

CITY OF MUSKEGON

CITY COMMISSION MEETING

AUGUST 25, 2020 @ 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 electronically with the Mayor, Vice Mayor and Commissioners participating via Zoom – a remote conferencing service, Clerk staff present at 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, August 25, 2020.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen J. Gawron, Vice Mayor Eric Hood, Commissioners Ken Johnson, Dan Rinsema-Sybenga, Willie German, Jr., Michael Ramsey, and Teresa Emory, City Manager Frank Peterson, City Attorney John Schrier, and City Clerk Ann Meisch.

PUBLIC COMMENT ON AGENDA ITEMS: No public comments were received.

2020-55 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the August 10, 2020 Worksession Meeting, August 11, 2020 Regular City Commission Meeting, and August 12, 2020 Goal Setting Prep Meeting.

STAFF RECOMMENDATION: To approve the minutes.

C. Rezoning of 55 Ottawa St, 61 Ottawa St, and 65 Bank St Planning

SUMMARY OF REQUEST: Request to rezone 55 Ottawa Street, 61 Ottawa Street, and 65 Bank Street from WM, Waterfront Marine, to I-2, General Industrial.

STAFF RECOMMENDATION: To approve the request to rezone 55 Ottawa Street, 61 Ottawa Street, and 64 Bank Street from WM, Waterfront Marine, to I-2, General Industrial.

Motion by Commissioner Rinsema-Sybenga second by Vice Mayor Hood, to approve the consent agenda as presented, except item B.

ROLL VOTE: Ayes: Gawron, Hood, Ramsey, German, Rinsema-Sybenga, Emory,

and Johnson

Nays: None

MOTION PASSES

2020-56 REMOVED FROM CONSENT AGENDA:

B. Transfer of Ownership of the Arch (Art Piece) to County of Muskegon City Manager

SUMMARY OF REQUEST: Staff is seeking permission to sign the attached Deed of Gift for the Arch, a sculpture that has been housed in several locations until it found its home at 7th and Western Avenue next to the historic Union Depot in 2016. Staff wishes to transfer ownership and responsibility to the County as it currently sits on Muskegon County property.

STAFF RECOMMENDATION: To authorize the City Manager to sign the Deed of Gift to transfer ownership of the Arch to the County of Muskegon.

Motion by Commissioner Emory second by Commissioner Rinsema-Sybenga, to authorize the City manager to sign the Deed of Gift to transfer ownership of the Arch to the County of Muskegon.

ROLL VOTE: Ayes: None

Nays: Hood, Ramsey, German, Rinsema-Sybenga, Emory, and Gawron

MOTION FAILS

2020-57 NEW BUSINESS:

A. Resolution for Designation of City Street in Honor of Bishop Wells Vice Mayor Hood

SUMMARY OF REQUEST: A request has been received to designate Valley Street and the corner of Getty Street and Delano Avenue as Bishop Nathaniel Wells Jr. Way to honor his legacy and leadership within the community.

STAFF RECOMMENDATION: To approve the resolution to designate Valley Street and the corner of Getty Street and Delano Avenue as Bishop Nathaniel Wells, Jr. Way.

Motion by Vice Mayor Hood second by Commissioner German, to approve the resolution and designate Valley Street and the corner of Getty Street and Delano Avenue as Bishop Nathaniel Wells Jr. Way.

ROLL VOTE: Ayes: Ramsey, German, Rinsema-Sybenga, Emory, Johnson, Gawron, and Hood

Nays: None

MOTION PASSES

B. Request to Fly Mexican Flag City Clerk

SUMMARY OF REQUEST: Latinos Working for the Future is requesting to have the Mexican Flag flown at City Hall in celebration of Mexican Independence Day which is September 16, 2020. They are requesting that the flag be raised on September 12, 2020 during a flag raising ceremony and taken down on September 20, 2020. They are also requesting to host a mini event to raise the flag as well as having a drive by community children's PPE giveaway.

