

CITY OF MUSKEGON

CITY COMMISSION MEETING

SEPTEMBER 23, 2008

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ CALL TO ORDER:
- ❑ PRAYER:
- ❑ PLEDGE OF ALLEGIANCE:
- ❑ ROLL CALL:
- ❑ HONORS AND AWARDS:
- ❑ INTRODUCTIONS/PRESENTATION:
- ❑ CONSENT AGENDA:
 - A. Approval of Minutes. CITY CLERK
 - B. Election Receiving Board. CITY CLERK
 - C. Office Supplies Vendor. FINANCE
 - D. Harvey Booster Station Door Replacement. WATER FILTRATION
 - E. Rezoning Request for Property Located at 1338 S. Getty Street. PLANNING & ECONOMIC DEVELOPMENT
 - F. Amendment to the Zoning Ordinance – Outdoor Seating. PLANNING & ECONOMIC DEVELOPMENT
 - G. Grant an Easement to Downtown Muskegon Center No. 2 over Market Street. ENGINEERING
 - H. Acceptance of an Easement from Downtown Muskegon Development Corporation on First Street between Alley (Block 310) and Clay. ENGINEERING
- ❑ PUBLIC HEARINGS:
- ❑ COMMUNICATIONS:
- ❑ CITY MANAGER'S REPORT:
- ❑ UNFINISHED BUSINESS:
- ❑ NEW BUSINESS:

❑ **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 BECKER, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TDD: (231) 724-4172.

Date: September 23, 2008
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Approval of Minutes

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

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

City of Muskegon
City Commission Worksession
September 8, 2008
City Commission Chambers
5:30 PM

MINUTES

2008-78

Present: Commissioners Warmington, Carter, Wierengo, Wisneski, Gawron, Shepherd, and Spataro.

Absent: None.

Hometown Production – Free Maps Request and Universal Adcom – “Community Guide” Magnet (City Clerk)

Motion by Spataro, seconded by Carter to authorize the Clerk to sign an agreement authorizing Hometown Production and Universal Adcom to advertise free maps and magnets are available at City Hall.

MOTION PASSES.

2009 Budget (Finance)

Bryon Mazade, City Manager, presented the proposed 2009 budget.

Adjournment

Motion by Commissioner Carter, seconded by Commissioner Shepherd to adjourn at 7:07 p.m.

MOTION PASSES

**Ann Marie Becker, MMC
City Clerk**

CITY OF MUSKEGON

CITY COMMISSION MEETING

SEPTEMBER 9, 2008

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, September 9, 2008.

Mayor Warmington opened the meeting with a prayer from Pastor Penny Johnson from the Oak Crest Church of God after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioners Sue Wierengo, Steve Wisneski, Chris Carter, Clara Shepherd, and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

HONORS AND AWARDS:

A. West Michigan Trails & Greenways Coalition.

Commissioner Wisneski presented a resolution to the West Michigan Trails & Greenways Coalition and thanked them for their contribution.

2008-79 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, August 26th.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Liquor License Request for CSTS Inc., 2185 Henry. CITY CLERK

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from CSTS, Inc. for a new Additional Bar Permit for outside (for a total of two bars) and a new Dance Permit to be held in conjunction with the 2008 Class C and SDM Licensed Business with Entertainment Permit and Outdoor Service (one area), located at 2185 Henry.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.

C. Selection of Vinyl Siding Supplier for Fiscal Year 2008-2009.
COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve Community & Neighborhood Services Department's selection of the Vinyl Siding Supplier for the 2008-2009 fiscal year. After reviewing all bids, the department selected the bid from Keene Lumber, located at 346 W. Laketon Avenue, Muskegon, MI, for the price of \$55 per building square for white and \$55.15 per square for color.

The Community & Neighborhood Services Department received one additional bid from: Menards, 5487 Harvey Street, Muskegon, for the price of \$40.92 for white and \$41.28 for color.

The reason we chose Keene Lumber is because Menards does not keep supplies in stock and will take three weeks to have siding come in and our program requires immediate access to supplies. Also, Keene Lumber is centrally located for our contractors considering the cost of gas and time.

FINANCIAL IMPACT: Funding will be disbursed from the 2008-2009 Community Development Block Grant Vinyl Siding fund.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the request.

COMMITTEE RECOMMENDATION: The funding for the Vinyl Siding program was approved by the Commission during the 2008-2009 allocation period last April.

D. Selection of Vinyl Siding Installer for Fiscal Year 2008-2009.
COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the Community & Neighborhood Services to sign a contract with Tucker Construction, 9121 Holton Road, Holton, MI to install vinyl siding at an agreed price of \$65 per building square for the Vinyl Siding Program's 2008-2009 fiscal year.

The Community & Neighborhood Services office received six bids total from vinyl siding installers.

- Gawlik Construction, 5346 E. Sternberg, Fruitport \$67
- Top Notch Construction, 261 Donald, Muskegon \$67
- Lewis Johnson, 16076 Bonita, Grand Haven \$70
- Murphy Bros., 2519 MacArthur, Muskegon \$90
- Specialty Builders, 4603 Apple Ave., Muskegon \$75

FINANCIAL IMPACT: Funding will be disbursed from the 2008-2009 Community Development Block Grant Vinyl Siding fund.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the request.

COMMITTEE RECOMMENDATION: The funding for the Vinyl Siding Program was

approved by the Commission during the 2008-2009 allocation period last April.

Motion by Commissioner Carter, second by Vice Mayor Gawron to approve the Consent Agenda as read minus item E.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, Gawron, and Shepherd

Nays: None

MOTION PASSES

2008-80 ITEM REMOVED FROM THE CONSENT AGENDA:

**E. Water Service Agreement with the City of Muskegon Heights. CITY
MANAGER**

SUMMARY OF REQUEST: To amend the agreement with the City of Muskegon Heights for the operation of the Muskegon Heights Water Filtration Plant only. The operation of the distribution system will be discontinued.

FINANCIAL IMPACT: The hourly rate will remain at \$80 an hour.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the agreement and authorize the Mayor and Clerk to sign it.

Motion by Commissioner Spataro, second by Commissioner Shepherd to approve the Water Service Agreement with the City of Muskegon Heights.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

2008-81 PUBLIC HEARINGS:

A. 2009 Budget. FINANCE

SUMMARY OF REQUEST: This is the time set for a public hearing on the City's proposed budget for the year 2009. The proposed budget has been made available for public inspection at City Hall, Hackley Public Library and the City's website (www.shorelinecity.com). After hearing public comments, the City Commission may take action to adopt the 2009 budget with whatever changes or adjustments it deems necessary. In any event, City Charter requires the budget be adopted no later than September 25, 2008.

FINANCIAL IMPACT: The budget sets forth the priorities and overall financial plan for operations in the year 2009. As proposed, the budget includes no property tax increase.

BUDGET ACTION REQUIRED: Adoption of the budget resolution provides the legal appropriation authority necessary for City departments to conduct operations in 2009.

STAFF RECOMMENDATION: After receiving comments, close the public hearing and approve the proposed 2009 City of Muskegon Budget resolution. Also, approval of the 3rd Quarter 2008 Budget Reforecast as shown in the Budget Book is recommended at this time.

The Public Hearing opened to hear and consider any comments from the public. No public comments were made.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to close the Public Hearing and adopt the 2009 Budget and the 3rd Quarter 2008 Budget Reforecast as shown.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Wisneski, and Carter

Nays: None

MOTION PASSES

2008-82 NEW BUSINESS:

A. Liquor License at 435 & 441 W. Western. CITY MANAGER

SUMMARY OF REQUEST: To rescind the action to request the Liquor Control Commission to revoke the Class C liquor license for D & L of Michigan (Spotlight) at 435 and 441 W. Western Avenue. This action would make it possible that this license could remain in the City.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the request.

