Signs or Advertising.

(1) The distribution of marihuana is generally unlawful, and the Act does not authorize any activity such as a “dispensary.” Reading the Act as a whole, the activities of caregivers are interpreted as being limited to private and confidential endeavors. Moreover, the location and identity of a caregiver may be readily known to his or her patients. Accordingly, there shall be no signage identifying a facility, dispensary or any place where a caregiver is operating.

(2) Unless conducted as part of a related licensed professional medical or pharmaceutical practice, caregiver activity shall not be advertised as a “clinic,” “hospital,” “dispensary,” or other name customarily ascribed to a multi-patient professional practice.

Sec. 34-108. Primary caregiver operations.

The following additional standards shall apply to all primary caregiver operations:

(1) Shall not be operated from a business which sells alcoholic beverages.

(2) The establishment shall be designed, operated, and maintained at all times consistent with responsible business practices and so that no excessive demands shall be placed upon public safety services, nor any excessive risk of harm to the public health, safety, or sanitation, interference with vehicular or pedestrian traffic or parking, or the continuance or maintenance of any unlawful conduct, public nuisance, or disorderly conduct either within the establishment or on or about the adjacent businesses and public streets, alleys, parks, parking facilities, or other areas open to the public. The establishment shall make reasonable effort to report to authorities any unlawful conduct that is observed from the premises.

(3) No drive-through facilities shall be permitted.

(4) All transfers and deliveries of medical marihuana to qualifying patients must occur within the structure out of public view.

(5) The consumption of medical marihuana on the premises is prohibited.

Sec. 34-109. Medical Marihuana Home Cultivation Operation.

In addition to the requirements of home occupations outlined in the City's zoning ordinance, patients who chose to cultivate their own medical marijuana at home shall be subject to the following requirements:

(1) All use of marijuana on the premises shall comply with the Act at all times.

(2) All medical marijuana shall be contained within an enclosed, locked facility inside a primary or accessory building.

(3) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the building in which electrical wiring, lighting, storage and/or watering devices that support the cultivation, growing or harvesting of marihuana are located.

(4) The City Clerk shall coordinate electrical, fire, mechanical, plumbing inspectors (and any other inspector(s) deemed necessary under the circumstances) with regard to site of such cultivation for the purpose of determining whether all lights, plumbing, equipment, and all other means used to facilitate the cultivation of marihuana plants is in accordance with all applicable codes.

(5) If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential levels between the hours of 11 pm and 7am shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties or vehicles on adjacent right of ways.

Sec. 34-110. Use of land in accordance with approved application.

(1) If approved, all use of property shall be in accordance with an approved license application, including all information and specifications submitted by the applicant in reliance on which the application shall be deemed to have been approved.

(2) Any facility that exists on the effective date of this ordinance shall cease operations and may make application for and receive approval to continue to operate.

Sec. 34-111. No Vested Rights

A property owner shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this ordinance or any amendment of this ordinance.

Sec. 34-112. Effect of license; suspension; penalties; daily violation.

(1) A license is valid only for the location identified on the license and cannot be transferred to another location within the city without a new application.

(2) A license does not prohibit prosecution by the federal government of its laws or prosecution by state authorities for violations of the Act or other violations not protected by the Act.

(3) Compliance with city ordinances and state statutes is a condition of maintenance of a license and a license may be suspended for cause pursuant to the provisions of this chapter.

(4) Suspension of a license is not an exclusive remedy and nothing contained herein is intended to limit the city's ability to prosecute code violations that may have been the cause of the suspension or any other code violations not protected by the Act.

(5) Each day that a person shall conduct a primary caregiver operation or Medical Marihuana Home Cultivation Operation without a license or allow, operate, or assist in said operation shall constitute a separate offense.

(6) A violation of any section of this article is a misdemeanor.

Sec. 34-113. Non-renewal revocation.

The City Clerk may choose to not renew or to revoke a license based on any of the following:

(1) A failure to meet the conditions or maintain compliance with the standards established by this division in reference to applications for a new license or the renewal of an existing license; or

(2) One or more violations of any city ordinance, state or federal law or regulation, on the premises; or

(3) Maintenance of a nuisance on the premises; or

- (4) A demonstrated history of excessive calls for public safety.
- (5) Nonpayment of real and/or personal property taxes, fines, fees or liens owed to the City; or
- (6) Failure to comply with any City adopted building or fire codes.

Sec. 34-114. Appeals Process

If an applicant or licensee chooses to appeal denial of a license or revocation of a license, the applicant or licensee can enter in a written appeal to the City Clerk's office using a city generated form including the appellants signature, the requirement or decision from which the appeal is made, and shall state the specific grounds on which the appeal is based. Appeals shall be filed within 30 days of the decision in question. City Commission shall consider the appeal within 30 days of the receipt of the appeal.

Sec. 34-115. Severability

If any clause, sentence, section, paragraph, or part of this ordinance, or the application thereof to any person, firm, corporation, legal entity, or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not effect, impair, or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, legal entities, or circumstances by such shall be confined in its operation to the clause, sentence, section, paragraph, or part of this ordinance thereof directly involved in the case or controversy in which such judgment shall have been rendered and to the person, firm, corporation, legal entity, or circumstances then and there involved. It is hereby declared to the legislative intent of this body that the ordinance would have been adopted had such invalid or unconstitutional provisions have not been included in this ordinance.

Sec. 34-116. Prohibition against "provisioning centers" and "safety compliance facilities"

It is unlawful for any individual or commercial entity to acquire, possess, manufacture, deliver, transfer or transport, sell, supply, or provide marijuana – whether medical or otherwise – to any individual or group of individuals, whether or not such person(s) has/have not become registered as qualifying patient(s) or registered primary caregiver(s) pursuant to the Michigan Medical Marihuana Act, MCL 333.26421, et seq. (the "Act"), unless explicitly permitted by the Act or explicitly permitted by this ordinance. "Provisioning Centers" and "Safety Compliance Facility" contemplated by the House Bill 4271 of 2014, are prohibited.