STAFF RECOMMENDATION: To grant the request of Latinos Working for the Future and allow them to host a mini flag raising event on September 12, 2020 in conjunction with a drive-by community children's PPE giveaway and to allow the Mexican Flag to be flown September 12, 2020 through September 20, 2020 at City Hall.

Motion by Commissioner Rinsema-Sybenga second by Vice Mayor Hood, to grant the request of Latinos Working for the Future and allow them to host a mini flag raising event on September 12, 2020 in conjunction with a drive-by community children's PPE giveaway and to allow the Mexican Flag to be flown September 12, 2020 through September 20, 2020 at City Hall.

ROLL VOTE: Ayes: German, Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, and Ramsey

Nays: None

MOTION PASSES

C. First Responder Hazard Pay Premium Program Finance

SUMMARY OF REQUEST: To authorize staff to apply for reimbursement under the State of Michigan's First Responder Hazard Pay Premium Program.

As part of the State of Michigan's CARES Act the First Responder Hazard Pay Premium Program will reimburse employers for hazard pay premiums paid to eligible employees who have performed hazardous duty or work involving physical hardship related to COVID 19 up to \$1,000 per employee.

During the months of April and May the City paid all sworn police, fire personnel, and employees working a full 40 hours who were deemed essential a flat \$100 per week. Additionally, all employees that were expected to directly interact in a face-to-face capacity with residents of handle mail or cash from outside of City hall were paid an additional \$2.50 per hour for all hours worked. Under the State CARES Act Public Safety and Public Health Payroll Reimbursement Program the City was able to apply for reimbursement of all Police and Fire wages and payroll expenditures for April and May. So we expected to be reimbursed all the essential duty and hazard duty pay and payroll costs paid to Police and Fire along with their regular pay and payroll costs.

Fire personnel have spoken to the State and confirmed that they would also be

eligible to receive an additional \$1,000 per employee that the city could be reimbursed for. The Finance office has confirmed this. The reimbursement would only be for up to \$1,000 per employee and would not reimburse the City for their payroll costs. We have 92 First Responders and have estimated the payroll costs to be \$18,581.

The application will be submitted as payment is pending approval of funds availability. The State has earmarked \$100,000,000 for this program.

AMOUNT REQUESTED: \$18,581

STAFF RECOMMENDATION: To authorize staff to apply for the State of Michigan's CARES Act First Responder Hazard Pay Premium Program.

Motion by Commissioner Johnson second by Commissioner Rinsema-Sybenga, to authorize staff to apply for the State of Michigan's CARES Act First Responder Hazard Pay Premium Program.

ROLL VOTE: Ayes: Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, Ramsey, and German

Nays: None

MOTION PASSES

D. Consumers Energy Easements Development Services

SUMMARY OF REQUEST: Staff is seeking direction for two lease agreements to provide Consumers Energy permanent access to trim, cut down, and control any trees, brush, and other vegetation. The easements also allow the company to maintain, inspect, survey, replace, reconstruct, improve, remove, replace, change the size, enlarge, and protect their electric facilities adjacent to the easement. Please note that Consumers Energy will not use the easements to construct additional facilities.

As compensation of the easements, Consumers Energy agrees to pay the city \$11,800 based on property values in the area. City staff propose to use the funds to plant trees throughout the urban core of the city with many targeted for the downtown area. Please note that the requirements for each easement are different based on how close the Consumer's line is to the City of Muskegon property line.

For the 0005-00 parcel, the Consumers line is 70' from the city's property line, and a 10' wide easement is needed to remove "danger trees" only. Danger trees are trees that could exceed 35' in height and fall into the line.

For the 0003-00 parcel, the Consumers line is 35' from the city's property line. This requires a 5' easement to remove all vegetation, and a 40' wide easement to remove "danger trees."

FUND OR ACCOUNT: Tree Replacement

STAFF RECOMMENDATION: To approve or deny the two easement agreements with Consumers Energy and authorize the mayor and clerk to sign.