Motion by Vice Mayor Gawron, second by Commissioner Spataro to rescind the action to request the Liquor Control Commission to revoke the Class C liquor license for D & L of Michigan at 435 and 441 W. Western Avenue.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Various comments were heard from the public.

ADJOURNMENT: The City Commission Meeting adjourned at 6:02 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk

Date: September 23, 2008
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Election Receiving Board

SUMMARY OF REQUEST: An Election Receiving Board is allowed to check paperwork for accuracy on election night. Michigan State Election Law requires that each municipality adopt a resolution if they utilize a Receiving Board for elections.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To adopt the resolution.

CITY OF MUSKEGON

RESOLUTION

WHEREAS, communities may authorize, by resolution, the use of a Receiving Board for elections; and

WHEREAS, the City of Muskegon Election Commission desires to utilize a Receiving Board and requires authorization of the City Commission;

NOW, THEREFORE, BE IT RESOLVED the Muskegon City Commission hereby authorizes the Election Commission to assign a Receiving Board to any election the Election Commission deems necessary.

Dated this 23rd day of September 2008.

CITY OF MUSKEGON

By _____
Ann Marie Becker, MMC
City Clerk

Date: September 23, 2008

To: Honorable Mayor and City Commissioners

From: Finance Director

RE: Office Supplies Vendor

SUMMARY OF REQUEST: Since 2000, the City has used Staples as its sole-source vendor for office supplies. Oakland County has made available its *America Saves* office supplies program with OfficeMax which staff believes offers better value for the City:

- Contract competitively bid by Oakland County saving our staff time. City purchasing power pooled and leveraged – i.e. *America Saves* has 300+ government participants spending \$27million on office supplies yearly.
- Preferred pricing arrangement for copy paper which it is estimated will lower paper costs by 7-10% and free up staff time spent on soliciting bids and handling inventory.
- City may discontinue participation any time
- Program offers other valuable services such as obsolete technology recycling and initiatives to make office supply consumption as “green” as possible.
- City pricing extended to employees – a valuable no-cost employee benefit we can provide.
- Opportunity to support business located within City.

The materials attached describe the features of this program in greater detail.

FINANCIAL IMPACT: The City spends approximately \$40,000 on office supplies (including copy paper) annually. Communities participating in *America Saves* report on average 12% savings (\$4,800). The City will also save in other ways such as moving away from maintaining large inventories of copy paper.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval for the City to participate in the *America Saves* purchasing contract through Oakland County and approval of the preferred paper pricing program agreement letter with Office Max.

COMMITTEE RECOMMENDATION: None.



INTRODUCING OFFICEMAX'S PREFERRED PRICING PROGRAM

OfficeMax is excited to offer you a program designed to provide you with an everyday low price on paper.

Here is how this new program works:

Commit to make OfficeMax your primary source of office products. *This should be easy— OfficeMax offers you over 35,000 items.*

We will provide you with a very competitive price on our most popular paper sku, OfficeMax Copy Paper, 8½ x11 20 lb. 92 brightness for \$26.95 per carton

We will maintain this paper pricing as long as you direct your other office product purchases to OfficeMax.

We reserve the right to revisit your account spend to ensure you continue to qualify for this program. The only other time your paper price may increase is if there is a market increase from manufacturers. In this event, we will notify you in advance.

OfficeMax Incorporated
13301 Stephens Road
Warren, MI 48089

Print Name/Title

Signature

Date

Print Company Name

Company Address

Print Name/Title

Signature

Date

AMERICA SAVES WITH OFFICEMAX CUT COSTS BY UP TO 20% ON PROCUREMENT

AMERICA SAVES AT-A-GLANCE

SITUATION

In the current environment, cost pressures and tax revenue challenges are forcing local governments and school districts to lower their operating costs.

BUSINESS IMPACT

Such cost pressures do not eliminate your basic responsibility: to support the constituents of local government and the school district. It just means you have to do more with less.

HOW OFFICEMAX HELPS

We'll analyze your operating spend and identify cost-saving alternatives of equal quality. Better yet, we'll include you in our existing competitive bid agreement, America Saves, which frees you from having to take on the cumbersome RFP process alone.

BUSINESS VALUE

America Saves helps you save both money and time by leveraging \$24,000,000 in the pooled spend of contractual organizations while also removing the hassle of managing your own bid process.

How do you reduce operating costs and deliver the same level of service to your constituents? OfficeMax has the answer with a custom-built program designed to give local government and K-12 customers access to unparalleled value in public procurement.

Lower your costs for office supplies

If you are required to go through the bid process for supplies and services, this can be a costly endeavor. But with the "America Saves Program" from OfficeMax, you can enjoy the advantages of cooperative purchasing, eliminating the need for your own bid process.

Create a core list and enjoy great pricing

There are approximately 350 aggressively priced core items according to the agreement's Master Core List. In addition, each organization can customize its own unique core list of items at "market competitive pricing." All other catalog items receive discounts up to 85% off the list price.

Getting started

America Saves gives you the power of cooperative purchasing and the value of our competitive sourcing. All it takes to get started is to become an OfficeMax contract customer. We'll do the rest.

Rebates offer up to 3% additional savings

Choose from a menu of incentives.

OfficeMax offers generous rebates to America Saves customers that deliver up to 3% in additional savings. Plus we give you the option of collecting your return on a yearly basis or having rebates built into the net pricing. Rebates are based on:

- › Conversion bonus
- › Volume rebate
- › Electronic ordering
- › Prompt pay

HOW DOES AMERICA SAVES DELIVER UP TO 20% SAVINGS ON YOUR PROCUREMENT BUDGET?

Here's how

America Saves provides the opportunity for OfficeMax contract customers — either K-12 or government agencies — to get in on the bid process of any public entity.

The America Saves contract trends at a pooled spend of approximately \$24,000,000, allowing customers to leverage significant savings — up to 85% discounts on products purchased through OfficeMax catalogs.

You'll enjoy unparalleled value on items such as office and school supplies, furniture, printing products and services as well as cleaning and breakroom supplies. With our help you'll enjoy:

- › Great pricing
- › Time and resource savings
- › National access
- › No cost to participate
- › Quality products and services

Enjoy generous rebates

Annual OfficeMax Purchases	Rebate
Up to \$500,000	½%
From \$500,000–\$1M	1%
Over \$1M	2%

Electronic Commerce

If more than 75% of sales is processed via e-commerce, OfficeMax will pay a reimbursement equal to 1% of total sales volume.

Prompt Pay

2%/10 net 30 prompt pay on daily billing and must be via EFT. No credit card payments can apply.

Conversion Allowance

OfficeMax will pay 5% of the first 60 days' sales. This requires a commitment to have OfficeMax as your preferred supplier.

Seamless transition

Becoming an OfficeMax contract customer is a transition that we manage with the least disruption possible. OfficeMax assigns a dedicated local Account Management Team to coordinate the entire process, backed by the strength and experience of the entire OfficeMax organization.

The highlight of your transition process is the "Program Kickoff Event." Sponsored and marketed by your team leaders, the kickoff helps increase program awareness and compliance throughout the school or organization. OfficeMax will also conduct a customized "Needs Analysis" with all key contacts and requisitioners to review or to discuss preferred ordering method, invoicing/payment options and delivery locations.

The OfficeMax difference

Great products from leading companies at competitively awarded prices are just the start. You can count on responsive delivery of your orders and attentive service.

And that's not all

OfficeMax contract customers can expect:

- › Outstanding pricing options
- › Best-in-class services
- › Consistent on-time performance
- › Powerful e-commerce and reporting solutions
- › Local service and support
- › Activity-based incentives

Over 400 public agencies from 35 states have decided to use America Saves.

To inquire about becoming an OfficeMax contract customer, call 1.888.200.1665, ext. 3383.



©2008 OMX, INC. ALL RIGHTS RESERVED.

Printed on 30%
Post-Consumer Content Paper





ENVIRONMENTAL RESPONSIBILITY *MOVING FROM AWARENESS TO ACTION*

ENVIRONMENTAL RESPONSIBILITY AT-A-GLANCE

SITUATION

The environment is front and center on the global conscience and organizations are expected to consider it as part of corporate social responsibility.

BUSINESS IMPACT

Associates, customers and stakeholders expect this to be part of your business.

HOW OFFICEMAX HELPS

We'll identify environmentally preferable products and recommend best practices for reaching your goals.

YOUR POTENTIAL AT WORK

By identifying the right products and services, you'll improve your environmental footprint, protect the value of your brand and enhance stakeholder confidence.

Everyday products like paper and toner play a significant role in the lives of consumers, businesses and organizations. As companies seek to work responsibly, OfficeMax can assist you in choosing environmentally preferable products and services. We've made this a core part of our mission, "to help you do your best work."

Sourcing — smart choices, better results

It's our job to source environmentally preferable products for your business. So we invest considerable time and research working with our merchants to identify a good selection of products with the lowest environmental impact.

Ordering — small changes add up to big victories

Shopping from our electronic catalogs is the environmentally responsible choice, ensuring that you leave no paper trail. And if you're looking for items with recycled content, our advanced search capabilities allow you to filter for just those products.

Delivering — drive toward green

We can plan delivery options that are environmentally preferable by grouping your orders to deliver less frequently, planning our routes carefully and reducing the use of corrugated packaging materials. We do our part with a "never idle" policy; our trucks are either delivering to customers or turned off.

Reporting — information is power

We use sophisticated reporting tools so that you'll be able to track what and how you're ordering. This helps you manage and improve your own environmental footprint and enables us to recommend environmentally preferable products.

SMALL STEPS CAN MEAN BIG ADVANCES

Services — everything old is new again
Looking for ways to recycle and dispose of obsolete computers, other types of electronics and ink/toner cartridges? OfficeMax has a technology recycling program where used computers, data media and other electronics are disassembled and shredded, using all of the recyclable components for new products. We also offer a refill, recycle and reuse ink and toner program that supports the environment and saves you money.

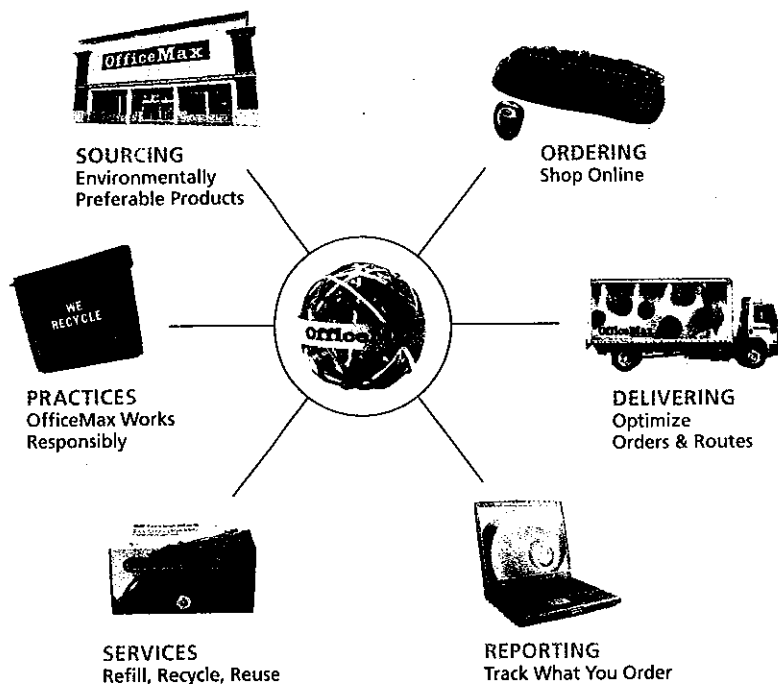
Practices — we're in this together
We are a community of individual and corporate consumers who, like you, take the question of environmental responsibility seriously. At OfficeMax, we recognize that a company's footprint has an impact on all of its constituents: employees, suppliers and customers alike.

For more information, contact your OfficeMax Account Manager or visit us at www.about.officemax.com.

Have you closed the recycling loop by purchasing recycled content paper?

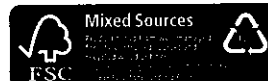
- › More paper is recycled today than landfilled
- › Every ton of paper that is recovered saves 3.3 cubic yards of landfilled space
- › 86% of Americans (254 million) have access to curbside or drop-off programs
- › Paper recovery averages 346 lbs. for each man, woman and child in the U.S.
- › By 2012, the paper industry hopes to recover 55% of all the paper that Americans consume
- › Every day, paper makers recycle enough paper to fill a 15-mile-long train of boxcars

Source: The American Forest and Paper Association (www.afandpa.com)



©2008 OMX, Inc. All Rights Reserved.

Printed on 10%
Post-Consumer Content Paper





WORK SAVVY

OFFICEMAX® ASSET DISPOSITION

SITUATION

Organizations are striving to "go green" and meet government standards as, each year, the vast number of discarded PCs and other electronic devices bring long-term consequences to the environment.

BUSINESS IMPACT

Organizations who do not comply with government regulations on the disposal of technology equipment risk significant fines. And every day you hold on to aging technology, the assets decline in value.

HOW OFFICEMAX HELPS

OfficeMax Asset Disposition is the creative, cost-effective way to:

- 1) Remove, refurbish, resell or redeploy obsolete equipment
- 2) Meet HIPAA, GLBA, SOX^{*} requirements and Environmental Protection Agency regulations

YOUR POTENTIAL AT WORK

Consider this. Nothing is more beautiful than helping the environment and saving money at the same time!

^{*} <http://www.sarbanes-oxley.com/section.php>
<http://www.hipaa.org/>
<http://www.ftc.gov/privacy/glbact/glbsub1.htm>
<http://www.epa.gov/epaoswer/hazwaste/recycle/ecycling/rules.htm>

Cost-effective options for disposing of obsolete technology.

It's a big challenge—how to dispose of obsolete technology and electronic equipment. But you're in luck. OfficeMax Asset Disposition is a full service program that gives you a range of cost-effective options, all HIPAA, GLBA and SOX compliant.

Getting started

OfficeMax can offer convenient technology recycling services plus any of these additional options:

- Corporate Donation
- Employee Purchasing
- Lease Return Management
- Redeployment

Among the technology and electronics we process are:

PDA's, Laptops, Desktops, Printers, Monitors, Mainframes, Storage Racks, Hubs, Routers, Phone Systems, Servers, Mid-Range Systems, and more.

The donation option

A refurbished computer, one that's been through the recycling process and has a clean operating system, is a two-fold blessing: a valuable gift to a school or charity and a tax break for your organization. Through Asset Disposition, OfficeMax has created a Corporate Donation Program that can be customized to the requirements of your legal department and the charity receiving your donation.

Employee Purchase Program (EPP)

EPP is another great alternative to disposing of old electronics. For employees, it's a way to purchase recycled technology. And with OfficeMax managing quality control, assets are cleaned, corporate logos and tags are removed and equipment is fully tested and warranted. This program is a simple solution that returns the highest value to our clients.



Lease Return Management

If you lease equipment, OfficeMax can reduce the risk of incurring the unplanned costs associated with end-of-lease liability. Lease Return Management is an auditing process where we assess the condition of the equipment, clean and test to ensure that all data is removed and verify completeness of the lease. This also ensures that you avoid fines for missing or damaged equipment.

Redeployment

You may choose to purchase new technology and reassign the existing equipment throughout your organization or into the corporate mainstream. We call this Redeployment. It begins with an audit of all technology you want reconfigured and imaged. We'll provide the OS load, application load and specific driver requirements. Once completed, we'll return equipment, cleaned and fully tested, to any location. Just pick the place.

Closing the disposition lifecycle

For our customers wishing to sell used technology, we audit all internal components. If they do not meet the specifications

for resale, we send them to an authorized recycling depot. All internal components that have resale value are removed, tested and sold; the remaining shells are recycled for reuse.

