CITY OF MUSKEGON

CITY COMMISSION MEETING

SEPTEMBER 13, 2022 @ 5:30 P.M.

MUSKEGON CITY COMMISSION CHAMBERS

933 TERRACE STREET, MUSKEGON, MI 49440

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, September 13, 2022, Vice Mayor Willie German, Jr., opened the meeting with prayer, after which the Commission and public recited the Pledge of Allegiance to the Flag.

Present: Mayor Ken Johnson, Vice Mayor Willie German, Jr., Commissioners Teresa Emory, Rebecca St.Clair, Rachel Gorman, Michael Ramsey, and Eric Hood, Interim City Manager LeighAnn Mikesell, City Attorney John Schrier, and City Clerk Ann Meisch.

PUBLIC COMMENT ON AGENDA ITEMS: Public comments were received.

2022-79 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the August 8, 2022 and the August 9, 2022 Regular Meeting.

STAFF RECOMMENDATION: To approve the minutes.

C. General Fund Transfers for FY2021-22 Finance

SUMMARY OF REQUEST: During the close out of fiscal year 2021-22 and based on the financial results for the fiscal year ended June 30, 2022 we want to transfer $115,000 from the General Fund to the Trinity health Arena Fund to eliminate a fund balance deficit. Also, we want to transfer $2,500 from the General Fund to the Tree Fund to eliminate a fund balance deficit. Finally, we want to transfer $40,750.14 from the General Fund to the State Grants fund to cover bad debt. Staff is requesting formal approval of these General Fund transfers.

At the close of FY2021-22 three funds that required a transfer from the General Fund. (1) the FY2021-22 budget called for a General Fund transfer of $115,000 to the Trinity health Arena Fund to avoid a fund balance deficit. The original budget REQUESTED A $350,000 TRANSFER TO THE Trinity Health Arena. The Arena's revenue was better than projected and we thought the Arena did not need any transfer from the General Fund. However, at the end of the 2021-22 year the expenditures exceeded revenue by approximately $115,000. (2) The Tree fund has a small deficit that needs to be covered by the General Fund of $2,500 to avoid a fund balance deficit. (3) The FY2021-22 budget called for General Fund transfer of $40,750.41 to the State Grant fund to write off bad debt from the CMI Site Assessment and Hendrickson Brownfield loan. Commission previously approve the debt write off at the July 26, 2022 meeting. Now we are officially asking to transfer the funds from the General Fund to complete the debt write off.

STAFF RECOMMENDATION: To approve the General Fund transfers of $115,000 to the Trinity Health Fund, $40,750.14 to the State Grants Fund, and $2,500 to the Tree Replacement Fund.

D. <u>PowerMIFleet Enrollment</u> Public Works

SUMMARY OF REQUEST: Staff is requesting authorization to enroll in the PowerMIFleet Program.

The PowerMIFleet program through Consumers Energy provides assistance to the City in seeking to begin consideration for electrifying the city's fleet of vehicles. Through the program Consumers Energy will provide a number of services to assist the city in a number of ways.

- Review of existing fleet to determine the vehicles best suited for electrification.
- Review of existing facilities to determine the best location for installation of charging infrastructure.
- Identification and pursuit of grants and rebates to support the initiative.

There is no immediate cost for enrollment in the program, however in exchange for enrollment in the program, the city is making a commitment to purchase and deploy at least one (1) electric vehicle through the program. There is no set timeline for when that needs to be accomplished but note that the current FY budget did not propose any EV so if there is opportunity to take action yet this FY there could be unbudgeted costs with minimal modification provided they are not excessive.

STAFF RECOMMENDATION: Authorize staff to enroll in the PowerMIFleet Program with Consumers Energy.

F. <u>Wastewater Committee</u> Public Works

SUMMARY OF REQUEST: Staff is requesting approval of the resolution to designate the representatives for the County Wastewater Committee.

Staff is requesting to update this resolution to replace the City Manager with the Deputy DPW Director as the alternate representative on the County Wastewater Committee.

STAFF RECOMMENDATION: Approve the resolution appointing the DPW Director as the representative to the County Wastewater Committee and the Deputy DPW Director as the alternate representative and authorize the Clerk to sign.

H. MDEGLE Grant Agreement Public Works

SUMMARY OF REQUEST: Staff is requesting authorization to sign the grant agreement with MDEGLE.

The City of Muskegon was awarded a $687,000 grant from the Michigan Department of Environment, Great Lakes, and Energy (MDEGLE) through their Drinking Water Infrastructure (DWI) Program. The grant is tied to the 2023 project on Sanford Street; with the remainder of the project expenses financed through the state revolving fund programs which provide additional principal forgiveness in addition to the grant dollars awarded through the DWI program.

The grant and revolving fund programs continue to help ensure we can deliver an efficient and effective capital program within our water/sewer systems. Even though the programs require additional work to meet compliance along with carrying several provisions that would otherwise be optional for the city (Buy America for Iron/Steel Components & Prevailing Wage) the grants, principal forgiveness, and financing terms available to the city through these programs have provided immense benefit.

Accepting the grant will not run concurrent with our other work on Sanford Street and does not add any expenses to the City.

Staff is recommending acceptance of the grant and plans to continue pursuing additional opportunities for future financing within the state programs.

STAFF RECOMMENDATION: To authorize staff to sign and accept the grant agreement with MDEGLE.

I. Back Hoe Purchase DPW/Equipment

SUMMARY OF REQUEST: Backhoe purchase from Michigan Cat, the MI-Deal State contract holder for a price of $121,000. The Equipment Division is seeking permission to purchase one new backhoe form Michigan Caterpillar, the Mi-Deal contract holder for a price of $121,000 coming from the 2022/23 budget. This backhoe will replace one of our older machines.

AMOUNT REQUESTED: $121,000 AMOUNT BUDGETED: $121,000

FUND OR ACCOUNT: Equipment Account

STAFF RECOMMENDATION: To approve the Equipment Division to proceed with the purchase.

K. US Army Corps of Engineers Lease City Manager

SUMMARY OF REQUEST: Staff is requesting approval to renew the lease with the US Army Corps of Engineers for use of the navigation structures at the Muskegon

Harbor Federal Navigation Project.

The lease would authorize the continuation of passive recreational activities on the US South Breakwater, the US South Revetment and Pier, and allow for the operation and maintenance of pier safety devices on the US North and South Breakwaters

STAFF RECOMMENDATION: To approve the lease renewal with the US Army Corps of Engineers and authorize the mayor and clerk to sign.

L. Juneteenth Holiday City Manager

SUMMARY OF REQUEST: Staff is seeking approval to add the federally recognized Juneteenth holiday as a recognized for all city staff starting in 2023.

The holiday will be observed on the same date as the federal Juneteenth holiday each year.

Each union's language relating to holiday pay, time off for holidays, compensatory time, and overtime on a holiday will apply to the Juneteenth holiday as it would to any other recognized holiday for that union.

STAFF RECOMMENDATION: To approve the inclusion of Juneteenth as a recognized holiday for all city staff beginning in 2023.

M. Email Migration to the Cloud with Enhanced Security, Backup, and User Training Information Technology

SUMMARY OF REQUEST: Authorize the migration of our on-prem systems to a cloud-hosted solution adding advanced email protection, backup, archival, and user security awareness training.

To improve the security and functionality of the user email experience. The I.T. Department would like to upgrade and move our email systems to Microsoft's government cloud protected by a Barracuda Networks advanced email security solution. This migration provides benefits such as larger mailbox storage (50GB per mailbox), advanced net-gen AI threat protection, cloud-to-cloud backup and archival, and end-user security awareness training. The initial cost for the first year of cloud-hosted services and full implementation is $64,000. The yearly cloud subscription fee for subsequent years will be $49,000. Broken down, these subscriptions amounts are $4 per user per month for email and $10.89 per user per month for protection, training, archival and backup. Amounts are budgeted.

AMOUNT REQUESTED: $64,000 AMOUNT BUDGETED: $64,000

FUND OR ACCOUNT: 101-228

STAFF RECOMMENATION: To approve the implementation of cloud-hosted email with added advanced protection, archival, backup, and training.

N. <u>District Library Board Appointment</u> City Clerk

SUMMARY OF REQUEST: To appoint Clayton Hardiman to the District Library Board, term expiring June 30, 2026.

STAFF RECOMMENDATION: To make the appointment.

Motion by Vice Mayor German, second by Commissioner Ramsey, to accept the consent agenda as presented, minus items B, E, G, and J.

ROLL VOTE: Ayes: Gorman, Emory, St.Clair, Johnson, Hood, Ramsey, and German

Nays: None

MOTION PASSES

2022-80 REMOVED FROM CONSENT AGENDA:

B. <u>Flag Policy</u> City Clerk

SUMMARY OF REQUEST: To adopt the updated flag policy.

Based on the Attorney's recommendation, staff felt it necessary to recommend changes tour current flag policy. The proposed policy would not allow the flying of any flags with the exception of United States of America, State of Michigan, the County of Muskegon, the City of Muskegon flag, a Sister Cities of the City of Muskegon flag, and visiting dignitaries from the Embassy and/or Consulate that are formally acknowledged by the Mayor and/or City Commission.

STAFF RECOMMENDATION: To adopt the amended flag policy as presented.

Motion by Commissioner St.Clair, second by Commissioner Hood, to adopt the amended flag policy as presented.

ROLL VOTE: Ayes: Emory, St.Clair, Johnson, Hood, Ramsey, German, and Gorman

Nays: None

MOTION PASSES

E. <u>Shoreline Drive Engineering Amendment</u> Public Works

SUMMARY OF REQUEST: Staff is requesting authorization to sign the amendment to the professional services agreement with Progressive AE in relation to the Shoreline Drive Road Diet.

ProgressiveAE is requesting an amendment to the professional services agreement related to a change on the Shoreline Drive project outside of the original scope. The amendment requests an additional $13,700 which represents a 28% increase on the original $49,090 contract and requires commission approval based on the percentage increase.

The additional costs are related to a change in the project scope to complete the pilot in tow separate phases rather than a single phase. The split phasing required the engineer to develop additional sets of plans and also provides an opportunity for additional data collection during both phases which was not originally anticipated in the scope.

AMOUNT REQUESTED: $13,700 (INCREASE) AMOUNT BUDGETED: $115,000

$62,790 (TOTAL) (21/22 & 22/23)

FUND OR ACCOUNT: 202

STAFF RECOMMENDATION: Authorize staff to approve the amendment request with ProgressiveAE for Shoreline Drive Traffic Engineering.

Motion by Vice Mayor German, second by Commissioner Emory, to approve the amendment request with ProgressiveAE for Shoreline Drive Traffic Engineering.

ROLL VOTE: Ayes: St.Clair, Johnson, Hood, Ramsey, Gorman, and Emory

Nays: German

MOTION PASSES

G. <u>Shoreline Drive Traffic Control</u> Public Works

SUMMARY OF REQUEST: Staff is requesting authorization to accept the bid from Give Em A Brake Safety in the amount of $31,075.00 to provide the Traffic Control services for the Shoreline Drive Road Diet Pilot.

Staff solicited bids for traffic control services for the Shoreline Drive Road Diet project based on a split phase approach with a portion to be completed during the Fall of 2022 and a second portion to be completed in the Spring/Summer of 2023.

One (1) bid was received as follows:

- $31,075.00 – Give Em A Brake Safety (Grandville, MI)

Staff is recommending the contract be awarded to the low bidder for the project.

The bid will provide the traffic control necessary for both stages of the pilot and likely represents the largest cost aside from the traffic engineering and study components of the project.

There will be at least one additional item to consider for this project which is still being developed and refined by staff. The additional item will include features that invite users to imagine future uses of the reclaimed space. Staff is still working to secure commitments and pricing for those features and anticipates having that back for discussion at a later date if the price warrants additional commission action.

AMOUNT REQUESTED: $31,075.00 AMOUNT BUDGETED: $115,000

(21/22 & 22/23)

FUND OR ACCOUNT: 202

STAFF RECOMMENDATION: Authorize staff to accept the bid from Give Em A Brake Safety in the amount of $31,075 to provide traffic control services in conjunction with the Shoreline Drive Road Diet Pilot.

Motion by Commissioner St.Clair, second by Commissioner Ramsey, to authorize staff to accept the bid from Give Em A Brake Safety only for Phase 1 and Phase 2 Traffic Control during the Fall of 2022 in the amount of $16,825 in conjunction with the Shoreline Drive Road Diet Pilot and delay a decision on Phase 3 Traffic Control until results of the Fall Pilot are available for consideration.

ROLL VOTE: Ayes: Johnson, Hood, Ramsey, Gorman, Emory, and St.Clair

Nays: German

MOTION PASSES

J. <u>Rezoning of 2043, 2051, 2065, and 2075 Dowd to Form Based Code, Urban Residential</u> Planning

SUMMARY OF REQUEST: Staff-initiated request to rezone the properties at 2043, 2051, 2065 and 2075 Dowd Street from R-3, High Density Single Family Residential to Form Based Code, Urban Residential.

Staff is in discussions with a developer that is requesting to build duplexes on the lots. These properties are located about 600 feet north of the duplexes currently being constructed at the corner of Hackley/Dowd. Those properties were approved for a rezoning in 2021. There are also large apartment complexes located just to the southwest of these parcels. The Planning Commission recommended approval of the rezoning by a 5-0 vote at their August 11 meeting.

STAFF RECOMMENDATION: To approve the request to rezone the properties at 2043, 2051, 2065 and 2075 Dowd from R-3, High Density Single Family Residential to Form Based Code, Urban Residential.

Motion by Commissioner Emory, second by Commissioner Ramsey, to approve the request to rezone the properties at 2043, 2051, 2065, and 2075 Dowd from R-3, High Density Single Family Residential to Form Based Code, Urban Residential.

ROLL VOTE: Ayes: Hood, Ramsey, German, Gorman, Emory, St.Clair, and Johnson

Nays: None

MOTION PASSES

2022-81 NEW BUSINESS:

A. <u>Adelaide Pointe Cooperative Use Agreement</u> City Manager

SUMMARY OF REQUEST: Staff is seeking approval of the updated cooperative use agreement and rescission of the former development agreement for the Adelaide Pointe development.

A development agreement for the Adelaide Pointe development was approved by the commission on October 26, 2021. Staff and legal counsel are negotiating with the developer on revised terms and seek to rescind the former agreement.

Staff is seeking approval of the revised cooperative use agreement as the first step in a final development agreement for the property. The cooperative use agreement addresses the various property exchanges, how property will be accessible to the public, and collaborative pursuit of funding. Staff and legal counsel have worked through numerous iterations of this agreement with the developer and have reached agreement that all can support.

Staff will seek approval of a revised development agreement at a future meeting.

STAFF RECOMMENDATION: To approve the updated cooperative use agreement and rescind the development agreement formerly approved on October 26, 2021 for the Adelaide Pointe development.

~~**Motion by Commissioner Emory, second by Commissioner Ramsey, to approve the request to rezone the properties at 2043, 2051, 2065, and 2075 Dowd from R-3, High Density Single Family Residential to Form Based Code, Urban Residential.**~~

***2/28/23 CORRECTION TO MOTION LANUGAGE below:**

***Motion by Commissioner Ramsey, second by Commissioner Hood, to approve the updated cooperative use agreement and rescind the development agreement formerly approved on October 26, 2021 for the Adelaide Pointe development.**

ROLL VOTE: Ayes: Ramsey, German, Gorman, Emory, St.Clair, Johnson, and Hood

Nays: None

MOTION PASSES

B. <u>Designation of Voting Delegates for the Michigan Municipal League Annual Meeting</u> City Commission

SUMMARY OF REQUEST: To designate, by action of the Commission, one of our officials who will be in attendance at the Convention as an official representative to cast the vote of the municipality at the Annual Meeting; and, if possible, to designate one other official to serve as an alternate.

Motion by Commissioner Ramsey, second by Commissioner Hood, to appoint Mayor Ken Johnson and alternate Clerk Ann Meisch, to be in attendance and to cast the vote of the municipality at the Annual Business meeting of the Michigan Municipal League Convention.

ROLL VOTE: Ayes: German, Gorman, Emory, St.Clair, Johnson, Hood, and Ramsey

Nays: None

MOTION PASSES

ANY OTHER BUSINESS:

Commissioner Ramsey requested and received an update from Leo Evans, Director of the Department of Public Works, on the project on Terrace Street to hopefully clear up any questions or concerns by the residents and neighbors. It is intended to have construction complete on Terrace by mid-November to early December with the ability to plant grass in the Spring. Access to all business is still able to be achieved by use of side streets.

Mayor Johnson invited Public Safety Director, Tim Kozal, to introduce himself and talk about how his first couple of weeks on the job has gone.

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

ADJOURNMENT: The City Commission meeting adjourned at 7:23 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC - City Clerk