Motion by Commissioner Johnson second by Commissioner Rinsema-Sybenga, to approve the two easement agreements with Consumers Energy and authorize the mayor and clerk to sign.

ROLL VOTE: Ayes: Emory, Johnson, Gawron, Hood, Ramsey, German, and Rinsema-Sybenga

Nays: None

MOTION PASSES

E. Social District Plan and Map Approval

Economic Development

SUMMARY OF REQUEST: With state enabling legislation for Social Districts, city staff is proposing a Downtown Muskegon Social District for approval of a plan and district map and filling them with the Michigan Liquor Control Commission.

Public Act 124 of 2020 allows cities to create Social Districts and within them Common Areas where alcoholic beverages from participating licensed establishments can be possessed and consumed outside of the establishments' service areas. A Downtown Muskegon Social District was presented at the August City Commission work session designed to create fun and new energy in the downtown, while assisting participating restaurants and bars to expand business during COVID-19 restrictions. The district would be managed by the city's downtown manager in conjunction with a number of city departments. The plan addresses a year-round, seven-day-a-week Social District in terms of marked boundaries, hours of operation, enforcement, security, design of a district cup, sanitation, marketing and entertainment. Since the work session, the draft plan and accompanying map have been changed to eliminate the Social District and Common Area north of Shoreline Drive and at this time the ability to carry district alcoholic beverages across Shoreline Drive. The other change was an expansion of the financing options to include fees per cup, annual establishment participation fees, daily patron wristband fees and potential district sponsorship revenues. Staff has brought together a working group of participating establishment representatives to come to a consensus on a funding model that would pay for all of the city's cost in implementing and managing the district. A resolution supporting the Downtown Muskegon Social District plan and accompanying district map is attached. If approved, the resolution, plan and map will be sent the Michigan Liquor Control Commission, operational details set and implementation begun. Participating licensee permit recommendation approvals are being requested in a separate agenda item.

STAFF RECOMMENDATION: To approve the Downtown Muskegon Social District and Map and direct the Clerk and Mayor to file it with the Michigan Liquor Control Commission and authorize staff to implement.

Motion by Commissioner Rinsema-Sybenga second by Commissioner Emory, to approve the Downtown Muskegon Social District and Map and direct the clerk and mayor to file it with the Michigan Liquor Control Commission and authorize staff to implement.

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Ramsey, German, Rinsema-Sybenga, and Emory

Nays: None

MOTION PASSES

F. Social District Permit Recommendations Economic Development

SUMMARY OF REQUEST: The City Commission must recommend approval of the Michigan Liquor Control Commission permits of participating licensed establishments in the Downtown Muskegon Social District.

With the establishment of the Downtown Muskegon Social District, participating licensed establishments must receive a Social District permit from the Michigan Liquor Control Commission. The MLCC must first receive a recommendation for approval from the City Commission before granting the permits. The attached resolution includes the names of the establishments initially seeking a Social District permit from the state and seeking City Commission recommended approval. The Social District plan identifies 22 potential participating licensees within the district. Beyond this initial group of permit applicants, other licensed establishments may file a Social District permit application in the future.

STAFF RECOMMENDATION: To approve the resolution recommending Michigan Liquor Control Commission approval of Social District permits in the Downtown Muskegon Social District and to direct the City Clerk to certify the City Commission action with the MLCC.

Motion by Vice Mayor Hood second by Commissioner Johnson, to approve the resolution recommending Michigan Liquor Control Commission approval of Social District permits in the Downtown Muskegon Social District and to direct the City Clerk to certify the City Commission action with the MLCC.

ROLL VOTE: Ayes: Gawron, Hood, Ramsey, German, Rinsema-Sybenga, Emory, and Johnson

Nays: None

MOTION PASSES

G. EDA (Economic Development Administration) Public Works and Economic Adjustment Assistance Program Grant Economic Development

SUMMARY OF REQUEST: Staff is requesting authorization to apply for a grant through the Economic Development Administration (EDA) Public Works & Economic Adjustment Assistance Program, with a commitment of matching

funds, to assist in making necessary infrastructure improvements at the former state-owned West Shoreline Correctional Facility, currently within the Port City Industrial Park, located at 2725 Olthoff Drive.