OfficeMax is committed to keeping items out of landfills and provides a certificate of indemnification on all recycled assets. If hard drives cannot be cleaned due to malfunction or physical damage, they are removed from the system, scanned, degaussed and shredded.

Tap into OfficeMax Asset Disposition to donate, redeploy or recycle obsolete technology.

No matter which option you choose for your recycled assets, you can be assured that all your data is removed. Keep in mind, when you hold onto dated technology too long, you risk losing the value of your assets. From hard drives and laptops to printers and more, OfficeMax can take the headache out of asset disposition and ensure that you get the greatest value, no matter which option you choose.

Need help with Asset Disposition? Call OfficeMax Tech Connect at 1.800.525.9500.



Date: September 23, 2008
To: Honorable Mayor and City Commission
From: Water Filtration Plant
RE: Harvey Booster Station Door Replacement

SUMMARY OF REQUEST:

Authorize staff to enter into agreement with Muskegon Construction Company for replacement of two personnel doors and one loading dock double-door at the Harvey Street Booster Station at a cost of \$12,267.00.

FINANCIAL IMPACT:

Replacement cost of \$12,267.00.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

Staff recommends the Mayor and City Commission approve the door replacement by Muskegon Construction Company at a cost of \$12,267.00.

MEMORANDUM

9/15/08

TO: M. AL-SHATEL – DEPUTY DIRECTOR

FROM: R. VENEKLASSEN – WATER FILTRATION SUPV.

**RE: DOOR REPLACEMENT – HARVEY BOOSTER STATION,
2501 SOUTH HARVEY STREET**

Specifications were compiled and solicitations sent to area contractors for replacement of the two original steel personnel doors at the Harvey Street Booster Station with Fiberglass Reinforced Plastic (FRP) doors. We have replaced a number of older steel doors at the Water Filtration Plant with FRP doors and find they perform well and exhibit good insulating qualities.

Included are the door specifications sent to the following contractors:

- Buck Construction – 500 Irwin, Muskegon
- Fullerton Construction – 14475 Boom, Spring Lake
- Muskegon Construction – 111 W. Western, Muskegon
- Muskegon Quality Builders – 2837 Peck, Muskegon
- Sayles Construction – 16499 Lakeview, Ferrysburg
- Tridonn Construction – 1461 Evanston, Muskegon

A representative of Muskegon Construction Company was the sole attendee at the pre-proposal meeting held at the Harvey Street Booster Station. Similarly, Muskegon Construction Company was the only firm to respond with a cost proposal of \$6,774.00 for this project. The door replacement is budgeted at \$4,000.00.

Replacement of the loading dock large double-door at the Booster Station is budgeted for a similar replacement in 2009. Interestingly Muskegon Construction Company also provided a cost of \$5,493.00 for the replacement of these doors in their proposal.

Due to the contractor responses received, or lack thereof, from this solicitation it is my recommendation we approve the cost proposal received from Muskegon Construction Company of \$6,774.00 for replacement of the two personnel doors at the Harvey Reservoir. Further, it is my recommendation we put off the roof vent replacement project until 2009, budgeted at \$8,000.00, and to request those funds to also replace the loading dock double-door at a cost of \$5,493.00. This is a total of \$12,267.00 for door replacement at the Harvey Street Booster Station. This approach will require a budget line item transfer of \$267.00.



Building Since 1929

September 12, 2008

Mr. Robert Veneklasen
City of Muskegon Water Filtration Plant
1900 Beach St.
Muskegon, MI 49441

Re: Replacement of Doors at Harvey St. Booster Station
City of Muskegon Request for Quotation Dated 8-22-08

Dear Bob,

Thank you for requesting this quotation from us. We propose to complete the following work for an estimated cost of \$6,774.:

- remove two existing doors and frames; dispose of off-site
- furnish and install two new FRP doors and frames, 3'-0"x7'-0"
- new doors to have no windows
- furnish and install new hardware (exit devices, closers, weatherstripping, etc.)
- caulk door frames
- provide all tools, equipment, clean-up, etc.

If you would like to have the pair of 4'-0"x8'-0" doors replaced with FRP doors, add \$5,493. This includes new door hardware to match.

Again, we appreciate the opportunity to present this proposal. If we can be of further assistance, please call.

Sincerely,

MUSKEGON CONSTRUCTION COMPANY

A handwritten signature in cursive script that reads "Thomas J. Lambert".

Thomas J. Lambert

pc: TJL
file

Affirmative Action
231/724-6703
FAX:722-1214

Assessor
231/724-6708
FAX:726-5181

Cemetery
231/724-6783
FAX:726-5317

Civil Service
231/724-6716
FAX:724-4055

Clerk
231/724-6705
FAX:724-4178

Comm. & Neigh.
Services
231/724-6717
FAX:726-2501

Engineering
231/724-6707
FAX:727-6904

Finance
231/724-6713
FAX:724-6768

Fire Dept.
231/724-6792
FAX:724-6985

Income Tax
231/724-6770
FAX:724-6768

Info. Systems
231/724-6744
FAX:722-4301

Leisure Service
231/724-6704
FAX:724-1196

Manager's Office
231/724-6724
FAX:722-1214

Mayor's Office
231/724-6701
FAX:722-1214

Neigh. & Const.
Services
231/724-6715
FAX:726-2501

Planning/Zoning
231/724-6702
FAX:724-6790

Police Dept.
231/724-6750
FAX:722-5140

Public Works
231/724-4100
FAX:722-4188

Treasurer
231/724-6720
FAX:724-6768

Water Billing Dept.
231/724-6718
FAX:724-6768

Water Filtration
231/724-4106
FAX:755-8290



August 22, 2008

Door Replacement
City of Muskegon
Water Filtration Plant
1900 Beach Street
Muskegon, MI 49441
231.724.4106

Door Replacement at the Harvey Street Booster Station

DOORS

DESCRIPTION

Replace two steel personnel doors at the Harvey Street Booster Station, 2501 South Harvey Street, Muskegon, MI 49442. Doors are to be Fiberglass Reinforced Plastic (FRP) with building in of anchors and grouting of frames. Finish hardware is to be stainless steel. Each door will receive a door closer with ability to hold door open. Doors will not have glass or glazing.

The openings are to be field verified for measurement to ensure correct size replacements.

Any openings left unattended will be properly secured to ensure that entry cannot be made to access the building interior. All waste material is to be cleaned up, removed and properly disposed by contractor.

DATES

Cost submittals are to be received at the Water Filtration Plant on, or before, September 12, 2008 at 4:00 PM EST.

Site inspection for field verification will be on September 5, 2008 at 10:30 AM EST. An appointment must be made to attend by contacting the Water Filtration Plant at 231.724.4106.

QUALITY

The fiberglass laminate shall have minimum physical properties using ASTM standards for flame spread; 25, or less, ASTM E84.

SUBMITTALS

Submit manufacturer's technical product data substantiating that products comply with requirements. Include details of frame type, details of construction, installation requirements of finish hardware and reinforcements, and details of joints and connections. Show anchorage and accessory items. Provide samples of color and texture for selection by owner.

MANUFACTURERS

Manufacturer's offering FRP doors and frames which may be used include, but are not limited to; Warminster Fiberglass: Fiberglass Reinforced-Plastic (RIM) doors and frames, FIB-R-DOOR, a division of Advance Fiberglass, Inc., and Corrim Door.

MATERIALS

- FRP Sheet – minimum 1/8-inch FRP with color permanently impregnated throughout full thickness of material.
- Composite Core – phenolic impregnated kraft paper honeycomb or rigid polyurethane foam.
- Structural Reinforcement and Inserts – shall be stainless steel or FRP.
- Bolts and Fasteners – shall be stainless steel.
- Finish – manufacturer's standard 25 mil gel-coat.

FABRICATION

- Fabricate FRP door and frame units to be rigid, neat in appearance and free from defects, warp or buckle. When practical, fit and assemble units in manufacturer's plant.
- Fabricate composite seamless door by bonding 1/8-inch FRP to honeycomb or insulated core by molding process. Adhesive bonded flat sheets are not acceptable. Not internal wood blocking shall be utilized. Factory pre-tap doors to receive screws for attachment of hardware.
- Fabricate frame from FRP. Factory pre-tap frames to receive screws for attachment hardware.
- Fabricate concealed stiffeners and reinforcement from either stainless steel or FRP as required to assure adequate strength for hardware attachment.
- Exposed fasteners – provide stainless steel countersunk flat Phillips heads for exposed screws and bolts.
- Thermal rated – provide doors which have been fabricated as thermal insulating door and frame assemblies and tested in accordance with ASTM C 236. Provide thermal-rated assemblies with U factor of 0.10 Btu/(hr.x ft.sq. x degree F).
- Prepare doors and frames to receive mortised and concealed finish hardware. Factory tap doors to receive hardware.
- Locate finish hardware in accordance with "Recommended Locations for Builder's Hardware", published by Door and Hardware Institute.
- Fabricate frames with mitered corner applications for knocked-down, field assembly and weatherstripped.

INSTALLATION

Install FRP doors, frames, and accessories in accordance with manufacturer's data. Locate three wall anchors per jamb at hinge and strike levels. Fit FRP doors accurately in frames and secure to adjacent construction with machine screws and masonry anchorage devices.

ADJUST AND CLEAN

Prior to final inspection, remove protective plastic wrappings. Check and readjust operating finishing hardware items, leaving FRP doors and frames undamaged and in complete and proper operating condition.

HARDWARE

MANUFACTURERS

- Butts and Hinges – Hager Hinge Co.
- Cylinders and Locks – Corbin & Russwin Architectural Hardware, Div. Black & Decker Corp.
- Bolts – Corbin
- Exit/Panic devices - Corbin & Russwin Architectural Hardware, Div. Black & Decker Corp.
- Door control devices - Corbin & Russwin Architectural Hardware, Div. Black & Decker Corp.
- Door stripping and seals – National Guard Products, Inc., Reese Enterprises, Inc., Zero International, Inc.
- Thresholds - National Guard Products, Inc., Reese Enterprises, Inc., Zero International, Inc.
- Astrigals - National Guard Products, Inc., Reese Enterprises, Inc., Zero International, Inc.

MATERIALS AND FABRICATION

- Hand of door – to match existing doors
- Base metals – hardware units of basic metal and forming method indicated, using manufacturer's standard metal alloy, composition, temper and hardness, but in no case of a lesser (commercially recognized) quality than specified for the hardware units by applicable ANSI A156 series standard for each type hardware item and with ANSI A156.18 for finish designations indicated. Do not furnish "optional" materials or forming methods.
- Fasteners – manufactured to conform to published templates, generally prepared for machine screw installation. Do not provide hardware which has been prepared for self-tapping sheet metal screws.
- Furnish screws – for installation, with each hardware item. Provide Phillips flat-head screws. Finish exposed screws to match hardware finish.
- Provide concealed fasteners for hardware units which are exposed when door is closed. Do not use thru-bolts for installation where bolt head or nut on the opposite face is exposed in other work.

HINGES, BUTTS AND PIVOTS

- Provide only template-produced units.
- Screws – Phillips flathead or machine screws to match surface of hinges or pivots
- Hinge pins – Stainless steel pins.
- Exterior door – Non-removable pins.
- Number of hinges – not less than three hinges per door leaf.

LOCK CYLINDERS AND KEYING

- Integrate with owner's existing system.
- Locks – high security cylinders which comply with performance requirements for Grad 1 cylinders as listed in ANSI A156.5 and which have been tested for pick and drill resistance requirements of UL 437 and are UL listed.
- Metals – construct lock cylinder parts from brass/bronze, stainless steel or nickel silver.
- Key material – provide keys of nickel silver with notation "DO NOT DUPLICATE"
- Furnish three change keys for each lock and deliver to owner.

LOCKS, LATCHES AND BOLTS

- Strikes – manufacturer's standard wrought box strike for each latch or lock bolt, with curved lip extended to protect frame, finished to match hardware set.
- Lock throw – 5/8-inch minimum throw of latch for other bored and preassembled types of locks and 3/4-inch minimum throw of latch for mortise locks. Provide 1-inch minimum throw for all dead bolts.

CLOSERS AND DOOR CONTROL DEVICES

Comply with the manufacturer's recommendations for size of door control unit, depending upon size of door, exposure to weather and anticipated frequency of use.

- Provide parallel arms for overhead closers.

WEATHERSTRIPPING AND SEALS

Provide continuous weatherstripping at each edge of exterior door leaf. Provide non-corrosive fasteners as recommended by manufacturer for application indicated.

- Provide units where resilient or flexible seal strip is easily replaceable and readily available from stocks maintained by manufacturer.
- Provide threshold consisting of contact type resilient insert and metal housing. Solid neoprene wiper or sweep seal complying with MIL R 6055, Class II, Grade 40.
- Provide standard metal threshold unit.

INSTALLATION

Mount hardware units at heights indicated in "Recommended Locations for Builders Hardware for Standard Steel Doors and Frames" by the Door and Hardware Institute. Install each hardware item in compliance with the manufacturer's instructions and recommendations.

- Set units level – plumb and true to line and location. Adjust and reinforce the attachment substrate as necessary for proper installation and operation.
- Set thresholds for exterior doors in full bed of butyl-rubber or polyisobutylene mastic sealant.
- Adjust and check each operating item of hardware at each door to ensure proper operation or function of every unit. Replace units which cannot be adjusted to operate freely and smoothly as intended for the application made.

Commission Meeting Date: September 23, 2008

Date: September 12, 2008
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development CBC
RE: Rezoning request for property located at 1338 S. Getty Street

SUMMARY OF REQUEST:

Request to rezone the property located at 1338 S. Getty Street, from B-4. General Business District to R, One Family Residential District.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the request.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the request at their 9/11 meeting. The vote was unanimous, with T. Michalski, B. Larson and J. Aslakson absent.

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend the zoning map of the City to provide for a zone change for a certain property from B-4 "General Business" district to R, One Family Residential District.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

The zoning map of the City of Muskegon is hereby amended to change the zoning of the following described property from B-4 "General Business" district to R, "One Family Residential" district:

CITY OF MUSKEGON REV PLAT OF HOLBROOK ADDITION LOT 6 BLK 2

This ordinance adopted:

Ayes: _____

Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____

Ann Marie Becker, MMC
City Clerk

CERTIFICATE (Rezoning of 1338 S. Getty from B-4 to R-1)

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 23rd day of September, 2008, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2008, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2008.

Ann Marie Becker, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

CITY OF MUSKEGON
NOTICE OF ADOPTION

Please take notice that on September 23, 2008, the City Commission of the City of Muskegon adopted an ordinance amending the zoning map to provide for the change of zoning of the following property from B-4 "General Business" district to R, "One Family Residential" district:

CITY OF MUSKEGON REV PLAT OF HOLBROOK ADDITION LOT 6 BLK 2

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten days from the date of this publication.

Published _____, 2008

CITY OF MUSKEGON

By _____
Ann Marie Becker, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE.

Account No. 101-80400-5354

**Staff Report [EXCERPT]
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING**

September 11, 2008

Hearing; Case 2008-22: Request to rezone the property located at 1338 S. Getty Street from B-4, General Business District to R, One Family Residential District, by Connie Johnson, 4028 Briarwood Lane.

Applicant: Connie Johnson

Property Address/Location: 1338 S. Getty Street

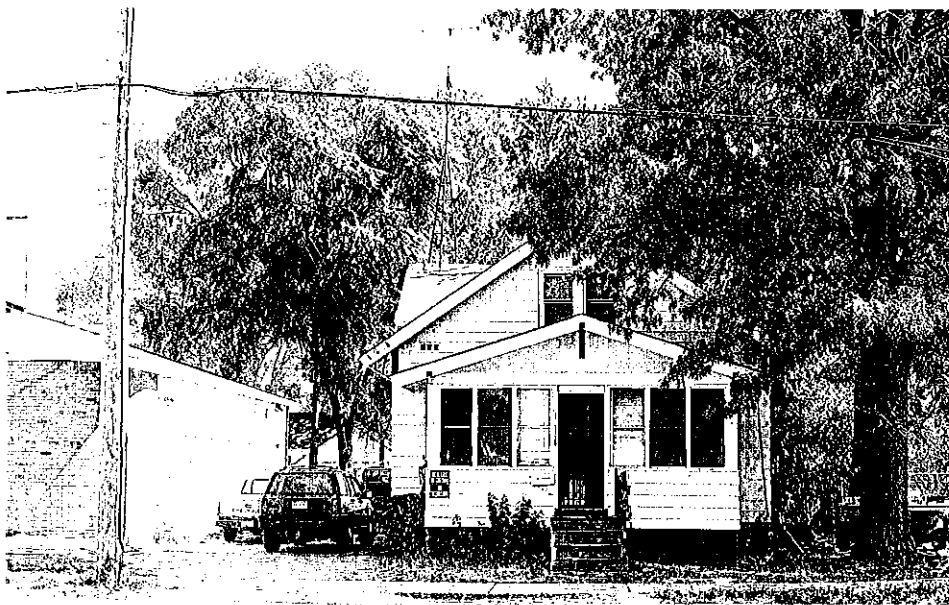
Rezone from B-4, General Business to R, One Family Residential

Present Land Use: Residential

Zoning: B-4, General Business

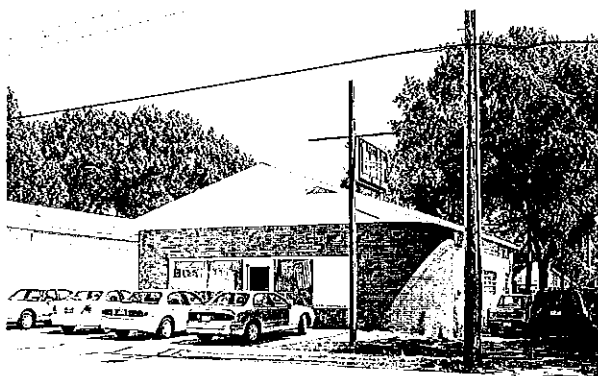
STAFF OBSERVATIONS

1. The property contains the long time family home of Connie Johnson and her late husband, who has occupied the home since 1979. Her son would now like to purchase the home from his mother, but has been unable to secure financing because of the business zoning.
2. The applicant is requesting a rezoning from a B-4 General Business zone to a R, One Family Residential zone.
3. The property itself contains only 6,200 square feet, with 50 feet of street frontage. While this meets the minimum requirement for a residential lot, it falls short of the 10,890 square feet and 100 feet of frontage required for a lot in the B-4 zoning district.
4. The properties to the north, west and south are zoned B-4, and to the East on Kingsley Street, the zoning is R-1.
5. In this block of Getty Street between Evanston and Catawba there are 7 homes that are presently used as single family residences, 5 are owner occupied. There are also 4 businesses occupying commercial structures in that block.
6. The Getty Street Corridor Study, done in 2001, suggests that in this area of Getty we should "encourage land assembly and re-use of single-family residential areas to higher intensity uses". At this time there are no plans that Staff is aware of for any redevelopment to commercial uses.
7. Staff has had no comments regarding this request.



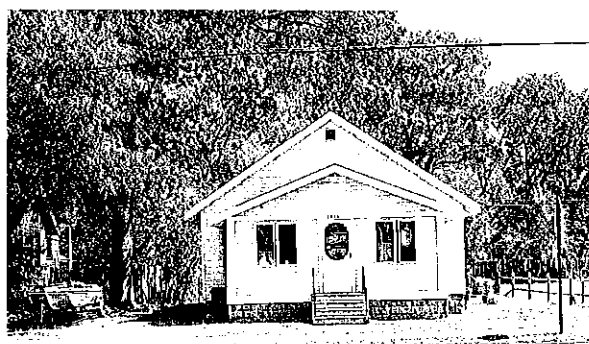
08/27/2008

Subject home located at 1338 S. Getty Street.



08/27/2008

Hair salon located to the north of subject.



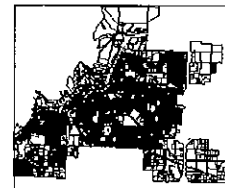
08/27/2008

Home located to the south of subject.



★ Selected Property
Properties w/in 300 ft.

R-1 = Single-Family Residential
B-1 = Limited Business
B-2 = Convenience & Comparison Business
B-4 = General Business



STAFF RECOMMENDATION

Staff recommends approval of the request to rezone the subject property from B-4, General Business district to R, One Family Residential district, because the request conforms to the goals and recommendation of the City's 1997 Master Plan and Future Land Use Plan and zoning district intent.

DELIBERATION

Criteria-based questions typically asked during a rezoning include:

1. **What**, if any, identifiable **conditions** related to the petition **have changed which justify** the petitioned **change in zoning**.
2. **What** are the **precedents and the possible effects** of precedent that might result from the approval **or denial** of the petition?

3. What is the **impact** of the amendment on the ability of the city to provide **adequate public services and facilities and/or programs** that might reasonably be required in the future if the petition is approved?
4. Does the petitioned zoning change adversely affect the environmental conditions or value of the surrounding property?
5. Does the petitioned zoning change generally **comply with the adopted Future Land Use Plan of the City**?
6. Are there any **significant negative environmental impacts** which would reasonably occur if the petitioned zoning change and resulting allowed structures were built such as:
 - a. **Surface water** drainage problems
 - b. **Waste water** disposal problems
 - c. Adverse effect on surface or subsurface **water quality**
 - d. The **loss of valuable natural resources** such as **forest, wetland, historic sites, or wildlife areas**.
7. Is the proposed zoning change a “**Spot Zone**”?
 - a. Is the parcel **small in size relative to its surroundings**?
 - b. Would the zoning change allow uses that are **inconsistent with those allowed in the vicinity**?
 - c. Would the zoning change confer a **benefit to the property owner** that is **not generally available to other properties** in the area?
 - d. A spot zone is **appropriate if it complies with the Master Plan**.

DETERMINATION

The following motion is offered for consideration:

I move that the request to rezone the front portion of the property located at 1338 S. Getty Street from B-4, General Business district, to R, One Family Residential district as described in the public notice, be recommended for (**approval/denial**) to the City Commission pursuant to the City of Muskegon Zoning Ordinance, and the determination of (**compliance/lack of compliance**) with the intent of the City Master Land Use and zoning district intent.

Commission Meeting Date: September 23, 2008

Date: September 12, 2008
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development *CBC*
RE: Amendment to the Zoning Ordinance – Outdoor Seating

SUMMARY OF REQUEST:

Request to amend Section 2308, #2 (Outdoor Seating) of Article XXIII (General Provisions) to require a minimum of 6 feet of paved area for pedestrian circulation.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends amendment of the Zoning Ordinance to require a minimum of 6 feet of paved area for pedestrian circulation.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the request at their 9/11 meeting. The vote was unanimous with T. Michalski, B. Larson, and J. Aslakson absent.

Staff Report (EXCERPT)
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

September 11, 2008

Hearing; Case 2008-25: Staff initiated request to amend Section 2308, #2 (Outdoor Seating) of Article XIII, to require a minimum of 7 feet of paved area for pedestrian circulation.

BACKGROUND

In February 2007 the Outdoor Seating language was adopted and became part of the Zoning Ordinance. Recently a request for a staff approved site plan for outdoor seating was submitted for the former National City building on Western Avenue. Upon discussion with other City staff and the new restaurant developer, it was brought to my attention that the 3 feet allowance for sidewalk along the curb was not sufficient for ADA standards.

On the advice of the City Engineer and the Affirmative Action Director, who is also the City's liaison for ADA issues, we believe that even though 5 feet would be adequate width to accommodate signage, light poles, along with pedestrians, that 7 feet would be a better buffer for accessibility. This would allow adequate space for people and wheelchairs, walkers, etc. to pass one another.

NEW LANGUAGE

Deletions are ~~crossed-out~~ and additions are in bold:

Amendment to Article XXIII, Section 2308, #2: Outdoor Seating

2. Pedestrian circulation and access to the building entrance shall not be impaired. A minimum of ~~three (3)~~ **seven (7)** feet of ~~sidewalk~~ paved area along the curb and leading to the entrance to the establishment must be maintained free of tables, chairs, and other encumbrances.

DELIBERATION

I move that the amendment to Section 2308, #2, of Article XXIII, Outdoor Seating, of the City of Muskegon Zoning Ordinance to require a minimum of 7 feet of paved area for pedestrian circulation along the curb, be recommended to the City Commission for (approval/denial).

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend Section 2308, #2 (Outdoor Seating) of Article XXIII (General Provisions), to require a minimum of 6 feet of paved area for pedestrian circulation.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

Amendment to Article XXIII, Section 2308, #2: Outdoor Seating

NEW LANGUAGE

Deletions are crossed-out and additions are in **bold**:

2. Pedestrian circulation and access to the building entrance shall not be impaired. A minimum of ~~three (3)~~ **six (6)** feet of ~~sidewalk~~ paved area along the curb and leading to the entrance to the establishment must be maintained free of tables, chairs, and other encumbrances.

This ordinance adopted:

Ayes: _____

Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____
Ann Marie Becker, MMC, City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 23rd day of September, 2008, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2008, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2008.

Ann Marie Becker, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

Please take notice that on September 23, 2008, the City Commission of the City of Muskegon adopted an ordinance to amend Section 2308, #2 (Outdoor Seating) of Article XXIII (General Provisions) amending language to require a minimum of 6 feet of paved area for pedestrian circulation.

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten days from the date of this publication.

Published _____, 2008.

CITY OF MUSKEGON

By _____
Ann Marie Becker, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE.

Account No. 101-80400-5354

Date: September 23, 2008
To: Honorable Mayor and City Commissioners
From: Engineering
**RE: Grant an easement to Downtown Muskegon
Center No. 2 over Market Street**

SUMMARY OF REQUEST:

Authorize the mayor & City Clerk to sign the attached easement documents granting DMDC 2 an easement over that part of Market street that had not been vacated in the past for the purpose of creating a public park facility.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

Grant an easement to DMDC no. 2 as outlined in the easement document.

COMMITTEE RECOMMENDATION:

Easement Agreement

This Easement Agreement is made September ____, 2008, between the **City of Muskegon**, a Michigan municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49440 ("City"), and **Downtown Muskegon Center No. 2.**, a Michigan nonprofit condominium association, of 425 West Western Avenue, Muskegon, Michigan 49440 ("CENTER"), as follows:

Background

- A. City owns certain real estate located in the City of Muskegon, Muskegon County, Michigan, specifically described on the attached **Exhibit A** ("Burdened Property").
- B. CENTER desires to obtain an easement for purposes of installing park facilities for use by the general public on, over, under and across a portion of the Burdened Property.
- C. City desires to grant CENTER an easement on, over, under, across and through a portion of the Burdened Property for CENTER's desired purposes.

In consideration of the mutual promises of the parties set forth in this Agreement and other valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

- 1. **Grant of Easement.** In consideration of payment by CENTER to City in the amount of \$1.00 and other valuable consideration, City grants to CENTER a non-exclusive easement on, over, under, across and through the Burdened Property ("Easement").
- 2. **Purpose.** The Easement will be used by CENTER for purposes of installing park facilities for use by the general public. Any change in use shall terminate said Easement.
- 3. **Scope.** This Easement shall run with the Burdened Property perpetually unless and until the following occur which will terminate said Easement:
 - a. Easement shall terminate upon any change in use from the stated purpose of use for park facilities for use by the general public.
 - b. Easement shall terminate upon dissolution of CENTER.

4. **Warranty of Parties.** The parties warrant that they have the right and authority to enter into this Easement Agreement.

5. **Indemnity.** CENTER shall indemnify and hold harmless the City from all claims, judgments, costs and expenses in connection with any claim based on injury to anyone or any property that is related to the construction, repair, replacement, or use of the Easement property in any manner.

6. **Repair.** CENTER shall promptly repair any damages to the Burdened Property or to the improvements thereon caused by the CENTER exercising its rights under this Easement Agreement. If it should become necessary to remove any park fixtures in the future, CENTER shall pay for such removal and all necessary repairs to return the Burdened Property to its original condition.

7. **Binding Effect.** This Easement Agreement shall bind the parties, and their successors and assigns.

8. **Recording.** The parties shall record this Easement Agreement with the Muskegon County Register of Deeds, and City shall pay all recording costs.

9. **Michigan Law.** This Easement Agreement shall be construed and enforced in accordance with the laws of the State of Michigan applicable to contracts made and to be performed within the State of Michigan.

10. **Entire Agreement.** This Easement Agreement and the attached exhibits constitute the entire agreement as to this matter between the parties and supersedes all prior agreements and understandings, both written and oral, with respect to the subject matter hereof.

{The reminder of this page is intentionally left blank.}

This Easement Agreement was entered into on the date set forth above.

Downtown Muskegon Center No. 2., a Michigan
nonprofit condominium association

By: Charles E. Johnson II
Charles E. Johnson, II, President

City of Muskegon, a Michigan municipal
corporation

By: _____
Stephen J. Warmington, Mayor

By: _____
Ann Marie Becker, MMC, Clerk

STATE OF MICHIGAN
COUNTY OF MUSKEGON

On September 16, 2008, before me, a notary public, personally appeared Charles E. Johnson, II, President of Downtown Muskegon Center No. 2., a Michigan nonprofit corporation, who acknowledged her execution of the within instrument on behalf of Downtown Muskegon Center No. 2.

JOAN YOUNG
Notary Public, State of Michigan
County of Muskegon
My Commission Expires May 29, 2012
Acting in the County of Muskegon

Joan Young, Notary Public
Muskegon County, Michigan
My Comm. Expires: 5/29/2012
Acting in Muskegon County, Michigan

STATE OF MICHIGAN
COUNTY OF MUSKEGON

On September __, 2008, before me a notary public, personally appeared Stephen J. Warmington, Mayor, and Ann Marie Becker, MMC, Clerk, of the City of Muskegon, a Michigan Municipal Corporation, who acknowledged the above instrument on behalf of the City of Muskegon.

_____, Notary Public
Muskegon County, Michigan
My Comm. Expires: _____
Acting in Muskegon County, Michigan

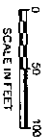
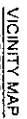
PREPARED BY AND WHEN RECORDED RETURN TO:
John C. Schrier
PARMENTER O'TOOLE, P.O. Box 786, Muskegon, MI 49443-0786

Exhibit A

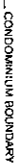
Burdened Property/Easement

That part of Market Street lying adjacent to Lots 1 and 2, Block 561, Revised Plat (of 1903) of the City of Muskegon, as recorded in Liber 3 of Plats, Page 71, Muskegon County Records.

CITY OF MUSKEGON, MUSKEGON COUNTY, MICHIGAN



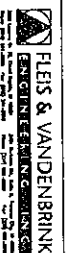
	PLOTTED	UNABLE TO BE PLOTTED
29	1807 L1743.P316	636 L1756.P195
30	L1757.P854	L1767.P619
31	NONE	NONE



BARBARA L. HALLS, REGISTERED SURVEYOR OF THE STATE OF MICHIGAN, HEREBY CERTIFY THAT THE SUBDIVISION PLAN KNOWN AS WILSON COUNTY CONDOMINIUM SUBDIVISION, PLAN NO. _____, AS SHOWN ON THE ACCOMPANYING DRAWINGS HEREIN, REPRESENTS A PLAT ON THE GROUND MADE UNDER MY DIRECTION, THAT THERE ARE NO EXISTING ENCUMBRANCES UPON THE LOTS AND UNITS OF THE SUBDIVISION, AND THAT THE LOTS AND UNITS OF THE LATED CONDOMINIUMS AND THEIR MARKERS WILL BE PLACED IN THE GROUND WITHIN ONE YEAR OF THE RECORDING OF THE CONDOMINIUM SUBDIVISION PLAN AS REQUIRED BY RULES PROMULGATED UNDER SECTION 142 OF ACT NO. 56 OF THE PUBLIC ACTS OF 1978. THAT THE ACCURACY OF THE PLAN IS GUARANTEED BY THE SURVEYOR'S CERTIFICATE OF THE 1978 SECTION 56 OF THE PUBLIC ACTS OF 1978. THAT THE RECORDING AS SHOWN, ARE NOTED ON THE SURVEY PLAN AS REQUIRED BY THE RULES PROMULGATED UNDER SECTION 142, ACT NO. 56 OF THE PUBLIC ACTS OF 1978

DATE _____

SURVEY PLAN



Date: September 23, 2008
To: Honorable Mayor and City Commissioners
From: Engineering
**RE: Acceptance of an Easement from DMDC on
First Street between Alley (Block 310) & Clay**

SUMMARY OF REQUEST:

Authorize the mayor & City Clerk to sign the attached easement documents which include an Assignment of All Interests and Assumption of Obligations of the First Street Reciprocal Easement document. This action will bring the City one step closer to reclaiming First Street for reinstate as a public road.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

Accept easement and direct staff to record.

COMMITTEE RECOMMENDATION:

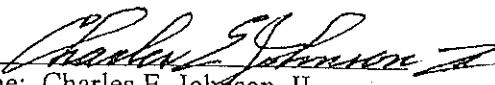
ASSIGNMENT OF ALL INTERESTS AND ASSUMPTION OF OBLIGATIONS
OF THE FIRST STREET RECIPROCAL EASEMENT

Effective _____, 2008, **Downtown Muskegon Development Corporation**, a Michigan non-profit corporation, of 425 W. Western Avenue, Muskegon, Michigan 49442, ("DMDC") hereby transfers and forever assigns to **City of Muskegon**, a Michigan municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49440 ("City"), any and all of DMDC's interests, rights, and incentives under the Reciprocal Easement and Access Agreement ("Agreement") with AmeriBank dated January 17, 1997 and recorded January 30, 1997 in the Muskegon County Register of Deeds at Liber 1958, Page 602 through 607.

For good and valuable consideration DMDC transfers and forever assigns to City, and City expressly assumes, any and all of DMDC's obligations under the above stated Agreement, of each and every kind and nature, including any and all unfulfilled performance obligations in connection with the Agreement.

This Assignment of Interests and Assumption of Obligations is made on _____, 2008.

**DOWNTOWN MUSKEGON DEVELOPMENT
CORPORATION**, a Michigan non-profit
corporation

By: 
Name: Charles E. Johnson, II
Its: President

CITY OF MUSKEGON, a Michigan
municipal corporation

By: _____
Name: Stephen J. Warmington
Its: Mayor

By: _____
Name: Ann Marie Becker, MMC
Its: Clerk

Easement Agreement

This Easement Agreement is made September ____, 2008, between **Downtown Muskegon Development Co.**, a Michigan nonprofit corporation, of 425 West Western Avenue, Muskegon, Michigan 49440 ("DMDC") and the **City of Muskegon**, a Michigan municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49440 ("City") as follows:

Background

- A. DMDC owns certain real estate located in the City of Muskegon, Muskegon County, Michigan, specifically described on the attached **Exhibit A** ("Burdened Property").
- B. City desires to obtain an easement on, over, under, across and through a portion of the Burdened Property.
- C. DMCD desires to grant City an easement on, over, under, across and through a portion of the Burdened Property.

In consideration of the mutual promises of the parties set forth in this Agreement and other valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. **Grant of Easement.** In consideration of payment by City to DMDC in the amount of \$1.00 and other valuable consideration, DMDC grants to City a non-exclusive easement on, over, under, across and through the Burdened Property ("Easement").
2. **Purpose.** The Easement shall be used for the purpose of the construction and installation of a future street and its appurtenances and accessories within the Easement Property. The Easement and right of way shall include the City's right to enter upon the Easement at such times as are reasonably necessary to construct, maintain, repair, replace, reinstall and inspect its street within the Easement Property. The City shall not construct any improvements within the Easement Property without the written permission of DMDC, or interfere with the use of the Easement in any manner.
3. **Warranty.** The parties warrant that they have the right and authority to enter into this Easement Agreement.

4. **Binding Effect.** This Easement Agreement shall bind the parties, and their successors and assigns.

5. **Recording.** The parties shall record this Easement Agreement with the Muskegon County Register of Deeds, and City shall pay all recording costs.

6. **Amendment.** This Agreement shall not be amended or modified except in a writing signed by both parties.

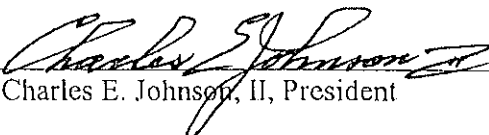
7. **Michigan Law.** This Easement Agreement shall be construed and enforced in accordance with the laws of the State of Michigan applicable to contracts made and to be performed within the State of Michigan.

8. **Entire Agreement.** This Easement Agreement and the attached exhibits constitute the entire agreement as to this matter between the parties and supersedes all prior agreements and understandings, both written and oral, with respect to the subject matter hereof.

{The reminder of this page is intentionally left blank.}

This Easement Agreement was entered into on the date set forth above.

**Downtown Muskegon Development Co., a
Michigan nonprofit corporation**

By: 
Charles E. Johnson, II, President

**City of Muskegon, a Michigan municipal
corporation**

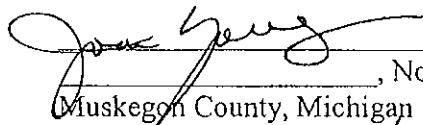
By: _____
Stephen J. Warmington, Mayor

By: _____
Ann Marie Becker, MMC, Clerk

STATE OF MICHIGAN
COUNTY OF MUSKEGON

On September 16, 2008, before me, a notary public, personally appeared **Charles E. Johnson, II, President of Downtown Muskegon Development Co.,** a Michigan nonprofit corporation, who acknowledged her execution of the within instrument on behalf of Downtown Muskegon Development Co.

JOAN YOUNG
Notary Public, State of Michigan
County of Muskegon
My Commission Expires May 29, 2012
Acting in the County of Muskegon

, Notary Public
Muskegon County, Michigan
My Comm. Expires: 5/29/2012
Acting in Muskegon County, Michigan

STATE OF MICHIGAN
COUNTY OF MUSKEGON

On September ___, 2008, before me a notary public, personally appeared **Stephen J. Warmington, Mayor, and Ann Marie Becker, MMC, Clerk, of the City of Muskegon,** a Michigan Municipal Corporation, who acknowledged the above instrument on behalf of the City of Muskegon.

_____, Notary Public
Muskegon County, Michigan
My Comm. Expires: _____
Acting in Muskegon County, Michigan

PREPARED BY AND WHEN RECORDED RETURN TO:
John C. Schrier
PARMENTER O'TOOLE, P.O. Box 786, Muskegon, MI 49443-0786

Exhibit A

Burdened Property/Easement

The northwesterly half of First Street from the northwesterly line of the 20 foot alley, extended adjacent to Lots 10 and 11 and 12 and 15 of block 310, to the northwesterly line of Clay Avenue, together with the northwesterly half of the 20 foot alley adjacent to Lots 10 and 11 and 12 and 15 of Block 310.