Staff is seeking to apply for a \$3,500,000 grant through the EDA Public Works and Economic Adjustment Assistance Program and commit \$700,000 in match towards a total \$4.2M project.

The City took ownership of the 61.96 acre project site on 6/25/19 through the assistance of a \$4 million state grant in 2018. Due care, demolition and site preparation activities have been completed and approximately \$700,000 of the original grant remains unspent. The EDA grant would result in infrastructure improvements, including water, sewer and transportation network upgrades to support future industrial and commercial redevelopment onsite as well as within the Industrial Park complex. Specific improvements include: up-sizing sanitary sewer capacity of the Olthoff & DeBaker Gravity Sanitary Sewer line & Sherman Boulevard Gravity Sanitary Sewer line; extending sanitary & water lateral stub outs from Olthoff into project site; as well as undergoing pavement reconstruction of a portion of Keating Avenue which is the last piece of original road in the Industrial Park.

Total estimated project cost is \$4,214,000. Applicant match shared requirement is 20% and EDA expects to fund at least 80% of project amount. Matching funds derived from remaining balance of 2018 state grant; approximately \$700,000. Estimated engineering costs of \$451,500 is a grant-eligible expense. The City is well positioned to leverage this redevelopment opportunity as it will make our region more competitive in attracting new investment and job creation given the site's proximity to water/sewer infrastructure, access to a variety of transportation networks and available workforce.

AMOUNT REQUESTED: \$700,000

FUND OR ACCOUNT: 482-91908, State Grants

STAFF RECOMMENDATION: Approve the resolution of support and authorize the Mayor and Clerk to sign and commit to funding the required match if the project is selected.

Motion by Commissioner Rinsema-Sybenga second by Vice Mayor Hood, to approve the resolution of support and authorize the Mayor and Clerk to sign and commit to funding the required match if the project is sealed.

ROLL VOTE: Ayes: Hood, Ramsey, German, Rinsema-Sybenga, Emory, Johnson, and Gawron

Nays: None

MOTION PASSES

H. Amendment to the Zoning Ordinance – Marihuana Facilities Overlay District Expansion Planning

SUMMARY OF REQUEST: Staff initiated request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to several other locations.

STAFF RECOMMENDATION: To approve the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overly district as presented.

Motion by Commissioner Rinsema-Sybenga second by Commissioner German, to approve the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district not as presented but minus District 1, 2, 3 and 6 – District 4 and 5 for approval.

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

Nays: Ramsey, Emory, and Johnson

MOTION PASSES

PUBLIC COMMENT ON NON-AGENDA ITEMS: No public comments were received.

2020-58 CLOSED SESSION:

Attorney/Client Confidential Communication

Motion by Commissioner Rinsema-Sybenga second by Commissioner German, to go into closed session to discuss Attorney/Client Confidential Communication.

ROLL VOTE: Ayes: German, Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, and Ramsey

Nays: None

MOTION PASSES

Motion by Commissioner Johnson second by Commissioner Rinsema-Sybenga, to come out of closed session.

ROLL VOTE: Ayes: Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, Ramsey, and German

Nays: None

MOTION PASSES

Motion by Commissioner Johnson second by Commissioner Rinsema-Sybenga, to waive confidentiality and release all contents of the Parmenter Law report to the public.

ROLL VOTE: Ayes: Emory, Johnson, Gawron, Hood, Ramsey, German, and Rinsema-Sybenga

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Commissioner Johnson suggested trying to have the next general session meeting in person at Hackley Park or at the Mercy Health Arena, maintaining social distancing, etc., if it can be worked out logistically.

ADJOURNMENT: The City Commission meeting adjourned at 10:00 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk