

CITY OF MUSKEGON

CITY COMMISSION MEETING

AUGUST 23, 2005

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. FIRST READING – Amendment to the City Code of Ordinances Regarding Sale of Impounded Vehicles. PUBLIC SAFETY
 - C. FIRST READING – Rezoning Request for Property Located at 137 & 109 E. Laketon Avenue. PLANNING & ECONOMIC DEVELOPMENT
 - D. FIRST READING – Zoning Ordinance Amendment for Exempt Signs. PLANNING & ECONOMIC DEVELOPMENT
 - E. FIRST READING – Zoning Ordinance Amendment for Corner Clearance. PLANNING & ECONOMIC DEVELOPMENT
 - F. Approval of Bid Acceptance for Surplus Surveillance Equipment. PLANNING & ECONOMIC DEVELOPMENT
 - G. Revocation of a Neighborhood Enterprise Zone Certificate for 436 Catawba Avenue. PLANNING & ECONOMIC DEVELOPMENT
 - H. Revocation of a Neighborhood Enterprise Zone Certificate for 186 Mason. PLANNING & ECONOMIC DEVELOPMENT
 - I. Revocation of a Neighborhood Enterprise Zone Certificate for 1252 Adams Avenue. PLANNING & ECONOMIC DEVELOPMENT
- ❑ PUBLIC HEARINGS:

A. Review 2004-2005 Consolidated Annual Performance Evaluation Report. COMMUNITY AND NEIGHBORHOOD SERVICES

❑ COMMUNICATIONS:

❑ CITY MANAGER'S REPORT:

❑ UNFINISHED BUSINESS:

A. Concurrence with the Housing Board of Appeals Notice and Order to Demolish – 1538 Hudson. PUBLIC SAFETY

❑ NEW BUSINESS:

A. County Wastewater Bond Contract. CITY MANAGER

B. Designation of Voting Delegates for Michigan Municipal League Conference. CITY CLERK

C. Exterior Vehicle Cleaning. PUBLIC SAFETY

D. Purchase of Replacement Body Armor. PUBLIC SAFETY

E. Sale of Parcel in Seaway Industrial Park. PLANNING & ECONOMIC DEVELOPMENT

F. Approval of Sale of City Owned Home at 253 Walton. COMMUNITY AND NEIGHBORHOOD SERVICES

G. Approval of Sale of City Owned Home at 259 Walton. COMMUNITY AND NEIGHBORHOOD SERVICES

H. County / City Community Development Block Grant Agreement. CITY MANAGER

I. Award Infrastructure Contract for Western Avenue. CITY MANAGER

❑ 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.)

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

Date: August 23, 2005
To: Honorable Mayor and City Commissioners
From: Gail A. Kunding, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes for the July 28th Special Commission Meeting, the August 8th Commission Worksession, and the August 9th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

AUGUST 23, 2005

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 5:33 p.m., Tuesday, August 23, 2005.

Mayor Warmington opened the meeting with a prayer from Reverend Nana Kratochvil from Harbor Unitarian Universalist Congregation 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 Bill Larson, Commissioner Clara Shepherd, Lawrence Spataro, Chris Carter, Kevin Davis, and Stephen Gawron, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Gail Kundinger.

2005-77 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the July 28th Special Commission Meeting, the August 8th Commission Worksession, and the August 9th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. FIRST READING – Amendment to the City Code of Ordinances Regarding Sale of Impounded Vehicles. PUBLIC SAFETY

SUMMARY OF REQUEST: Police Department staff is requesting the Commission amend City Ordinance 46-33 which regulates the sale of impounded vehicles. Language in the current ordinance mandates that we notify the owner in writing and that the notice be "delivered in person or sent by registered mail..." We ask that the language be amended to read "delivered in person or sent by first-class mail..." This new proposed language is the same as state law.

FINANCIAL IMPACT: Reduction in the cost of mailings.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of this request.

C. FIRST READING – Rezoning Request for Property Located at 137 & 109 E. Laketon Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the property located at 137 and 109 E. Laketon Avenue, from R-1, One Family Residential to B-2, Convenience and Comparison Business.

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 August 10th meeting. The vote was unanimous with B. Mazade absent.

E. FIRST READING – Zoning Ordinance Amendment for Corner Clearance. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2331 (Landscaping, Fencing, Walls, Screens and Lighting, #16.) of Article XXIII (General Provisions) to add corner clearance requirements for driveways.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend the "Landscaping, Fencing, Walls, Screens and Lighting", (#16), language to add corner clearance requirements for driveways.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the amendment at their August 11th meeting. The vote was unanimous in favor of the amendment, with B. Mazade absent.

F. Approval of Bid Acceptance for Surplus Surveillance Equipment. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The Planning Department has requested bids to sell off surplus surveillance equipment. The piece of equipment is the Pelco brand DX 2000 Series Digital Video Recorder that was used sparingly because the City's surveillance needs have changed. In an attempt to cover the potential costs of buying new equipment to better suit our current needs, bids were requested on the used equipment. The request of the Commission is to approve the highest bid on the digital video recorder.

FINANCIAL IMPACT: The initial purchase cost of the unit was \$2,489 plus shipping.

The highest bid received was \$2,512. That money would be used to purchase new surveillance equipment.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Two bids were received: Pulaski Lodge in the amount of \$2,512 and WMKG in the amount of \$207.39. Staff recommends that the Commission accept Pulaski Lodge's bid of \$2,512 on the City's digital video recorder.

I. Revocation of a Neighborhood Enterprise Zone Certificate for 1252 Adams Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Annie Brown and Daryl Jefferson are in violation of Section 207.781 sec. 11 subsection (4). They have failed to pay 2003 taxes for the property located at 1252 Adams Avenue. Approval or denial by the City Commission is required and must be forwarded to the State Tax Commission. Staff sent the owners a letter and a copy of the past due tax bill on June 30, 2005, giving them until July 31, 2005, to pay the taxes. They remain unpaid.

FINANCIAL IMPACT: The property will no longer be able to take advantage of the certificate number 99-001 which allowed taxation at 50% of the State average for a stated number of years.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve revocation of the Neighborhood Enterprise Zone certificate and have the Mayor and City Clerk sign the resolution and submit it to the State Tax Commission.

Motion by Commissioner Carter, second by Commissioner Davis to approve the Consent Agenda as read with the exception of items D, G, and H.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, and Shepherd

Nays: None

MOTION PASSES

2005-78 ITEMS REMOVED FROM THE CONSENT AGENDA:

D. FIRST READING – Zoning Ordinance Amendment for Exempt Signs. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2334 (Signs, #5.) of Article XXIII (General Provisions) to amend the sign ordinance language to allow one additional flag per premise.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the

Zoning Ordinance to amend the sign ordinance language regarding "Exempt Signs".

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the amendment at their August 11th meeting. The vote was unanimous in favor of the amendment, with B. Mazade absent.

Motion by Commissioner Carter, second by Commissioner Gawron to approve the amendment of the Zoning Ordinance for "Exempt Signs".

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis

Nays: None

MOTION PASSES

G. Revocation of a Neighborhood Enterprise Zone Certificate for 436 Catawba Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Charles and Inez Johnson are in violation of Section 207.781 sec. 11 subsection (4). They have failed to pay 2000, 2001, 2002, 2003, and 2004 taxes for the property located at 436 Catawba Avenue. Approval or denial by the City Commission is required and must be forwarded to the State Tax Commission. Staff sent the owners a letter and a copy of the past due tax bill on June 30, 2005, giving them until July 31, 2005, to pay the taxes. They remain unpaid.

FINANCIAL IMPACT: The property will no longer be able to take advantage of the certificate number 94-064 which allowed taxation at 50% of the State average for a stated number of years.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve revocation of the Neighborhood Enterprise Zone certificate and have the Mayor and City Clerk sign the resolution and submit it to the State Tax Commission.

H. Revocation of a Neighborhood Enterprise Zone Certificate for 186 Mason. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: DLJ Mortgage Capital REO, LLC, is in violation of Section 207.781 sec. 11 subsection (4). They have failed to pay 2000, 2001, 2003, and 2004 taxes for the property located at 186 Mason Avenue. Approval or denial by the City Commission is required and must be forwarded to the State Tax Commission. Staff sent the owners a letter and a copy of the past due tax bill on June 30, 2005, giving them until July 31, 2005, to pay the taxes. They remain unpaid.

FINANCIAL IMPACT: The property will no longer be able to take advantage of the certificate number 94-065 which allowed taxation at 50% of the State

average for a stated number of years.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve revocation of the Neighborhood Enterprise Zone certificate and have the Mayor and City Clerk sign the resolution and submit it to the State Tax Commission.

Motion by Commissioner Carter, second by Vice Mayor Larson to approve the revocation of the Neighborhood Enterprise Zone certificates for 436 Catawba and 186 Mason.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

2005-79 PUBLIC HEARINGS:

A. Review 2004-2005 Consolidated Annual Performance Evaluation Report. COMMUNITY AND NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To conduct a public hearing on August 23, 2005, to review accomplishments and receive comments from the public concerning the 2004-2005 Consolidated Annual Performance Evaluation Report developed by the Community and Neighborhood Services Department. After the public hearing has been conducted and all the comments have been documented, the Community and Neighborhood Services Office request that the Commission direct the staff to submit the required documents to Housing and Urban Development in compliance with 24 CFR 91.520, by no sooner than August 31, 2005.

FINANCIAL IMPACT: The City is required to submit the CAPER Report in order to continue receiving CDBG and HOME funding.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To direct staff to gather comments from the public and to submit the Consolidated Annual Performance Evaluation Report to Housing and Urban Development after the public comment period has elapsed.

The Public Hearing opened at 5:46 p.m. to hear and consider any comments from the public. Wil Griffin gave a PowerPoint presentation. Comments were heard from Susan Coulter-Meyers, Disability Connections and from Edward Spann, 253 Walton.

Motion by Commissioner Carter, second by Commissioner Shepherd to close the Public Hearing at 6:17 p.m. and approve the review of the 2004-2005 Consolidated Annual Performance Evaluation Report.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson

Nays: None

MOTION PASSES

2005-80 UNFINISHED BUSINESS:

A. Concurrence with the Housing Board of Appeals Notice and Order to Demolish 1538 Hudson – Tabled from July 26, 2005. PUBLIC SAFETY

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structure located at 1538 Hudson, Area 12, is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: General Funds.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Spataro, second by Commissioner Gawron to concur with the Housing Board of Appeals notice and order to demolish 1538 Hudson.

ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, and Spataro

Nays: None

MOTION PASSES

2005-81 NEW BUSINESS:

A. County Wastewater Bond Contract. CITY MANAGER

SUMMARY OF REQUEST: To approve the Muskegon County Wastewater System – Number One Series 2005 Bond Contract and Resolution Approving Department of Public Works Contract. These documents commit the City to its share (37.13%) of a \$17.5 million bond issue for improvements to the county wastewater system.

FINANCIAL IMPACT: The City will be required to pledge its limited full faith and credit for the payment of the principal and interest of the bonds.

BUDGET ACTION REQUIRED: This new debt service will need to be accounted for in the 2006 budget and beyond.

STAFF RECOMMENDATION: To approve the contract and resolution, and authorize the Mayor and Clerk to execute them.

Motion by Vice Mayor Larson, second by Commissioner Spataro to approve the Muskegon County Wastewater System – Number One Series 2005 bond contract and resolution approving Department of Public Works contract.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, and Carter

Nays: None

MOTION PASSES

B. Designation of Voting Delegates for Michigan Municipal League Conference. CITY CLERK

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 alternate.

STAFF RECOMMENDATION: Approval

Motion by Commissioner Carter, second by Commissioner Davis to designate Commissioner Shepherd as the official representative to the Michigan Municipal League as the voting delegate.

ROLL VOTE: Ayes: Larson, Shepherd, Carter, Davis, and Gawron

Nays: None

Absent: Spataro and Warmington (stepped out of the room)

MOTION PASSES

Motion by Commissioner Davis, second by Commissioner Carter to designate Gail Kunding as the alternate.

ROLL VOTE: Ayes: Shepherd, Warmington, Carter, Davis, Gawron, and Larson

Nays: None

Absent: Spataro (stepped out of the room)

MOTION PASSES

C. Exterior Vehicle Cleaning. PUBLIC SAFETY

SUMMARY OF REQUEST: Bids were solicited and have been accepted for the exterior cleaning of police vehicles for the City of Muskegon. This bid covers a two-year contract beginning September 1, 2005 – August 31, 2007.

Four companies submitted bids. They were (1) West Shore Wash, 1931 E. Sherman; (2) Letavis, 8478 Miller Rd., Swartz Creek; (3) The Bird Bath, 2417 S. Getty; and (4) Van's Car Wash, 1230 W. Sherman.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Based upon the bid proposals, we recommend that Van's Car Wash be awarded this contract.

Motion by Vice Mayor Larson, second by Commissioner Gawron to award the contract for exterior vehicle cleaning to Van's Car Wash.

ROLL VOTE: Ayes: Spataro, Warmington, Davis, Gawron, Larson, and Shepherd

Nays: None

Absent: Carter (stepped out of the room)

MOTION PASSES

D. Purchase of Replacement Body Armor. PUBLIC SAFETY

SUMMARY OF REQUEST: We received notice from Second Chance Body Armor on June 23rd of this year advising us that the body armor currently being worn by members of the Police Department may be subject to unexpected failure. We immediately began the process of seeking out a replacement vest with two guidelines in mind. First, the vest must be custom fit. Second, it must meet the criteria for Level II protection (national standard).

There are two custom-fit body armor products currently available to us; Gatorhawk, which is provided by Nye Uniform in Grand Rapids and First Choice, which is sold by Michigan Police Equipment of Charlotte, Michigan. Both vendors currently serve this department.

Based upon field tests and feedback from our officers, I am recommending the purchase of the First Choice MF8 vest. This vest meets our guidelines. The price quoted to us of \$398 per unit includes two vest carriers and a soft trauma pack. The vest does not contain Zylon. Based upon the fact that we need to replace 80 vests, I am requesting that you authorize the expenditure of \$32,000 from the State Criminal forfeiture Fund in order to complete this purchase.

FINANCIAL IMPACT: Expend \$32,000 from the State Criminal Forfeiture Fund which leaves a balance of approximately \$37,000.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of this request.

Motion by Vice Mayor Larson, second by Commissioner Gawron to authorize the expenditure of \$32,000 from the State Criminal Forfeiture Fund for the purchase of replacement body armor.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

E. Sale of Parcel in Seaway Industrial Park. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of Lot #6 in Seaway Industrial Park to Wood Trucking Company, 2540 Lakeshore Drive, Muskegon, Mi 49441. The purchase price is \$61,000 (asking price \$64,000). This company is currently located on the Sappi property, and will need to move in light of the recent downsizing of the Sappi plant. They plan to invest \$100,000 in a 4,000 sq. ft. building, plus a parking lot. Presently they employ 15-22 people, depending on the season. Of these jobs, 4-5 are directly related to work performed for Sappi. They may be initially lost due to the loss of work, however, the hope is that once Wood Trucking relocates and can pick up other business, those employees would be recalled to work.

FINANCIAL IMPACT: The sale of this lot, while it is located in a Renaissance Zone, will still generate City of Muskegon income tax.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and the Clerk to sign said resolution, deed, and all other necessary documents.

Motion by Commissioner Gawron, second by Commissioner Spataro to approve the sale of lot #6 in Seaway Industrial Park to Wood Trucking Company.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis

Nays: None

MOTION PASSES

F. Approval of Sale of City Owned Home at 253 Walton. COMMUNITY AND NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution and instruct the Community and Neighborhood Services Department to complete the sale transaction between Mr. Edward Spann for the new Infill home at 253 Walton which is part of the Operation Walton Renaissance also known as Hill Top View, which is a joint project between the City of Muskegon, Fifth Third Bank, and Neighborhood Investment Corporation. Mr. Spann's purchase price is \$134,000 with a subsidy of \$39,000.

The land where the new home now stands is a former Urban Renewal area overlooking the City's present Farmers Market and is another example of the City's continuing efforts to redevelop its urban neighborhoods by attracting home purchasers, especially young purchasers, to the City of Muskegon.

FINANCIAL IMPACT: The majority of the \$95,000 proceeds from the sale will be used to reimburse Fifth Third Bank for their \$60,000 invest in the project which

was used to finance the cost of the new street between Murphy and Emerald.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution.

Motion by Commissioner Shepherd, second by Commissioner Spataro to approve the resolution and instruct the Community and Neighborhood Services Department to complete the sale transaction between Mr. Edward Spann for the new Infill home at 253 Walton.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson

Nays: None

MOTION PASSES

G. Approval of Sale of City Owned Home at 259 Walton. COMMUNITY AND NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution and instruct the Community and Neighborhood Services Department to complete the sale transaction between Mr. Tyrone Marshall for the new Infill home at 259 Walton which is part of the Operation Walton Renaissance also known as Hill Top View, which is a joint project between the City of Muskegon, Fifth Third Bank and Neighborhood Investment Corporation. Mr. Marshall's purchase price is \$155,000 with a subsidy of \$60,000.

The land where the new home now stands is a former Urban Renewal area overlooking the City's present Farmers Market and is another example of the City's continued efforts to redevelop its urban neighborhoods by attracting home purchasers, especially young purchasers, to the City of Muskegon.

FINANCIAL IMPACT: The majority of the \$95,000 proceeds from the sale will be used to reimburse Fifth third Bank for their \$60,000 invest in the project which was used to finance the cost of the new street between Murphy and Emerald.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution.

Motion by Commissioner Spataro, second by Commissioner Gawron to approve the resolution and instruct the Community and Neighborhood Services Department to complete the sale transaction between Mr. Tyrone Marshall for the new Infill home at 259 Walton.

ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, and Spataro

Nays: None

MOTION PASSES

H. County / City Community Development Block Grant Agreement. CITY MANAGER

SUMMARY OF REQUEST: To approve the Agreement between the City and the County for the expenditure of Community Development Block Grant funds for the Downtown Western Avenue Redevelopment project.

FINANCIAL IMPACT: The City will receive \$1 million in grant funds from the State of Michigan, through the County of Muskegon for the project.

BUDGET ACTION REQUIRED: None.

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

Motion by Vice Mayor Larson, second by Commissioner Spataro to approve the agreement between the City and the County for expenditure of Community Development Block Grant funds for the Downtown Western Avenue Redevelopment project.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, and Carter

Nays: None

MOTION PASSES

I. Award Infrastructure Contract for Western Avenue. CITY MANAGER

SUMMARY OF REQUEST: To award the contract to construct Western Avenue from Third Street to Terrace Street to Milbocker and Sons for the amount of \$1,246,574.88.

FINANCIAL IMPACT: \$1,246,574.88; it is anticipated that decorative concrete work (\$477,920.57) will be added at a later date through a change order.

BUDGET ACTION REQUIRED: The 3rd quarter 2005 and 2006 budgets will be adjusted to accommodate this project.

STAFF RECOMMENDATION: To award the contract to Milbocker and Sons in the amount of \$1,246,574.88 and authorize the Mayor and Clerk to execute the contract.

COMMITTEE RECOMMENDATION: The City Commission met on August 9, 2005, and determined that Milbocker alternative #3 would be selected, which would include beginning the construction in 2005, but the concrete work would be done in 2006, thus allowing the concrete work to be awarded to a minority contractor (Martin J. Concrete).

Motion by Commissioner Spataro, second by Commissioner Shepherd to award the infrastructure contract for Western Avenue to Milbocker and Sons using alternative #3.

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, and
Gawron

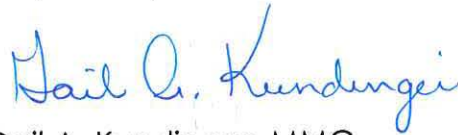
Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Various comments were heard.

ADJOURNMENT: The City Commission Meeting adjourned at 7:18 p.m.

Respectfully submitted,

A handwritten signature in blue ink that reads "Gail A. Kunding". The signature is written in a cursive, flowing style.

Gail A. Kunding, MMC
City Clerk

CITY COMMISSION MEETING
Tuesday August 23, 2005

TO: Honorable Mayor and City Commissioners

FROM: Anthony L. Kleibecker
Director of Public Safety

DATE: August 15, 2005

SUBJECT: Amendment to City Ordinance 46-33/Sale of Impounded Vehicles

SUMMARY OF REQUEST:

Police Department staff is requesting the commission amend City Ordinance 46-33 which regulates the sale of impounded vehicles. Language in the current ordinance mandates that we notify the owner in writing and that the notice be "delivered in person or sent by registered mail..." We ask that the language be amended to read "delivered in person or sent by first-class mail..." This new proposed language is the same as state law.

FINANCIAL IMPACT:

Reduction in the cost of mailings.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval of this request.

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. 2158

An Ordinance amending Chapter 46, Section 46-33 of the Code of Ordinances concerning police department sale of impounded vehicles.

THE CITY OF MUSKEGON HEREBY ORDAINS:

Chapter 46 of the Code of Ordinances shall be amended to read as follows:

Sec. 46-33. Sale of impounded vehicles.

An vehicle impounded by seizure under any city ordinance may, after one month from date of seizure, be sold by the police department, either at private or public sale, to the highest bidder, after first giving the owner of the car, as is shown to be in the office of the secretary of the state in which the car is licensed, on the day of seizure, a notice of seizure and proposed sale, in writing, delivered in person *or sent by first-class mail* addressed to such person at the owner's place of business or residence as shown in such secretary of state's office.

This ordinance adopted:

Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, and Shepherd
Nays: None

Adoption Date: August 23, 2005

Effective Date: September 6, 2005

First Reading: August 23, 2005

Second Reading: N/A

CITY OF MUSKEGON

By Gail A. Kunderger
Gail A. Kunderger, MMC
Clerk, City of Muskegon

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 23 day of August, 2005, 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 Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: August 23, 2005


Gail A. Kunderinger, 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**

TO: ALL PERSONS INTERESTED

Please take notice that on August 23, 2005, the City Commission of the City of Muskegon adopted an amendment to Chapter 46 of the Muskegon City Code concerning police department sale of impounded vehicles. Sec. 46-33 is amended to read as follows:

Sec. 46-33. Sale of impounded vehicles.

An vehicle impounded by seizure under any city ordinance may, after one month from date of seizure, be sold by the police department, either at private or public sale, to the highest bidder, after first giving the owner of the car, as is shown to be in the office of the secretary of the state in which the car is licensed, on the day of seizure, a notice of seizure and proposed sale, in writing, delivered in person or sent by first-class mail addressed to such person at the owner's place of business or residence as shown in such secretary of state's office.

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 (10) days from the date of this publication.

Published: August 27, 2005

CITY OF MUSKEGON

By _____
Gail A. Kunder, MMC
Clerk, City of Muskegon

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

Commission Meeting Date: August 23, 2005

Date: August 12, 2005
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development *cb*
RE: Rezoning request for property located at 137 & 109 E. Laketon Avenue

SUMMARY OF REQUEST:

Request to rezone the property located at 137 and 109 E. Laketon Avenue, from R-1, One Family Residential to B-2, Convenience and Comparison Business.

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 8/10 meeting. The vote was unanimous with and B. Mazade absent.

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. 2159

An ordinance to amend the zoning map of the City to provide for a zone change for certain properties from R-1 "One Family Residential" to B-2 "Convenience and Comparison Business"

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 R-1 "One Family Residential" to B-2 "Convenience and Comparison Business":

CITY OF MUSKEGON PLAT A MUSKEGON HTS LOT 1 & N 10 FT LOT 2 BLK 4
And

CITY OF MUSKEGON PLAT A MUSKEGON HTS LOTS 23 & 24 BLK 4

This ordinance adopted:

Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, and Shepherd

Nayes: None

Adoption Date: August 23, 2005

Effective Date: September 6, 2005

First Reading: August 23, 2005

Second Reading: N/A

CITY OF MUSKEGON

By: Gail A. Kunderger

Gail A. Kunderger, MMC
Clerk

CERTIFICATE (Rezoning of 137 & 109 E. Laketon Avenue R-1 to B-2)

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 August, 2005, 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 Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: August 23, 2005.



Gail A. Kunding, 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 August 23, 2005, 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 R-1 "One Family Residential" to B-2 "Convenience and Comparison Business":

CITY OF MUSKEGON PLAT A MUSKEGON HTS LOT 1 & N 10 FT LOT 2 BLK 4
And

CITY OF MUSKEGON PLAT A MUSKEGON HTS LOTS 23 & 24 BLK 4

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 August 27, 2005

CITY OF MUSKEGON

By _____
Gail A. Kunding, 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**

August 11, 2005

Hearing; Case 2005-23; Request to rezone the properties located at 137 and 109 E. Laketon Avenue from R-1, One Family Residential to B-2, Convenience and Comparison Business, by James Anthony.

BACKGROUND

<u>Applicant:</u>	James Anthony
<u>Property Address/Location</u>	137 & 109 E. Laketon Avenue
<u>Request:</u>	Rezone from R-1, One Family Residential to B-2, Convenience and Comparison Business
<u>Present Land Use:</u>	Commercial & Residential
<u>Zoning:</u>	R-1, One Family Residential

STAFF OBSERVATIONS

1. These two parcels contain two commercial buildings. The building at 137 E. Laketon Avenue houses Lakeshore Rehabilitation Center. The building at 109 E. Laketon Avenue has been rehabilitated to have housing on the second floor and a commercial space on the first floor.
2. It appears from City records that these properties were previously zoned B-1, which allowed the use of the properties to be commercial. Records aren't clear as to when it was zoned R-1, but the properties then held legal nonconforming status.
3. An attempt was made in 1993 to rezone the properties to B-4, General Business. The request was denied by the City Commission.
4. The first floor of 109 E. Laketon Avenue has lost it's nonconforming status for commercial uses. The applicant wishes to again establish a commercial use in the lower level of the property.
5. The rezoning of 137 E. Laketon Avenue would bring this property into compliance with the proper zoning.
6. The property to the North, which includes the Hackley Hospital campus is zoned MC, Medical Care. The properties to the East and South are zoned R-1, One Family Residential, and the property to the West is March Field, and it is zoned OSR, Open Space Recreation.

7. At one time the Larch Court apartments were located directly across Laketon Avenue to the north. This complex contained several multi-family units.
8. Staff has no received no comments regarding this request.

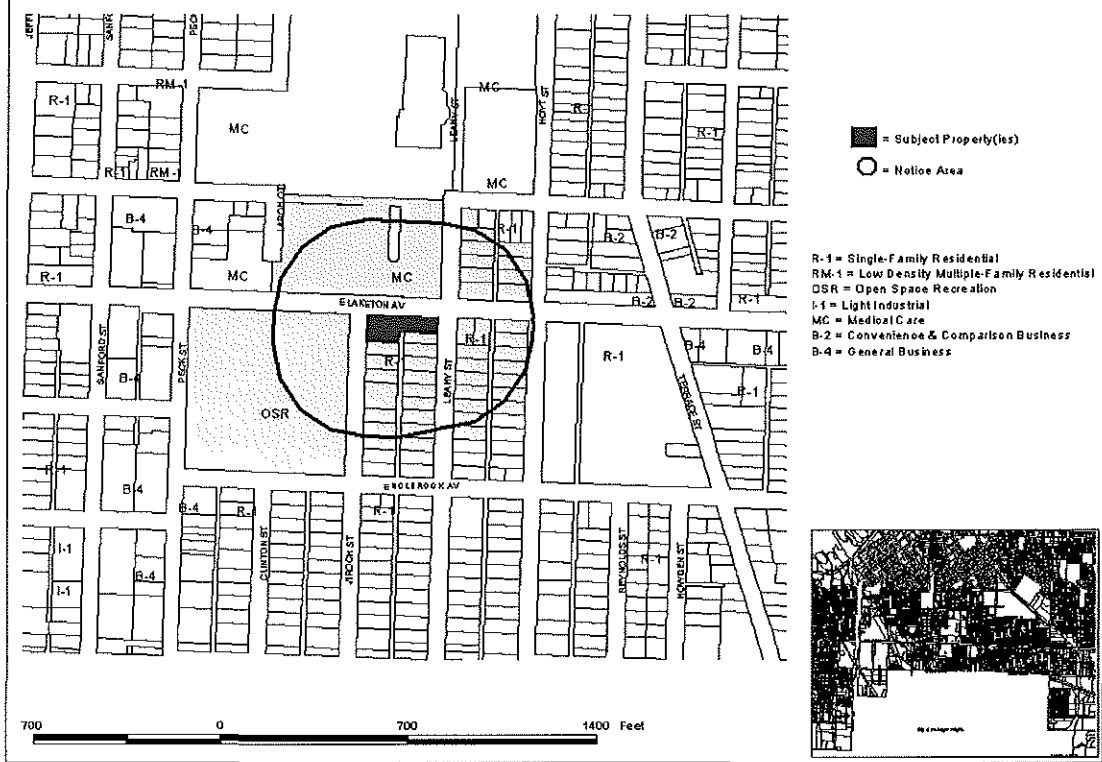


137 E. Laketon Avenue



109 E. Laketon Avenue

**City of Muskegon
Planning Commission
Case # 2005-23**



RECOMMENDATION

The Master Plan's Future Land Use Map shows the area where these sites are located to be R-1. It would be impossible for the Master Land Use Plan to address every parcel in the City, and perhaps these two sites were overlooked in the planning process. The Master Plan does recommend the following: "Implement, through zoning, buffer requirements associated with the placement of non-residential uses contiguous to residential development." A fence is used to screen between the two parcels and the residential neighborhood behind them. Rezoning of these properties would provide a buffer between the Hackley Hospital campus and the residential neighborhood. There are small commercial areas to the East, beyond Moon School (B-4 & B-2), and to the West on the other side of Marsh Field (B-4). Since both buildings are of a commercial design, and residential would be incorporated into the second floor of the building at 109 E. Laketon, a commercial zoning seems to make sense.

Staff recommends approval of the request to rezone the subject properties from R-1 to B-2 because the request conforms to the goals and recommendations of the 1997 Master Plan.

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 properties located 137 and 109 E. Laketon Avenue from R-1, One Family Residential district to B-2, Convenience and Comparison 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 Plan and zoning district intent.

Commission Meeting Date: August 23, 2005

Date: August 12, 2005
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development *CBC*
RE: Zoning Ordinance Amendment to the Zoning Ordinance
Language for Corner Clearance

SUMMARY OF REQUEST:

Request to amend Section 2331 (Landscaping, Fencing, Walls, Screens and Lighting, #16.) of Article XXIII (General Provisions) to add corner clearance requirements for driveways.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends amendment of the Zoning Ordinance to amend the "Landscaping, Fencing, Walls, Screens and Lighting", (#16), language to add corner clearance requirements for driveways.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the amendment at their 8/11 meeting. The vote was unanimous in favor of the amendment, with B. Mazade absent.

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

August 11, 2005

Hearing; Case 2005-29: Staff initiated request to amend Section 2331 (Landscaping, Fencing, Walls, Screens and Lighting, #16), Article XXIII (General Provisions) of the zoning ordinance, to add corner clearance requirements for driveways.

BACKGROUND

Present corner clearance ordinance language refers only to intersections when requiring clear vision regarding landscaping, fences, wall, screens, etc. Several situations have come up in recent months where this language was applied to require removal of objects blocking clear vision. Staff would like the ordinance language to clearly state that this also applies to driveways, as well as intersections, for safety reasons.

NEW LANGUAGE

Deletions are ~~crossed-out~~ and additions are **bold**.

16. Corner Clearance: The following regulations shall apply to all landscaping, fences, walls, screens, or similar devices at street intersections **or driveways**:

- a. No fence, wall, sign, or screen or any planting shall be erected or maintained in such a way as to obstruct vision or interfere with traffic visibility on a curve, or within twenty-five (25) feet of the right-of-way of a street.
- b. No fence, wall, sign, screen or planting shall be erected or maintained in such a way as to obstruct vision, between a height of three (3) and ten (10) feet, within twenty-five (25) feet of the right-of-way of a street.
- c. No structure, hazard or obstruction shall be placed or maintained in the right-of-way, except as may be approved by the city.

DELIBERATION

I move that the amendment to Section 2331 (Landscaping, Fencing, Walls, Screens and Lighting, #16), Article XXIII (General Provisions), to amend the language to add corner clearance requirements for driveways, be recommended to the City Commission for (approval/denial).

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. 2160

An ordinance to amend Section 2331 (Landscaping, Fencing, Walls, Screens and Lighting, (#16.) of Article XXIII (General Provisions) of the Zoning Ordinance to amend the ordinance language regarding "Corner Clearance".

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

Section 2331 (Landscaping, Fencing, Walls, Screens and Lighting, #16.) of Article XXIII (General Provisions) is hereby amended to include language regarding driveways under "Corner Clearance":

16. Corner Clearance: The following regulations shall apply to all landscaping, fences, walls, screens, or similar devices at street intersections **or driveways**:

- d. No fence, wall, sign, or screen or any planting shall be erected or maintained in such a way as to obstruct vision or interfere with traffic visibility on a curve, or within twenty-five (25) feet of the right-of-way of a street.
- e. No fence, wall, sign, screen or planting shall be erected or maintained in such a way as to obstruct vision, between a height of three (3) and ten (10) feet, within twenty-five (25) feet of the right-of-way of a street.
- f. No structure, hazard or obstruction shall be placed or maintained in the right-of-way, except as may be approved by the city.

This ordinance adopted:

Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, and Shepherd

Nays: None

Adoption Date: August 23, 2005

Effective Date: September 6, 2005

First Reading: August 23, 2005

Second Reading: N/A

CITY OF MUSKEGON

By: Gail A. Kundinger
Gail A. Kundinger, 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 August, 2005, 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 Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: August 23, 2005.



Gail A. Kunderger, 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 August 23, 2005, the City Commission of the City of Muskegon adopted an ordinance to amend Section 2331 (Landscaping, Fencing, Walls, Screens and Lighting, (#16.) of Article XXIII (General Provisions) to amend the zoning ordinance language regarding "Corner Clearance".

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 August 27, 2005

CITY OF MUSKEGON

By _____

Gail A. Kunding, MMC
City Clerk

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

Account No. 101-80400-5354

Commission Meeting Date: August 23, 2005

Date: August 4, 2005
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department *CBC*
RE: Approval of bid acceptance for surplus
surveillance equipment

SUMMARY OF REQUEST: The Planning Department has requested bids to sell off surplus surveillance equipment. The piece of equipment is the Pelco brand DX 2000 Series Digital Video Recorder that was used sparingly because the City's surveillance needs have changed. In an attempt to cover the potential costs of buying new equipment to better suit our current needs, bids were requested on the used equipment. The request of the Commission is to approve the highest bid on the digital video recorder.

FINANCIAL IMPACT: The initial purchase cost of unit was \$2,489.00 plus shipping. The highest bid received was \$2,512.00. That money would be used to purchase new surveillance equipment.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Two bids were received: Pulaski Lodge in the amount of \$2,512.00 and WMKG in the amount of \$207.39. Staff recommends that the Commission accept Pulaski Lodge's bid of \$2,512.00 on the City's digital video recorder.

COMMITTEE RECOMMENDATION: None.



POLISH NATIONAL ALLIANCE

PULASKI LODGE GROUP #2809

871 PULASKI AVENUE
MUSKEGON, MI 49441
TELEPHONE (616) 755-3901

July 27, 2005

RECEIVED

JUL 28 2005

CITY OF MUSKEGON
PLANNING DEPARTMENT

City of Muskegon
Planning Department
933 Terrace St.
Muskegon, MI 49441

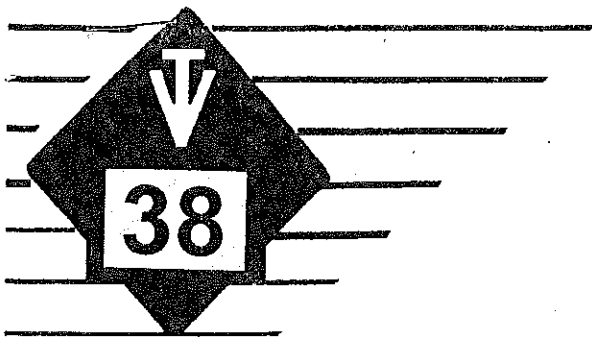
To Whom It May Concern:

Our organization would like to place a bid on the Pelco Digital Video Recorder that was advertised for sale. Our bid for this recorder is \$2512.00. We understand it is an as-is purchase.

If we should prevail in the bidding process our phone number to notify us is 231-759-8960.

Sincerely,

Mary Ann Cornett
Vice-President



JUL 22 2005
CITY
PLANNING DEPARTMENT

WMKG

DEAR SIR

JULY 25, 2005

WE WOULD
LIKE TO PLACE
A BID FOR
THIS FOR
\$ 207,39

FENTON KELLEY
4237 AIRLINE RD.
MUSKEGON MI
49444

Fenton 2 Kelley

**CITY OF MUSKEGON
SURPLUS EQUIPMENT**

Sealed bids will be received at the Planning Department, City of Muskegon, 933 Terrace St., Muskegon, Michigan, for the following surplus surveillance equipment:

(1) Pelco DX2000 Series Digital Video Recorder; 160 GB hard drive with 8 camera inputs.

This item is being sold "AS IS - WHERE IS," without warranty or guarantee of any kind intended or implied, including merchantability or fitness for a particular purpose. Each unit is the sole responsibility of the purchaser from the moment the unit is sold.

All units may be inspected and bids accepted at above location and address between 8:30 a.m. and 4:30 p.m. Monday, July 25 through Friday, July 29, 2005. The successful bidder will need to be approved by the City Commission and will be notified by telephone on Tuesday, August 2, 2005. Direct questions to Jon Witmer at (231) 724-6702.

The city reserves the right to accept or reject any and all bids.
PUBLISH: July 22, 2005

shots back at 1 over.

CITY OF MUSKEGON SURPLUS EQUIPMENT

Sealed bids will be received at the Planning Department, City of Muskegon, 933 Terrace St., Muskegon, Michigan, for the following surplus surveillance equipment:

(1) Pelco DX2000 Series Digital Video Recorder; 160 GB hard drive with 8 camera inputs.

This item is being sold "AS IS - WHERE IS," without warranty or guarantee of any kind intended or implied, including merchantability or fitness for a particular purpose. Each unit is the sole responsibility of the purchaser from the moment the unit is sold.

All units may be inspected and bids accepted at above location and address between 8:30 a.m. and 4:30 p.m. Monday, July 25 through Friday, July 29, 2005. The successful bidder will need to be approved by the City Commission and will be notified by telephone on Tuesday, August 2, 2005. Direct questions to Jon Witmer at (231) 724-6702.

The city reserves the right to accept or reject any and all bids.
PUBLISH: July 22, 2005

OLF SPECIAL i Golf Club

1.00 18 Holes w/cart Valid M-F & After
\$24.50 Sat. & Sun. before 4pm 4pm on Sat. & Sun.

5.50 Sr/Jr 18 Holes w/cart Valid M-F

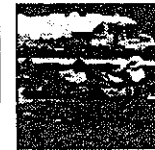
5.50 Twilight Special Valid 4pm-8pm
Mon. & Thurs. Only

rates exclude Holiday periods. Not valid with any other promotions.
Just mention add to receive rate. Exp. 8.5.05

231-834-8200
www.brigadoongolf.com

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July 22-31, Jackson MI



RaceWeek 24

July 22-23

24 hours of go-kart racing excitement at Jackson Speedway



Snowmobile Spectacular

July 23-24

Grass kicking snowmobile drag racing action



Friday Night Street Party

July 29

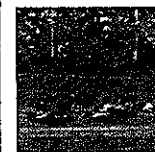
Autograph Session with IRL Drivers
Classic Car Show
JAMA Go-Kart Challenge
Indy Racing Live Stage
Indy Racing Driving Simulator
RaceWeek Fireworks Show



Firestone Indy 400

July 31

400 miles of IRL racing excitement at MIS



JacksonRaceWeek.com

AGENDA ITEM No. _____

MUSKEGON CITY COMMISSION – August 23, 2005

TO: Honorable Mayor & City Commissioners

FROM: Planning Department *CR*

DATE: August 12, 2005

SUBJECT: Revocation of a Neighborhood Enterprise Zone Certificate

SUMMARY OF REQUEST

Annie Brown/Daryl Jefferson is in violation of Sec. 207.781 sec. 11 subsection (4) which states:

If the owner of the facility fails to make the annual payment of the neighborhood enterprise zone tax and the ad valorem property tax on the land under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, the commission by order shall revoke the certificate. However, if payment of these taxes is made before the revocation is effective, the commission, upon application of the owner, shall rescind the order of revocation. If payment of these taxes and any subsequent ad valorem property tax due on the facility is made after revocation of the certificate, the commission, upon application of the owner, shall reinstate the certificate for the remaining period of time for which the original certificate would have been in effect.

Annie Brown/Daryl Jefferson have failed to pay 2003 taxes for the property located at 1252 Adams Avenue whose parcel number is 24-941-099-0001-00. Approval or denial by the City Commission is required must be forwarded to the State Tax Commission. Staff sent the owners a letter and a copy of the past due tax bill on June 30, 2005 giving them until July 31, 2005 to pay the taxes. They remain unpaid.

FINANCIAL IMPACT

The property will no longer be able to take advantage of the certificate number 99-001 which allowed taxation at 50% of the State average for a stated number of years.

BUDGET ACTION REQUIRED

None.

STAFF RECOMMENDATION

Approve revocation of the NEZ certificate and have the Mayor and City Clerk sign the resolution and submit it to the State Tax Commission.

COMMITTEE RECOMMENDATION

None.

MUSKEGON CITY COMMISSION

**RESOLUTION TO REVOKE THE NEIGHBORHOOD ENTERPRISE ZONE
CERTIFICATE # 99-001**

WHEREAS, Annie Brown/Daryl Jefferson have not paid their property taxes for the property located at 1252 Adams in the Marquette neighborhood, and;

WHEREAS, the applicant owes for property taxes for the parcel # 24-941-099-0001-00 for the tax year 2003, which does not meet the eligibility criteria for a Neighborhood Enterprise Zone Certificate;

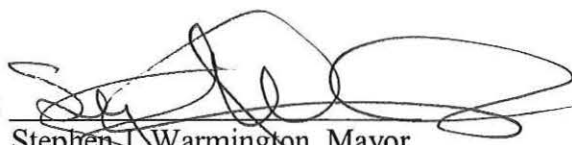
NOW, THEREFORE, BE IT RESOLVED that the Neighborhood Enterprise Zone Certificate # 99-001 be revoked.

Adopted this, 23rd day of August, 2005.

Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, and Shepherd

Nays: None

Absent: None

By: 
Stephen J. Warmington, Mayor

Attest: 
Gail Kunding, MMC
City Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on August 23, 2005.

By: 
Gail Kunding, MMC
City Clerk

Commission Meeting Date: August 23, 2005

Date: August 12, 2005
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development CBC
RE: Zoning Ordinance Amendment to the Zoning Ordinance for Exempt Signs

SUMMARY OF REQUEST:

Request to amend Section 2334 (Signs, #5.) of Article XXIII (General Provisions) to amend the sign ordinance language to allow one additional flag per premise.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends amendment of the Zoning Ordinance to amend the sign ordinance language regarding "Exempt Signs".

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the amendment at their 8/11 meeting. The vote was unanimous in favor of the amendment, with B. Mazade absent.

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

August 11, 2005

Hearing; Case 2005-28: Staff initiated request to amend Section 2334 (Signs, #5), Article XXIII (General Provisions) of the zoning ordinance, to amend the language on Exempt Signs, to allow one additional flag per premise.

BACKGROUND

Staff believes that this was inadvertently omitted when the banner language was put in place a couple of years ago. Due to the large number of requests from businesses to fly flags with company logos or names, it seems appropriate to add it back to the ordinance under "Exempt Signs". Re-lettering will be necessary to place it in the appropriate order on the list (see letter l.).

NEW LANGUAGE

Deletions are ~~crossed-out~~ and additions are **bold**.

1. **Exempt Signs:** The following signs, provided such signs are established in a lawful manner and placed so as not to cause a nuisance or create a safety hazard, are permitted without a permit: [amended 6/03]
 - a. One real estate sale and "For Rent" or "Lease" or construction sign per property not exceeding eight (8) square feet in display area when located within a residential district. For all other districts, one real estate sale and "For Rent" or "Lease" sign per major bordering street complying with the standards of Table II.
 - b. On-site political campaign signs not exceeding thirty-two (32) square feet in display area. It is recommended that they are not erected any sooner than thirty (30) days prior to the scheduled day of election for which they are made and removed within 10 days of the election.
 - c. "No Hunting", "No Trespassing", and on-premise "Garage Sale" signs not exceeding four (4) square feet in display area.
 - d. On-premise directional signs approved as part of the site plan process not exceeding two signs per road frontage and not exceeding six (6) square feet in display area or four (4) feet in height. Not more than twenty-five (25%) of the area of any directional sign may be devoted to business identification or logo.

- e. Signs identifying a building's address and/or the names of the occupants but not exceeding four (4) square feet in display area.
- f. Historic markers, signs identifying the names of a building or date of erection of a structure.
- g. Official notices of any court or public agency not exceeding twelve (12) square feet in display area.
- h. Window signs covering up to twenty five percent (25%) of the structure's total window area.
- i. Traffic control, directional, warning, or informational signs when authorized by a public agency having appropriate jurisdiction.
- j. Signs required by federal or state agencies in connection with federal or state grant projects and programs.
- k. The flags of government or noncommercial institutions.
- l. **One additional flag per premise.**
- m. Banners for special events or sales, provided:
 - 1) Banners must be made of plastic, vinyl or another similar material of professional quality.
 - 2) Banners must be neatly hung, taut and secure.
 - 3) Banners may not pose a hazard to public safety.
 - 4) A business or institution with up to one 140 feet of frontage is limited to (one) 1 banner of no more than 24 square feet.
 - 5) A business or institution with between 141 and 280 feet of frontage is limited to two (2) banners totaling no more than 48 square feet.
 - 6) A business or institution with 281 feet of frontage or more is limited to three (3) banners totaling no more than 72 square feet.
- n. Community promotional banners attached to poles located on City property may be allowed by permission of the Zoning Administrator, provided: [amended 2/04]

- 1) Banners must be made of plastic, vinyl or another similar material of professional quality.
- 2) Banners must be neatly hung, taut and secure.
- 3) Banners may not pose a hazard to public safety.
- 4) An agreement will be in place with the owner of the pole.

DELIBERATION

I move that the amendment to Section 2334 (Signs, #5), Article XXIII (General Provisions), to amend the language on Exempt Signs, to allow one additional flag per premise, be recommended to the City Commission for (approval/denial).

CITY OF MUSKEGON.

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. 2161

An ordinance to amend Section 2334 (Signs, #5.) of Article XXIII (General Provisions) of the Zoning Ordinance to amend the ordinance language regarding "Exempt Signs".

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

Section 2334 (Signs, #5.) of Article XXIII (General Provisions) is hereby amended regarding the ordinance language for "Exempt Signs":

5. **Exempt Signs**: The following signs, provided such signs are established in a lawful manner and placed so as not to cause a nuisance or create a safety hazard, are permitted without a permit: [amended 6/03]
 - a. One real estate sale and "For Rent" or "Lease" or construction sign per property not exceeding eight (8) square feet in display area when located within a residential district. For all other districts, one real estate sale and "For Rent" or "Lease" sign per major bordering street complying with the standards of Table II.
 - b. On-site political campaign signs not exceeding thirty-two (32) square feet in display area. It is recommended that they are not erected any sooner than thirty (30) days prior to the scheduled day of election for which they are made and removed within 10 days of the election.
 - c. "No Hunting", "No Trespassing", and on-premise "Garage Sale" signs not exceeding four (4) square feet in display area.
 - d. On-premise directional signs approved as part of the site plan process not exceeding two signs per road frontage and not exceeding six (6) square feet in display area or four (4) feet in height. Not more than twenty-five (25%) of the area of any directional sign may be devoted to business identification or logo.
 - e. Signs identifying a building's address and/or the names of the occupants but not exceeding four (4) square feet in display area.
 - f. Historic markers, signs identifying the names of a building or date of erection of a structure.
 - g. Official notices of any court or public agency not exceeding twelve (12) square feet in display area.

- h. Window signs covering up to twenty five percent (25%) of the structure's total window area.
- i. Traffic control, directional, warning, or informational signs when authorized by a public agency having appropriate jurisdiction.
- j. Signs required by federal or state agencies in connection with federal or state grant projects and programs.
- k. The flags of government or noncommercial institutions.
- l. **One additional flag per premise.**
- m. Banners for special events or sales, provided:
 - 1) Banners must be made of plastic, vinyl or another similar material of professional quality.
 - 2) Banners must be neatly hung, taut and secure.
 - 3) Banners may not pose a hazard to public safety.
 - 4) A business or institution with up to one 140 feet of frontage is limited to (one) 1 banner of no more than 24 square feet.
 - 5) A business or institution with between 141 and 280 feet of frontage is limited to two (2) banners totaling no more than 48 square feet.
 - 6) A business or institution with 281 feet of frontage or more is limited to three (3) banners totaling no more than 72 square feet.
- n. Community promotional banners attached to poles located on City property may be allowed by permission of the Zoning Administrator, provided: [amended 2/04]
 - 1) Banners must be made of plastic, vinyl or another similar material of professional quality.
 - 2) Banners must be neatly hung, taut and secure.
 - 3) Banners may not pose a hazard to public safety.
 - 4) An agreement will be in place with the owner of the pole.

This ordinance adopted:

Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis

Nays: None

Adoption Date: August 23, 2005

Effective Date: September 6, 2005

First Reading: August 23, 2005

Second Reading: N/A

CITY OF MUSKEGON

By: Gail A. Kunderger
Gail A. Kunderger, MMC, City Clerk

Commission Meeting Date: August 23, 2005 - Zoning Ordinance Amendment for Exempt Signs.

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 August, 2005, 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 Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: 8-24, 2005.

Gail A. Kunderger
Gail A. Kunderger, 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 August 23, 2005, the City Commission of the City of Muskegon adopted an ordinance to amend Section 2334 (Signs #5.) of Article XXIII (General Provisions) to amend the zoning ordinance language regarding "Exempt Signs".

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 August 27, 2005

CITY OF MUSKEGON

By _____
Gail A. Kunding, MMC
City Clerk

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

Account No. 101-80400-5354

AGENDA ITEM No. _____

MUSKEGON CITY COMMISSION – August 23, 2005

TO: Honorable Mayor & City Commissioners

FROM: Planning Department *CBC*

DATE: August 12, 2005

SUBJECT: Revocation of a Neighborhood Enterprise Zone Certificate

SUMMARY OF REQUEST

Charles and Inez Johnson are in violation of Sec. 207.781 sec. 11 subsection (4) which states:

If the owner of the facility fails to make the annual payment of the neighborhood enterprise zone tax and the ad valorem property tax on the land under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, the commission by order shall revoke the certificate. However, if payment of these taxes is made before the revocation is effective, the commission, upon application of the owner, shall rescind the order of revocation. If payment of these taxes and any subsequent ad valorem property tax due on the facility is made after revocation of the certificate, the commission, upon application of the owner, shall reinstate the certificate for the remaining period of time for which the original certificate would have been in effect.

Charles and Inez Johnson have failed to pay 2000, 2001, 2002, 2003, and 2004 taxes for the property located at 436 Catawba Avenue whose parcel number is 24-946-094-0064-00. Approval or denial by the City Commission is required must be forwarded to the State Tax Commission. Staff sent the owners a letter and a copy of the past due tax bill on June 30, 2005 giving them until July 31, 2005 to pay the taxes. They remain unpaid.

FINANCIAL IMPACT

The property will no longer be able to take advantage of the certificate number 94-064 which allowed taxation at 50% of the State average for a stated number of years.

BUDGET ACTION REQUIRED

None.

STAFF RECOMMENDATION

Approve revocation of the NEZ certificate and have the Mayor and City Clerk sign the resolution and submit it to the State Tax Commission.

COMMITTEE RECOMMENDATION

None.

MUSKEGON CITY COMMISSION

**RESOLUTION TO REVOKE THE NEIGHBORHOOD ENTERPRISE ZONE
CERTIFICATE # 94-064**

WHEREAS, Charles and Inez Johnson have not paid their property taxes for the property located at 436 Catawba in the Angell neighborhood, and;

WHEREAS, the applicant owes for property taxes for the parcel # 24-946-094-0064-00 for the tax years 2000, 2001, 2002, 2003, and 2004, which does not meet the eligibility criteria for a Neighborhood Enterprise Zone Certificate;

NOW, THEREFORE, BE IT RESOLVED that the Neighborhood Enterprise Zone Certificate # 94-064 be revoked.

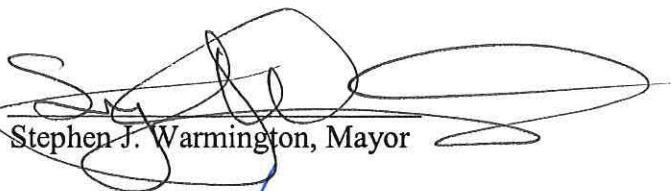
Adopted this, 23rd day of August, 2005.

Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, and Warmington

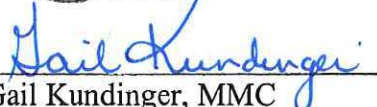
Nays: None

Absent: None

By:


Stephen J. Warmington, Mayor

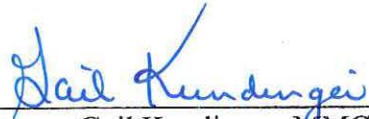
Attest:


Gail Kunderger, MMC
City Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on August 23, 2005.

By:


Gail Kunderger, MMC
City Clerk

AGENDA ITEM No. _____

MUSKEGON CITY COMMISSION – August 23, 2005

TO: Honorable Mayor & City Commissioners

FROM: Planning Department *abc*

DATE: August 12, 2005

SUBJECT: Revocation of a Neighborhood Enterprise Zone Certificate

SUMMARY OF REQUEST

DLJ Mortgage Capital REO LLC is in violation of Sec. 207.781 sec. 11 subsection (4) which states:

If the owner of the facility fails to make the annual payment of the neighborhood enterprise zone tax and the ad valorem property tax on the land under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, the commission by order shall revoke the certificate. However, if payment of these taxes is made before the revocation is effective, the commission, upon application of the owner, shall rescind the order of revocation. If payment of these taxes and any subsequent ad valorem property tax due on the facility is made after revocation of the certificate, the commission, upon application of the owner, shall reinstate the certificate for the remaining period of time for which the original certificate would have been in effect.

DLJ Mortgage Capital REO LLC has failed to pay 2000, 2001, 2003, and 2004 taxes for the property located at 186 Mason Avenue whose parcel number is 24-946-094-0065-00. Approval or denial by the City Commission is required must be forwarded to the State Tax Commission. Staff sent the owners a letter and a copy of the past due tax bill on June 30, 2005 giving them until July 31, 2005 to pay the taxes. They remain unpaid.

FINANCIAL IMPACT

The property will no longer be able to take advantage of the certificate number 94-065 which allowed taxation at 50% of the State average for a stated number of years.

BUDGET ACTION REQUIRED

None.

STAFF RECOMMENDATION

Approve revocation of the NEZ certificate and have the Mayor and City Clerk sign the resolution and submit it to the State Tax Commission.

COMMITTEE RECOMMENDATION

None.

MUSKEGON CITY COMMISSION

**RESOLUTION TO REVOKE THE NEIGHBORHOOD ENTERPRISE ZONE
CERTIFICATE # 94-065**

WHEREAS, DLJ Mortgage Capital REO LLC has not paid their property taxes for the property located at 186 Mason in the Nelson neighborhood, and;

WHEREAS, the applicant owes for property taxes for the parcel # 24-946-094-0065-00 for the tax years 2000, 2001, 2003, and 2004, which does not meet the eligibility criteria for a Neighborhood Enterprise Zone Certificate;

NOW, THEREFORE, BE IT RESOLVED that the Neighborhood Enterprise Zone Certificate # 94-065 be revoked.

Adopted this, 23rd day of August, 2005.

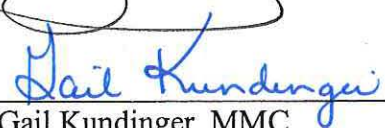
Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, and Warmington

Nays: None

Absent: None

By: 

Stephen J. Warmington, Mayor

Attest: 

Gail Kunding, MMC
City Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on August 23, 2005.

By: 

Gail Kunding, MMC
City Clerk

Commission Meeting Date: August 23, 2005

Date: August 16, 2005

To: Honorable Mayor & City Commission

**From: Community and Neighborhood Services
Department**

**RE: Public Hearing to Review 2004-2005 Consolidated
Annual Performance Evaluation Report (CAPER)**

SUMMARY OF REQUEST: To conduct a public hearing on August 23, 2005 to review accomplishments and receive comments from the public concerning the 2004 – 2005 CAPER developed by the Community and Neighborhood Services department.

After the public hearing has been conducted and all the comments have been documented, the CNS office request that the Commission direct the CNS staff to submit the required documents to HUD in compliance with 24 CFR 91.520, by no sooner than August 31, 2005.

FINANCIAL IMPACT: The City is required to submit the CAPER report in order to continue receiving CDBG and HOME funding.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To direct staff to gather comments from the public and to submit the CAPER to HUD after the public comment period has elapsed.

COMMITTEE RECOMMENDATION: None

DATE: August 12, 2005
TO: Honorable Mayor and Commissioners
FROM: Mark Kincaid, Deputy Director of Public Safety
RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN-050079 Address: 1538 Hudson. **Commission tabled case 07/26/05.**

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **1538 Hudson – Area 12** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: #EN-050079, 1538 Hudson, Muskegon, MI

Location and ownership: This structure is located on Hudson between W. Grand and W. Southern and transfer of ownership from Terri L. Michael to Daniel Ortega as of 05/31/05.

Staff Correspondence: Case began with a police report 01/25/05 where house was found unsecured and trash throughout the interior. A dangerous building inspection was conducted 02/02/05. Notice & Order was issued 02/09/05. Case came before the HBA and was declared dangerous, substandard, a public nuisance on 04/07/05. Case forwarded to Commission on 07/26/05 and was tabled until August meeting to allow new owner to decide what his options are.

Owner Contact: New owner, Mr. Ortega had an interior inspection conducted 08/04/05.

Financial Impact: General Funds

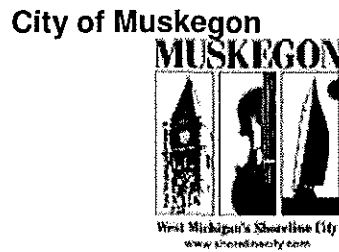
Budget action required: None

State Equalized value: \$17,300

Estimated cost to repair: **\$70,000**

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

City Commission Recommendation: The commission will consider this item at it's meeting Tuesday, August 23, 2005.



Thursday, August 11, 2005

DANGEROUS BUILDING INTERIOR INSPECTION REPORT

Enforcement #EN050079 Property Address: 1538 HUDSON ST Parcel # 24-205-486-0008-10

Owner: Daniel Ortega

Inspection Type: Interior Bldg

Inspector: Henry Faltinowski

Date completed: 08/04/2005

DEFICIENCIES:

Uncorrected

- 1. House to be rewired to meet 2003 MRC**
- 2. Smoke alarms to be installed to meet 2003 MRC**
- 3. Electric service to be replaced to meet 2003MRC**
- 4. Inspect & Certify Chimney.**
- 5. Plumbing & Mechanical to be to Mich 2003 Codes**
- 6. Hot Water Heater & Furnace to be inspected & certified by license contractor.**
- 7. Plumbing piping to be supported.**
- 8. Gas piping to meet 2003 fuel gas code-Vent from Hot Water heater to chimney foamed must meet 2003 Mich Mechanical code.**
- 9. Vent fans in bathroom.**
- 10. Remove all damage floor decking-repair replace all damaged floor joists.**
- 11. Replace center beam and columns - to meet design loads - beam collapse.**
- 12. Engineer structural design on foundation wall repair.**
- 13. All framing meet MRC 2003.**
- 14. Smoke alarms per code.**
- 15. Egress windows per code.**
- 16. Rafter investigation needed.**

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact

Inspection Services with any questions or to schedule an inspection at (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

HENRY FALTINOWSKI BUILDING INSPECTOR

DATE

CITY OF MUSKEGON
DANGEROUS BUILDING INSPECTION REPORT

1538 Hudson

2/2/2005

Inspection noted:

1. Foundation wall, replace, repair and provide requested interior inspection.
2. Fascia, soffit damage.
3. Broken windows missing.
4. Scrape – paint home or reside.
5. Chimney damage replace.
6. Replace window frames, rotted falling apart.
7. Replace front and back landings and stairs exterior.
8. Rafter damage, interior investigation requested.

Please contact Inspection Services with any questions at 231-724-6715.

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

HENRY FALTINOWSKI, BUILDING INSPECTOR

DATE



1538 Hulsö



1538 Hualson. 2/2/2005



1538 Hudson. 2/2/2005

AGENDA ITEM NO. _____

CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Bryon L. Mazade, City Manager

DATE: August 15, 2005

RE: County Wastewater Bond Contract

SUMMARY OF REQUEST:

To approve the Muskegon County Wastewater System – Number One Series 2005 Bond Contract and Resolution Approving DPW Contract. These documents commit the City to its share (37.13%) of a \$17.5 million bond issue for improvements to the county wastewater system.

FINANCIAL IMPACT:

The City will be required to pledge its limited full faith and credit for the payment of the principal and interest of the bonds.

BUDGET ACTION REQUIRED:

This new debt service will need to be accounted for in the 2006 budget and beyond.

STAFF RECOMMENDATION:

To approve the contract and resolution, and authorize the Mayor and Clerk to execute them.

COMMITTEE RECOMMENDATION:

None.

Fact Sheet on Proposed \$17.5M County Wastewater Bond Issue

- \$ In 2003, County staff realized that the 1973 “can-type” Lyco pump stations and the older lift stations that the County took over in 1973 were failing, and undertook formal planning efforts to replace and rebuild these collection system components. This planning resulted in a 2004 “Project Plan” that was submitted to the County Public Works Board, Local Municipal Wastewater Users, and to MDEQ as part of a State Revolving Loan application.
- \$ Information regarding the work and costs for same have been discussed at our Municipal Wastewater Users meetings for over a year now. The Project Plan was accepted by MDEQ in late 2004 and design efforts on the improvements were completed in early 2005. Bids were received at the end of July and were approved pending local bonding and MDEQ approval.
- \$ This work replaces two, rebuilds two, eliminates six, and adds one pump station to the County Wastewater System. An old asbestos cement force main will be replaced at Whitehall as well. None of these stations or the force main serve the paper mill.
- \$ Knowing closer what the total costs will be, a bond contract and resolutions were recently drawn up by our bond counsel for County and Local Unit Board adoption. The County Public Works Board approved the contract August 11 and the County Full Board will do the same August 23. The Local Unit resolutions must be adopted by all and submitted by the end of August for us to qualify for the 1.625% interest loan.
- \$ The resolutions sent out for approval are set up for “Act 185” bonds that are issued on the full faith and credit of our local municipalities and then the County. If it appears that any of the local resolutions will fail or not be adopted in time, the County still has the option to issue revenue bonds (although the County does not wish to and would need to scramble to get this done in time).
- \$ The County, our bond counsel, and the Municipal Wastewater Users Committee (and the committee counsel) recommended the Act 185 bonds to show unification in this community effort and to have the Local Units more involved in the County Wastewater System.
- \$ The cost of this Phase I Collection System Upgrade will be \$1,025,000 in annual bond payments for 20 years beginning in 2008 if \$17.5M is borrowed. Interest due before 2008 will likely be paid from our O&M budget or our fund balance. It is hoped to keep the project closer to \$16.5 M. A \$17.5M loan equates to 14.4 cents per 1000 gallons if our current flow (after the Sappi reduction) of 19.5 million gallons per day is used. The County continues to work on increasing this flow by treating more groundwater cleanup discharge, promoting local system expansions, and promoting our large-site agricultural development at the Wastewater System.

MUSKEGON COUNTY

M I C H I G A N

BOARD OF COMMISSIONERS

Bill Gill, Chair
District 8

James J. Derezinski
Vice-Chair, District 4

P. Don Aley
District 7

Charles L. Buzzell
District 2

Marvin R. Engle
District 5

Louis A. McMurray
District 9

Robert Scolnik
District 11

I. John Snider II
District 3

Roger C. Wade
District 10

Nancy A. Waters
District 6

Stephen R. Wisniewski
District 1

August 4, 2005

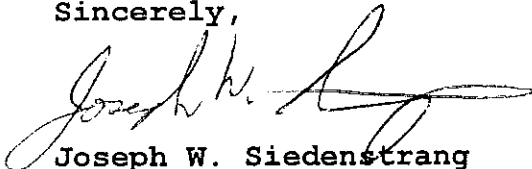
To Municipal Users:

Dear User:

Enclosed are two documents (two copies each) that need to be approved and signed at your next Board or special meeting. The Board meeting and subsequent signing of these documents and the return of them to this office must occur prior to August 29, 2005. These documents relate to Wastewater renovations as approved by the Municipal Users Group and County Department of Public Works.

If you have any questions relating to these documents, you may call David Kendrick at 724-3440 or Joseph Siedenstrang at 724-6205. If you feel it necessary, we can also appear at your Board meeting to explain these documents and the reasons thereof.

Sincerely,



Joseph W. Siedenstrang
Accounting Manager

wj

Enclosures

RECEIVED

AUG 09 2005

MUSKEGON
CITY MANAGER'S OFFICE

MUSKEGON COUNTY WASTEWATER MANAGEMENT SYSTEM –NUMBER ONE
SERIES 2005 BOND CONTRACT

THIS CONTRACT, made and entered into as of this 15th day of August, 2005, by and between the COUNTY OF MUSKEGON, a Michigan county corporation (the "COUNTY"), by and through its Board of Public Works, party of the first part, and the CITIES OF MONTAGUE, MUSKEGON, MUSKEGON HEIGHTS, NORTH MUSKEGON, NORTON SHORES, ROOSEVELT PARK, AND WHITEHALL, the CHARTER TOWNSHIPS OF FRUITPORT AND MUSKEGON, and the TOWNSHIPS OF DALTON, EGELSTON, LAKETON, MONTAGUE AND WHITEHALL, each a Michigan public corporation located in the COUNTY (the "LOCAL UNITS"), party of the second part,

WITNESSETH:

WHEREAS, it is necessary for the public health and welfare of the present and future residents of the LOCAL UNITS that wastewater system improvements (the "Project") be constructed to meet the present and future requirements of the LOCAL UNIT; and

WHEREAS, the COUNTY, under the provisions of Act 185, Public Acts of Michigan, 1957, as amended (the "Act"), has established a Department of Public Works for the administration of the powers conferred upon the COUNTY by the Act, which Department is under the immediate control of the Board of Public Works (the "Board") and under the general control of the Board of Commissioners of the COUNTY; and

WHEREAS, the COUNTY pursuant to the Act has previously established the Muskegon County Wastewater Management System – Number One (the "System"); and

WHEREAS, the Act authorizes a county to acquire wastewater systems as defined in said

Act, and to improve, enlarge, extend and operate such systems; and

WHEREAS, by the terms of the Act the COUNTY and the LOCAL UNITS are authorized to enter into a contract for the acquisition and financing of the Project and the payment of the cost thereof by the LOCAL UNITS, with interest, over a period of not exceeding forty (40) years, and the COUNTY is then authorized, pursuant to appropriate action by its Board of Commissioners, to issue bonds of the COUNTY to provide the funds necessary therefor, secured primarily by the full faith and credit contractual obligations of the LOCAL UNITS and secondarily by the full faith and credit pledge of the COUNTY if duly authorized by appropriate resolution of its Board of Commissioners; and

WHEREAS, the Act provides the most practicable and economic method and means for acquiring and financing the Project so vitally necessary for the public health and welfare of the residents of the COUNTY residing in the areas of the LOCAL UNITS to be served, and financing under the Act is expected to result in the lowest cost for the money necessary to be borrowed for such purpose; and

WHEREAS, preliminary plans and an estimate of cost for the Project have been prepared by the COUNTY'S consulting engineers (the "Engineers"), which said estimate of cost presently totals \$17,500,000; and

WHEREAS, in order to issue bonds of the COUNTY to provide funds in the amount not to exceed \$17,500,000 to pay said cost, it is necessary for the COUNTY and the LOCAL UNITS to enter into a contract, as provided in the Act; and

WHEREAS, it is also necessary for the COUNTY and the LOCAL UNITS to contract relative to the operation and maintenance of the Project; and

WHEREAS, the bonds referred to herein are expected to be purchased by the Michigan Municipal Bond Authority (the "MMBA") as part of the State of Michigan Clean Water Revolving Fund Loan Program (the "SRF").

NOW, THEREFORE, in consideration of the premises and the covenants of each other, the parties hereto agree as follows:

1. The COUNTY and the LOCAL UNITS approve the acquisition and construction of the Project under the Act, as part of the System. The Project shall consist generally of wastewater collection and treatment system improvements and the acquisition, construction and installation of the equipment, lines, pipes, pumps and other materials necessary therefor and improvements to sites related thereto, all as more fully described in plans and specifications prepared and to be prepared by the Engineers. The Project and the area to be served thereby are more specifically set out in the plans for the Project prepared by the Engineers and referred to in the preamble hereto.

2. The LOCAL UNITS hereby consent to the use by the COUNTY of the public streets, alleys, lands and rights-of-way in the LOCAL UNITS, to the extent permitted by law, for the purpose of constructing, operating and maintaining the Project and any improvements, enlargements and extensions thereto.

3. The Project is designed to serve the LOCAL UNITS and the users of the System and is immediately necessary to protect and preserve the public health, and the LOCAL UNITS do, by these presents, consent to the furnishing of wastewater service, as provided in Section 7 hereof, to the individual users in the service area of the LOCAL UNIT. The parties specifically agree, however, that the COUNTY shall not have the right to take over operation of the Project

and serve individual customers directly, the COUNTY being limited to other remedies prescribed in this contract in the event of any default hereunder by the LOCAL UNITS.

4. The Board and the LOCAL UNITS hereby approve and confirm the plans for the Project prepared by the Engineers and the estimated cost thereof in the sum of not to exceed \$17,500,000. Said estimated cost includes all surveys, plans, specifications, acquisition of property for rights-of-way, physical construction necessary to acquire and construct the Project, the acquisition of all materials, machinery and necessary equipment, and engineering, engineering supervision, administrative, legal and financing expenses necessary in connection with the acquisition and construction of the Project and the financing thereof. Any costs in excess of the amount of the bonds will be paid by the LOCAL UNITS.

5. The Board will acquire and construct the Project, and for that purpose will cause bids to be taken for the acquisition and construction thereof prior to the time that any bonds are issued for the purpose of financing costs thereof. The Board shall in no event enter into any final contract or contracts for the acquisition and construction of the Project if such contract price or prices will be such as to cause the actual cost of the Project to the LOCAL UNITS to exceed the installment obligations approved in Section 9 of this contract, unless the LOCAL UNITS, by resolution of their respective legislative bodies, (a) approve said increased cost and (b) agree to pay said increased amount, either in cash or by specifically authorizing the maximum principal amount of bonds to be used, as provided in Sections 8 and 9 of this contract, to be increased to an amount which will provide sufficient funds to meet said increased cost and a similar increase in the installment obligations pledged under the terms of this contract to the payment of such bonds. In the event construction costs are less than presently estimated the

Board shall reduce the amount of bonds issued and the installment obligations of the LOCAL UNITS shall be correspondingly reduced.

6. The Project shall be acquired by the Board in accordance with the plans and specifications therefor approved by this contract; provided, however, that variations from said plans and specifications may be made without the approval of the LOCAL UNITS if such variation shall not materially affect such plans and specifications. All matters relating to engineering plans and specifications, together with the making and letting of final contracts for acquisition of the Project, the approval of work and materials thereunder, and construction supervision, shall be in the exclusive control of the Board. Any acquisition of rights-of-way shall be done by the LOCAL UNITS, title to be in the COUNTY's name, but the cost of such acquisition shall be paid from the proceeds of sale of the bonds.

7. While the bonds remain outstanding or as otherwise agreed to by the LOCAL UNITS and the COUNTY, the COUNTY shall be the owner of the Project, and the COUNTY does hereby let and lease the Project to the LOCAL UNITS, and the LOCAL UNITS do hereby rent and hire said Project from the COUNTY for a term commencing upon the completion of the Project, or any substantial part thereof, and ending upon the expiration of this contract. The BOARD shall be responsible for the operation, maintenance and administration of the Project as a part of the System for and on behalf of and as the agency of the COUNTY for such purpose, in accordance with the contractual arrangements between the COUNTY and the LOCAL UNITS described herein.

8. To provide for the construction and financing of the Project in accordance with the provisions the Act, the Board shall take the following steps:

(a) The Board will submit to the Board of Commissioners of the COUNTY a resolution providing for the issuance of bonds in the aggregate principal amount of not to exceed Seventeen Million Five Hundred Thousand Dollars (\$17,500,000), except as authorized pursuant to Section 5 of this contract, to finance costs of the Project. Said bonds shall mature serially, as authorized by law, and shall be secured primarily by the contractual obligations of the LOCAL UNITS to pay the annual installments due, plus interest, as hereinafter provided in this contract, and secondarily, if approved by a three-fifths (3/5) majority of the members of the Board of Commissioners, by the full faith and credit of the COUNTY. After due adoption of the resolution, the Board will take all steps necessary to effectuate the sale and delivery of the bonds.

(b) The Board shall take all steps necessary to take bids for and enter into and execute final construction contracts for the acquisition and construction of the Project as specified and approved in this contract, in accordance with the plans and specifications therefor as approved by this contract. Said contract shall specify a completion date agreeable to the LOCAL UNITS.

(c) The Board will require and procure from the contractor or contractors undertaking the actual construction and acquisition of the Project necessary and proper bonds to guarantee the performance of the contract or contracts and such labor and material bonds as may be required by law, in such amount and such forms as may be approved by the Board.

(d) The Board upon receipt of the proceeds of sale of the bonds will comply with all provisions and requirements provided for in the resolution authorizing the issuance of the bonds and this contract relative to the disposition and use of the proceeds of sale of the bonds.

(e) The COUNTY may temporarily invest any bond proceeds or other funds held by it

for the benefit of the LOCAL UNITS as permitted by law, and investment income shall accrue to and follow the fund producing such income. Neither the COUNTY nor the LOCAL UNITS shall invest, reinvest or accumulate any moneys deemed to be proceeds of the bonds pursuant to applicable federal law and regulations in such a manner as to cause the bonds to be "arbitrage Bonds" within the meaning of said law and regulations, or take or omit to take any action which would cause interest on the bonds to be subject to direct federal income taxation.

9. The costs of the Project to be financed by the issuance of the aforesaid bonds shall be charged to and paid by the LOCAL UNITS as provided in the purchase agreement to be executed between the COUNTY and the Michigan Department of Environmental Quality (the "Purchase Agreement"). The principal amounts shall be as set forth in the Purchase Agreement.

Each LOCAL UNIT agrees to make monthly payments to the County (on or before the last business day of each month) in an amount equal to each LOCAL UNIT'S proportionate share of one twelfth (1/12) of the annual debt service due on the COUNTY'S bonds. LOCAL UNIT debt service payments shall be based on a rate per million gallons of flow calculated by dividing the COUNTY'S annual debt service payment by the budgeted annual wastewater system flow multiplied by each LOCAL UNIT'S actual metered flow volume.

Each LOCAL UNIT shall also pledge its limited tax full faith and credit for the payment of the principal of and interest on the COUNTY'S bonds which pledge shall be expressed as a percentage of the outstanding principal amount of the COUNTY'S bonds and calculated as the product of the annual payments made from time to time by each LOCAL UNIT divided by the total annual debt service payment. Said pledge of the LOCAL UNIT'S limited tax full faith and credit shall represent each LOCAL UNIT'S basic debt service obligation (the "Debt Service

Obligation"). All parties agree that the initial Debt Service Obligation shall be as follows:

<u>LOCAL UNIT</u>	<u>PERCENTAGE</u>
City of Montague	2.04%
City of Muskegon	37.13%
City of Muskegon Heights	11.03%
City of North Muskegon	3.10%
City of Norton Shores	17.52%
City of Roosevelt Park	6.67%
City of Whitehall	6.31%
Charter Township of Fruitport	1.03%
Charter Township of Muskegon	9.23%
Township of Dalton	0.00%
Township of Egelston	3.59%
Township of Laketon	1.74%
Township of Montague	0.00%
Township of Whitehall	0.61%

All parties agree that as between the COUNTY and the LOCAL UNITS, the Debt Service Obligation will remain fixed so long as the COUNTY'S bonds are outstanding, except as annually adjusted as provided in this Section. However, notwithstanding the actual wastewater system flow in each LOCAL UNIT, each LOCAL UNIT'S minimum Debt Service Guarantee for purposes of paying the principal of and interest on the COUNTY'S bonds issued in anticipation of the LOCAL UNIT'S obligations due under this Contract shall not be less than the average percentage of payment by each LOCAL UNIT as calculated in this Section 9 for the last two (2) operating years of the System or in the event the System has not operated for two (2) years than the completed operating year.

The LOCAL UNITS shall also be responsible for the payment of the operation and maintenance expenses of the System. Each LOCAL UNIT agrees to make monthly payments to the COUNTY for such expenses calculated on a rate per million gallons of flow as herein provided.

It is understood and agreed that the bonds of the COUNTY hereinbefore referred to will be issued in anticipation of the above contractual obligations, with principal maturities as set forth in the Purchase Agreement and the LOCAL UNITS shall also pay to the Board in addition to said principal installments, one business day prior to the date on which the principal installments of the COUNTY'S bonds are due and semi annually thereafter, as accrued interest on the principal amount remaining unpaid, an amount sufficient to pay all interest due on the next succeeding interest payment date on said COUNTY bonds from time to time outstanding. From time to time as the Board is billed by the paying agent for the bonds to be issued for its services as paying/transfer agent/registrar for the bonds, and as other costs and expenses accrue to the Board from handling of the payments made by the LOCAL UNITS, or from other actions taken in connection with the Project, the Board shall promptly notify the LOCAL UNITS of the amount of such paying agent fees and other costs and expenses, and the LOCAL UNITS shall promptly remit to the Board sufficient funds to meet such fees and other costs and expenses.

Should cash payments be required from the LOCAL UNITS in addition to the amounts specified in Section 4 and in the preceding paragraph to meet costs of constructing the Project, the LOCAL UNITS shall, upon written request by the Board, furnish to the Board written evidence of its agreement and ability to make such additional cash payments, and the Board may elect not to proceed with the acquisition or financing of the Project until such written evidence satisfactory to the Board, has been received by it. The LOCAL UNITS shall pay to the Board such additional cash payments within thirty (30) days after written request for such payment has been delivered by the Board to the LOCAL UNITS.

The Board shall, within thirty (30) days after the delivery of the COUNTY bonds hereinbefore referred to, furnish the LOCAL UNITS with a complete schedule of maturities of principal and interest thereon, and the Board shall also, at least thirty (30) days prior to each principal and/or interest installment due date, advise the LOCAL UNITS, in writing, of the exact amount of principal and/or interest due on the COUNTY bonds on the next succeeding bond principal and/or interest due date, and payable by the LOCAL UNITS on the first day of the month immediately preceding, as hereinbefore provided. Failure of the Board to notify any LOCAL UNIT of any such payment shall not relieve such LOCAL UNIT of the obligation to make such payment.

If any principal installment or interest is not paid when due, the amount not so paid shall be subject to a penalty, in addition to interest, of one percent (1%) thereof for each month or fraction thereof that the same remains unpaid after the due date.

10. The LOCAL UNITS, pursuant to authorization of Section 12 of the Act, hereby irrevocably pledge their full faith and credit in the proportionate amount of their respective payment obligations as set forth herein for the prompt and timely payment of their respective obligations pledged for bond payments as expressed in this contract. Pursuant to such pledge, if other funds are not available, the LOCAL UNITS shall be required to pay such amounts from any of their general funds as a first budget obligation and shall each year levy an ad valorem tax on all the taxable property in the LOCAL UNITS in an amount which, taking into consideration estimated delinquencies in tax collections, will be sufficient to pay such obligations under this contract becoming due before the time of the following year's tax collections, such annual levy, however, to be subject to applicable statutory and constitutional tax limitations. It is the intent

and understanding of the LOCAL UNITS and the County that the debt obligations of the LOCAL UNITS and their obligation to pay the operation and maintenance expenses of the system shall be met from the rate calculated per million gallons of flow as provided in Section 9 hereof. The foregoing commitments of the LOCAL UNITS are expressly recognized as being for the purpose of providing funds to meet the contractual obligations of the LOCAL UNITS in anticipation of which the COUNTY bonds hereinbefore referred to are issued. Nothing herein contained shall be construed to prevent any LOCAL UNIT from using any, or any combination of, the means and methods provided in paragraph 2, Section 12 of the Act for the purpose of providing funds to meet its obligations under this contract, and if at the time of making the annual tax levy there shall be other funds on hand earmarked and set aside for the payment of the contractual obligation due prior to the next tax collection period, then such annual tax levy may be reduced by such amount.

11. The LOCAL UNITS may pay in advance any of the payments required to be made by this contract, in which event the Board shall credit such LOCAL UNIT with such advance payment on future-due payments to the extent of such advance payment, or use such advances to call bonds, without credit.

12. In the event any LOCAL UNIT shall fail for any reason to pay to the Board at the times specified the amounts required to be paid by the provisions of this contract, the Board shall immediately give notice of such default and the amount thereof, in writing, to such LOCAL UNIT Treasurer, the Treasurer of the COUNTY, the Treasurer of the State of Michigan, and such other officials charged with disbursement to such LOCAL UNIT of funds returned by the State and now or hereafter under the Act available for pledge as provided in this

paragraph and in Section 17 of the Act, and if such default is not corrected within ten (10) days after such notification, the State Treasurer, or other appropriate official charged with disbursement to the LOCAL UNIT of the aforesaid funds, is, by these presents, specifically authorized by such LOCAL UNIT, to the extent permitted by law, to withhold from the aforesaid funds of the LOCAL UNIT the maximum amount necessary to cure said deficit and to pay said sums so withheld to the Board, to apply on the obligations of the LOCAL UNIT as herein set forth. Any such moneys so withheld and paid shall be considered to have been paid to the LOCAL UNIT within the meaning of the Michigan Constitution and statutes, the purpose of this provision being to voluntarily pledge and authorize the use of said funds owing to the LOCAL UNIT to meet any past-due obligations of the LOCAL UNIT due under the provisions of this contract. In addition to the foregoing, the Board shall have all other rights and remedies provided by law to enforce the obligations of the LOCAL UNITS to make their payments in the manner and at the times required by this contract, including the right of the COUNTY to direct the LOCAL UNITS to make a tax levy or rate increase to reimburse the COUNTY for any funds advanced. The LOCAL UNITS will not take any action to reduce the right of the COUNTY to receive the aforesaid state-retained moneys in the event of default.

13. It is specifically recognized by the LOCAL UNITS that the debt service payments required to be made by it pursuant to the terms of Section 9 of this contract are to be pledged for and used to pay the principal of and interest on the bonds to be issued by the COUNTY, as provided by this contract and authorized by law, and the LOCAL UNITS covenant and agree that they will make all required payments to the Board promptly and at the times specified herein without regard to whether the Project is actually completed or placed in operation.

14. If after construction bids are let, the proceeds of the sale of the bonds to be issued by the COUNTY are for any reason insufficient to complete the Project, the COUNTY shall be automatically authorized to issue additional bonds in an aggregate principal amount sufficient to complete the Project, and the annual payments required to be made by the LOCAL UNITS shall also be increased in an amount so that the total payments required to be made as increased will be sufficient to meet the annual principal and interest requirements on the bonds herein authorized, plus the additional bonds to be issued. Any such additional bonds shall in all respects comply with the requirements of the Act, and any increases in the annual payments shall be made in the manner and at the times specified in this contract. In lieu of said additional bonds, the LOCAL UNITS may pay over to the Board in cash sufficient money to complete the Project.

15. After completion of the Project and payment of all costs thereof, any surplus remaining from the proceeds of sale of the bonds shall be used by the Board for either of the following purposes, at the option of and upon request made by resolution of the LOCAL UNITS, to wit: (a) for additional wastewater improvements in the System, or (b) credited by the Board toward the next payments due the Board by the LOCAL UNITS hereunder.

16. The obligations and undertakings of each of the parties to this contract shall be conditioned on the successful issuance and sale of bonds pursuant to the Act, and if for any reason whatsoever said bonds are not issued and sold within three (3) years from the date of this contract, this contract, except for payment of preliminary expenses and ownership of engineering data, shall be considered void and of no force and effect. In the event that said bonds are not issued and sold, all preliminary legal and engineering costs shall be paid by the

LOCAL UNITS, and the LOCAL UNITS shall have ownership, possession and use of all plans and specifications, surveys and other engineering data and materials prepared.

17. The Board and the LOCAL UNITS each recognize that the holders from time to time of the bonds issued by the COUNTY under the provisions of the Act to finance costs of the Project will have contractual rights in this contract, and it is therefore covenanted and agreed by each of them that so long as any of said bonds shall remain outstanding and unpaid, the provisions of this contract shall not be subject to any alteration or revision which would in any manner materially affect either the security of the bonds or the prompt payment of principal or interest thereon. The LOCAL UNITS and the Board further covenant and agree that they will each comply with their respective duties and obligations under the terms of this contract promptly at the times and in manner herein set forth, and will not suffer to be done any act which would in any way impair the said bonds, the security therefor, or the prompt payment of principal and interest thereon. It is hereby declared that the terms of this contract, insofar as they pertain to the security of any such bonds, shall be deemed to be for the benefit of the holders of said bonds.

18. This contract shall remain in full force and effect for a period of forty (40) years from the date hereof. At such time within said forty-year term as all of said bonds are paid, this contract shall be terminated and ownership of the Project shall revert to the LOCAL UNITS, unless at that time there are other COUNTY bonds outstanding relative to the System or there are other contractual arrangements between the LOCAL UNITS and COUNTY. In any event, the obligations of the LOCAL UNITS to make payments respecting the payment of bond required by Section 9 of this contract shall be terminated at such time as all of said bonds are

paid in full, together with any deficiency or penalty thereon. The LOCAL UNITS shall continue to be obligated to pay their respective share of operation and maintenance expenses for the term of this contract.

19. It is anticipated that the bonds will be sold by a negotiated sale to the MMBA through the SRF to take advantage of lower interest rates, and therefore the bonds shall bear an original issue date, be payable in the amounts and on the dates and at such place, bear interest at the rates, be subject to redemption and otherwise have such terms and provisions as shall be determined in the COUNTY's agreements with the MMBA, and all COUNTY, Board and LOCAL UNIT officials, agents and employees are hereby directed to take all actions necessary or desirable to implement such a method of sale. The COUNTY is hereby authorized to make such changes in this contract, except as to Project description or increased cost, as may be required to properly reflect a sale to the MMBA, and if such changes are made, the COUNTY shall promptly notify the LOCAL UNITS thereof.

Notwithstanding any other provision of this contract, if and so long as the MMBA is the owner of the bonds, the COUNTY shall make its debt service payments hereunder directly to such place as shall be designated in writing to the COUNTY by MMBA (the "MMBA's Depository") for the account of the COUNTY to be applied by the MMBA's Depository to the payment of the bonds. The LOCAL UNITS covenant and agrees that, if the MMBA owns the bonds, the LOCAL UNIT'S obligations to make such payments hereunder and to certify, levy and collect appropriate taxes as required hereunder, as obligations incurred with the MMBA under Section 17A of Act 140 Public Acts of Michigan 1971, as amended (the "State Revenue Sharing Act"), may be enforced by the MMBA as provided in the Act and all applicable

Michigan law. The LOCAL UNITS covenant and agrees that if the MMBA owns the bonds they will, if required, enter into a Revenue Sharing Pledge Agreement with the MMBA pursuant to Section 17A of the State Revenue Sharing Act, authorizing the State Treasurer to transmit the revenue sharing moneys assigned and pledged therein directly to the MMBA or its designee, if payments on the bonds as required by the MMBA are not made by the LOCAL UNITS prior to their due date. The LOCAL UNITS further covenant and agree to take or abstain from taking such other action and/or execute and supply such other documents or certifications or information as may be required by the MMBA, including specifically a Supplemental Agreement, COUNTY's Certificate and Purchase Agreement. The COUNTY is further authorized to make such changes in the terms of this contract and the financing plan for the Project as may be required by the MMBA and do not materially affect the obligations of the LOCAL UNITS hereunder, upon notification to the LOCAL UNITS.

The LOCAL UNITS and the COUNTY have received no assurance from the MMBA that sale of the bonds through the SRF can be accomplished, and therefore nothing herein shall constitute a commitment to such a sale. Should such method of sale of the bonds be available, the COUNTY agrees to use its best efforts to accomplish such a sale, and the LOCAL UNITS hereby agree to execute such documents or take such action as the COUNTY, MMBA, the Michigan Department of Environmental Quality ("MDEQ") or other parties involved may reasonably require to accomplish such sale of the bonds.

The parties hereto hereby authorize their respective chief executive officers, clerks, treasurers, other officers, employees and/or agents to execute any documents necessary to implement this contract, including but not limited to MMBA or MDEQ documents or other

required documents.

20. The parties hereto hereby expressly agree that the COUNTY shall not be liable for and the LOCAL UNITS shall pay, indemnify and save the COUNTY harmless of, from and against all liability of any nature whatever regardless of the nature in which such liability may arise, for any and all claims, actions, demands, expenses, damages, and losses of every conceivable kind, whatsoever (including, but not limited to, liability for injuries to or death of persons and damages to or loss of property) asserted by or on behalf of any person, firm, corporation or governmental authority arising out of, resulting from, or in any way connected with ownership, acquisition, construction, operation, maintenance and repair of the Project, this contract, or the issuance, sale and delivery of the bonds herein described. It is the intent of the parties that the COUNTY be held harmless by the LOCAL UNITS from liability for such claim, actions, demands, expenses, damages and losses, however caused or however arising including, but not limited to, to the extent prohibited by law, such claims, actions, demands, expenses, damages and losses even though caused, occasioned or contributed to by negligence, sole or concurrent, of the COUNTY or by negligence for which the COUNTY may be held liable. In any action or proceeding brought about by reason of any such claim or demand, the LOCAL UNITS will also pay, indemnify and save the COUNTY harmless from and against, all costs, reasonable attorneys' fees, and disbursements of any kind or nature incidental to or incurred in said defense, and will likewise pay all sums required to be paid by reason of said claims, demands or any of them, in the event it is determined that there is any liability on the part of the COUNTY. Upon the entry of any final judgment by a court of competent jurisdiction or a final award by an arbitration panel against the COUNTY on any claim, action, demand, expense,

damage or loss contemplated by this Section and notwithstanding that the COUNTY has not paid the same, the LOCAL UNITS shall be obligated to pay to the COUNTY upon written demand therefor, the amount thereof not more than sixty (60) days after such demand is made. In the event that any action or proceeding is brought against the COUNTY by reason of any such claims or demands, whether said claims or demands are groundless or not, the LOCAL UNITS shall upon written notice and demand from the COUNTY, resist and defend such action or proceeding in behalf of the COUNTY but will not settle any such action in the proceeding without written consent of the COUNTY. Notwithstanding the foregoing, nothing contained in this Section shall be construed to indemnify or release the COUNTY against or from any liability which it would otherwise have arising from the wrongful or negligent actions or failure to act on the part of the COUNTY'S employees, agents or representatives with respect to matters not related to the ownership, acquisition, construction, operation, maintenance or repair of the Project, this contract or the issuance, sale or delivery of the bonds herein described.

The COUNTY will require or procure from the contractor or contractors undertaking the actual construction of the Project insurance protecting both the LOCAL UNITS and the COUNTY (including the Board) from liability in connection with such construction. The cost of such insurance shall be considered to be a part of the cost of the Project.

21. This contract shall inure to the benefit of and be binding upon the respective parties hereto, their successors and assigns.

22. This contract shall become effective upon approval by the legislative bodies of the LOCAL UNITS, by the Board of Public Works of the COUNTY and by the Board of Commissioners of the COUNTY, and when duly executed by the Chief Executive Officer and

Clerk of the LOCAL UNIT and by the Chairman and Secretary of the Board of Public Works
for and on behalf of the COUNTY. This contract may be executed in several counterparts.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed

as of the date and year first above written.

COUNTY OF MUSKEGON
By the Board of Public Works

By: _____
Chairman

By: _____
Secretary

CITY OF MONTAGUE

By: _____
Mayor

By: _____
Clerk

CITY OF MUSKEGON

By: _____
Mayor

By: _____
Clerk

CITY OF MUSKEGON HEIGHTS

By: _____
Mayor

By: _____
Clerk

CITY OF NORTH MUSKEGON

By: _____
Mayor

By: _____
Clerk

CITY OF NORTON SHORES

By: _____
Mayor

By: _____
Clerk

CITY OF ROOSEVELT PARK

By: _____
Mayor

By: _____
Clerk

CITY OF WHITEHALL

By: _____
Mayor

By: _____
Clerk

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

CHARTER TOWNSHIP OF FRUITPORT

By: _____
Supervisor

By: _____
Clerk

TOWNSHIP OF DALTON

By: _____
Supervisor

By: _____
Clerk

TOWNSHIP OF LAKETON

By: _____
Supervisor

By: _____
Clerk

TOWNSHIP OF WHITEHALL

By: _____
Supervisor

By: _____
Clerk

CHARTER TOWNSHIP OF MUSKEGON

By: _____
Supervisor

By: _____
Clerk

TOWNSHIP OF EGELSTON

By: _____
Supervisor

By: _____
Clerk

TOWNSHIP OF MONTAGUE

By: _____
Supervisor

By: _____
Clerk

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

DELIB:2647253.3\063686-00026

RESOLUTION APPROVING DPW CONTRACT

_____ of _____
County of Muskegon, State of Michigan

Minutes of a Regular meeting of the City Commission of the City of Muskegon, County of Muskegon, State of Michigan, held on the 23 day of August, 2005 at 5:30 o'clock p.m., Eastern Daylight Savings Time.

PRESENT Members Warmington, Larson, Shepherd, Spataro, Carter,
Davis, and Gawron

ABSENT: Members None

The following preamble and resolution offered by Member Larson and supported by Member Spataro:

WHEREAS, the Cities of Montague, Muskegon, Muskegon Heights, North Muskegon, Norton Shores, Roosevelt Park, and Whitehall, the Charter Townships of Fruitport and Muskegon and the Townships of Dalton, Egelston, Laketon, Montague and Whitehall, County of Muskegon, State of Michigan (the "Local Units"), have requested the Board of Public Works of the County of Muskegon (the "Board"), acting on behalf of the County of Muskegon (the "County"), to take the necessary steps under the provisions of Act 185, Public Acts of Michigan, 1957, as amended, to finance costs of acquiring, constructing and financing wastewater system improvements and expansions (the "Project") to service the Local Units; and

WHEREAS, the costs of the Project are presently estimated to be \$17,500,000; and

WHEREAS, this Local Units and the Board have negotiated a contract (the "Contract") providing for financing the costs for the Project, by the terms of which Contract the Local Units are obligated to pay the portion of the cost of the Project to be financed to the County in

AYES:

installments as therein provided, a copy of which Contract is attached to this resolution incorporated herein by reference; and

WHEREAS, the Project as described in the Contract is immediately necessary to protect and preserve the public health.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Contract among the County, by and through the Board and the Local Units providing for the acquisition, construction and financing of the Project is hereby approved, and the Mayor and the Clerk are authorized and directed to execute the Contract for and on behalf of this municipality.

2. The total estimated cost of the Project as submitted by the consulting engineers in the amount of \$17,500,000 is hereby approved.

3. The covenant in the Contract to levy ad valorem taxes against all taxable property in the Local Unit to the extent necessary to meet the obligations of the Local Units thereunder be and is hereby ratified and confirmed. Any such a levy as necessary to meet such obligations will be within charter, statutory and constitutional limitations.

4. The Contract shall become binding and effective upon the approval thereof by resolution of the Board of Commissioners of the County and execution thereof for the County by the Board and upon the approval thereof by resolution of the Local Units and execution thereof by the Local Units.

5. The Local Units will take or abstain from taking all actions required by the federal Internal Revenue Code of 1986, as amended, and the regulations thereunder, including but not limited to actions relating to any required rebate of arbitrage earnings and the expenditures and investment of bond proceeds and moneys deemed to be bond proceeds.

6. All resolutions and parts of resolutions insofar as the same conflict with the provisions of this resolution be and the same hereby are rescinded.

AYES: Members Davis, Gawron, Larson, Shepherd, Spataro, Warmington,
and Carter

NAYS: Members None

RESOLUTION DECLARED ADOPTED.

Dail A. Kundenger
Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution duly adopted by the
City Commission of the City of Muskegon, County of Muskegon, State
of Michigan, at a regular meeting held on August 23, 2005, and that said meeting was conducted
and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings
Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and
will be or have been made available as required by said Act.

Dail A. Kundenger
Clerk

MUSKEGON COUNTY

M I C H I G A N

BOARD OF COMMISSIONERS

Bill Gill, Chair
District 8

James J. Derezinski
Vice-Chair, District 4

P. Don Aley
District 7

Charles L. Buzzell
District 2

Marvin R. Engle
District 5

Louis A. McMurray
District 9

Robert Scolnik
District 11

I. John Snider II
District 3

Roger C. Wade
District 10

Nancy A. Waters
District 6

Stephen R. Wisniewski
District 1

August 4, 2005

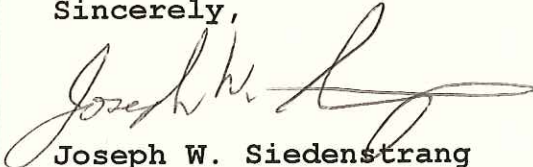
To Municipal Users:

Dear User:

Enclosed are two documents (two copies each) that need to be approved and signed at your next Board or special meeting. The Board meeting and subsequent signing of these documents and the return of them to this office must occur prior to August 29, 2005. These documents relate to Wastewater renovations as approved by the Municipal Users Group and County Department of Public Works.

If you have any questions relating to these documents, you may call David Kendrick at 724-3440 or Joseph Siedenstrang at 724-6205. If you feel it necessary, we can also appear at your Board meeting to explain these documents and the reasons thereof.

Sincerely,



Joseph W. Siedenstrang
Accounting Manager

wj

Enclosures

RECEIVED

AUG 09 2005

MUSKEGON
CITY MANAGER'S OFFICE

Joseph W. Siedenstrang letter dated 8/4/05
Muskegon County Wastewater System – Number One Series 2005 Bond Contract
Resolution Approving DPW Contract

8/9/05 copy: T. Paul
J. Schrier

/pb



July 26, 2005

Michigan Municipal League Annual Meeting Notice

(Please present at the next Council or Commission Meeting)

Dear Official:

The Annual Convention of the Michigan Municipal League will be held in Grand Rapids, September 20-23, 2005. **The annual meeting is scheduled for 10:45 a.m. on Wednesday, September 21, at the Amway Grand Plaza Hotel. The meeting will be held for the following purposes:**

1. **Election of Trustees.** To elect six members of the Board of Trustees for terms of three years each (see page 2).
2. **Policy.** To vote on statements of policy and resolutions properly brought before the annual meeting. All member cities and villages planning on submitting resolutions for consideration at the annual meeting are reminded that under the Bylaws, **the deadline for receiving resolutions is August 22, 2005** (see page 2).
3. **Other Business.** To transact such other business as may properly come before the meeting.

Designation of Voting Delegates

Pursuant to the provisions of the League Bylaws, you are requested to designate by action of your governing body one of your officials who will be in attendance at the Convention as your official representative to cast the vote of the municipality at the annual meeting, and, if possible, to designate one other official to serve as alternate. After taking this action, please return the enclosed reply card no later than September 1, 2005.

Regarding the designation of an official representative of the member to the annual meeting, please note the following section of the MML Bylaws:

“Section 4.4 - Votes of Members. Each member city and village shall be equally privileged with all other members in its voice and vote in the election of officers and upon any proposition presented for discussion or decision at any meeting of the members. Honorary members shall be entitled to participate in the discussion of any question, but such members shall not be entitled to vote. The vote of each member shall be cast by its official representative attending the meeting at which an election of officers or a decision on any proposition shall take place. Each member shall, by action of its governing body prior to the annual meeting or any special meeting, appoint one official of such member city or village as its principal official representative to cast the vote of the member at such meeting, and may appoint one official as its alternate official representative to serve in the absence or inability to act of the principal representative.”

President
Margene Ann Scott
Councilwoman
Madison Heights

Vice President
Robert B. Jones
Mayor, Kalamazoo

Trustees
Alex R. Allie
City Manager
Huntington Woods

Vicki Barnett
Mayor
Farmington Hills

Kathleen Buckner
Mayor Pro Tem
Center Line

Michael J. Czymbor
City Administrator
Milan

Deborah L. Doyle
Councilmember
Durand

Barbara Holt
Commissioner
Walker

Jerry Irby
Mayor, Marquette

Kwame M. Kilpatrick
Mayor, Detroit

Michael N. Matheny
Mayor, Grand Blanc

Florence E. Schrader
Treasurer, Ubly

Clara Shepherd
Commissioner
Muskegon

John C. Siira
City Manager
Wakefield

Gladys A. Solokis
Mayor, Gaylord

William R. Stewart
City Manager
Coldwater

Karl S. Tomion
City Manager
Midland

John J. Zech
City Manager
Wayne

Executive Director
Daniel P. Gilmartin

1. Election of Trustees

Regarding election of officers, under Section 5.3 of the MML Bylaws, six members of the Board of Trustees will be elected at the annual meeting for a term of three years. The regulations of the Board of Trustees require the Nominations Committee to complete its recommendations and post the names of the nominees for the Board of Trustees on the bulletin board of the registration desk at least four hours before the hour of the business meeting.

2. Statements of Policy and Resolutions *

Regarding consideration of resolutions and statements of policy, under Section 4.5 of the MML Bylaws, the Board of Trustees acts as the Resolutions Committee, and "no resolution or motion, except procedural and incidental matters having to do with business properly before the annual meeting or pertaining to the conduct of the meeting, shall be considered at the annual meeting unless it is either (1) submitted to the meeting by the Board of Trustees, or (2) submitted in writing to the Board of Trustees by resolution of the governing body of a member city or village at least thirty (30) days preceding the date of the annual meeting." Thus the deadline this year for the MML to receive resolutions is August 22nd.

"Every proposed resolution submitted by a member shall be stated in clear and concise language and shall be accompanied by a statement setting for the reasons for recommending the proposed resolution. The Board shall consider the proposal at a Board meeting prior to the next annual meeting and, after consideration, shall make a recommendation as to the advisability of adopting each such resolution or modification thereof."

The proposed 2005-06 Michigan Municipal League Policies and any new proposed Resolutions recommended by the Board of Trustees for adoption by the membership are available on the MML website*, to permit governing bodies of member cities and villages to have an opportunity to review such proposals and delegate to their voting representative the responsibility for expressing the official point of view of the member at the annual meeting.

The Board of Trustees will meet on Tuesday, September 20, at the Amway Grand Plaza Hotel in Grand Rapids for the purpose of considering such other matters as may be requested by the membership.

* The proposed 2005-06 MML Policies are available on the MML website at http://www.mml.org/pdf/approved_policies06.pdf. If you would like to receive a copy of the proposed policies by fax, please call the League at 800-653-2483.

Sincerely,



Margene Ann Scott
President



Daniel P. Gilmartin
Executive Director

Enc.



OFFICIAL VOTING DELEGATES
ANNUAL BUSINESS MEETING
Michigan Municipal League

In accordance with the accompanying MML Annual Meeting Notice, each member city and village is to appoint one Official Voting Delegate and one Official Alternate Voting Delegate to represent the city or village at the Annual Business Meeting of the Michigan Municipal League.

The purpose of these instructions is to familiarize the voting delegate, especially those officials serving in this capacity for the first time, with the procedure to be followed during the Annual Business Meeting.

1. Only the Official Voting Delegate will be seated in the area reserved for Voting Delegates. If the Official Voting Delegate is not present, the Official Alternate Voting Delegate will take the Delegate's place in the reserved area as the Voting Delegate. Therefore, each member city and village will have only one person seated in the reserved area. All other municipal officials, and all other Alternate Voting Delegates, may be seated outside the reserved area.
2. After the roll call of Voting Delegates, a member city or village whose Official Voting Delegate or Alternate is not present will be given the opportunity to have a Voting Delegate seated upon the approval of the Voting Delegates originally seated.
3. In general, Robert's Rules of Order, Newly Revised, will govern the conduct of the Annual Business Meeting. Parliamentary decisions will be made by the President of the League who will preside at the Annual Business Meeting. The President will be assisted by a Parliamentarian. Parliamentary decisions by the Chair, if challenged from the floor, are subject to be sustained or overturned by a majority of the voting delegates.
4. The Bylaw governing the submission of policy resolutions provides:
Section 4.5 - Resolutions
 - A. No resolution or motion shall be submitted to debate or vote at the annual meeting or any special meeting unless it is germane to the functions and purposes of the League.
 - B. No resolution or motion, excepting procedural and incidental matters having to do with business properly before the annual meeting or pertaining to the conduct of the meeting, shall be considered at the annual meeting unless it is either (1) submitted to the meeting by the Board of Trustees, or (2) submitted in writing to the Board of Trustees by official action of the governing body of a member city or village at least thirty (30) days preceding the date of the annual meeting**.
 - C. Every proposed resolution submitted by a member shall be stated in clear and concise language and shall be accompanied by a statement setting forth the reasons for recommending the proposed resolution. The Board shall consider the proposal at a Board meeting prior to the next annual meeting and, after

consideration, shall make a recommendation as to the advisability of adopting each such resolution or a modification thereof. If time permits, each such resolution and the recommendation of the Board shall be printed in the issue of the *Michigan Municipal Review*.

** The deadline for receiving resolutions is August 22, 2005.

5. If a Voting Delegate wishes to speak, the Delegate should rise and proceed to one of the microphones available in the reserved area and after recognition by the Chair, may then speak. Since the Annual Business Meeting is being recorded, each Voting Delegate who wishes to speak for any reason, after being recognized by the Chair, should first announce the Delegate's name, title and municipality slowly and clearly into the microphone.

A member of the Board of Trustees, an Honorary Life Member, or a Chair or a designated member of a League Standing or Special Committee may speak on a question, but may not vote unless serving also as a Voting Delegate. If a question is raised about a proposed policy or resolution, or an amendment is offered and seconded, the Chair or designated member of the proper League Standing or Special Committee or a member of the Board of Trustees will be called upon to speak at an appropriate time to explain the Committee's views before the vote is put on the question. In addition, upon request of the Chair, a member of the League staff may speak on a question. Any other person present may speak only with the approval of the Voting Delegate body.

6. If a Voting Delegate who has been seated wishes to have the Alternate Voting Delegate from the Delegate's city or village speak on an issue, the Voting Delegate should request, after being recognized by the Chair, to be excused from the reserved area and that the other person be permitted to take the Delegate's place temporarily or for the balance of the meeting. Upon being excused by the Chair, the Alternate Voting Delegate may then take the Voting Delegate's place in the reserved seating area and may speak and vote as the Official Voting Delegate.
7. The above procedure is necessary to assure that, in the event of a vote on a question by show of hands or by voice vote of the Delegates, no city or village will have more than one person seated in the reserved area

PLEASE RETURN BY SEPTEMBER 1, 2005

Our official representative at the Annual Business
Meeting of the Michigan Municipal League will be:

Name Clara Shepherd

Title Commissioner

Our alternate official representative will be:

Name Gail Kunding

Title City Clerk

Official action of governing body on August 23, 2005
(date)

Submitted by Linda Potter

Municipality City of Muskegon

City Commission Meeting

Tuesday, August 23, 2005

To: Honorable Mayor and City Commissioners
From: Anthony L. Kleibecker, Public Safety Director
Date: August 16, 2005
Subject: Exterior Vehicle Cleaning

Summary of Request:

Bids were solicited and have been accepted for the exterior cleaning of police vehicles for the City of Muskegon. This bid covers a two-year contract beginning September 1, 2005 – August 31, 2007.

Four companies submitted bids. They were (1) West Shore Wash, 1931 E. Sherman, (2) Letavis, 8478 Miller Rd, Swartz Creek, (3) The Bird Bath, 2417 S. Getty, and (4) Van's Car Wash, 1230 W. Sherman. A copy of the bid solicitation is attached along with the bids received from each company.

Financial Impact:

None.

Budget Action Required:

None.

Staff Recommendations:

Based upon the bid proposals, we recommend that Van's Car Wash be awarded this contract.

EXTERIOR VEHICLE CLEANING BID

<u>Company</u>	<u>Address</u>	<u>Bid Proposal</u>
1 Letavis Enterprises, Inc	8478 Miller Rd, Swartz Creek, MI	\$ 2.99
2 Van's Car Wash, Inc	1230 W. Sherman Blvd	\$ 3.00
3 The Birdbath	2417 S. Getty St.	\$ 9.00
4 West Shore Wash	1931 E. Sherman Blv	\$ 4.50

ACCEPTING BID PROPOSALS
FOR AUTOMATED
EXTERIOR CLEANING
OF POLICE VEHICLES

The City of Muskegon Police Department is soliciting bids for a local company to provide exterior cleaning of its police vehicles. Sealed bids will be accepted until 2:00 pm on Tuesday, August 16, 2005.

Automated cleaning is to include soap, wash, and rinse of the vehicles exterior body, wheels, tires, windows and mirrors. There are approximately 35 vehicles in the police fleet; vehicles generally require cleaning of no more than twice per week. Billing is to be monthly and will be paid by check or direct deposit. The term of bid is two years.

Bids shall be marked "Exterior Vehicle Cleaning Bid" and shall be submitted no later than 2:00 pm on August 16, 2005 by hand delivery or mailed to: City of Muskegon, Clerks Dept., PO Box 536, Muskegon, MI 49443-0536. Postmarks will not be considered having met the deadline requirement.

The City of Muskegon reserves the right to accept or reject any or all bids. If you have any questions, call (231) 724-6955.

PUBLISH: July 11, 2005

STATE OF MICHIGAN
County of Muskegon

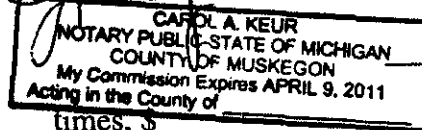
ss.

Gary Ostrom

being duly sworn deposes

and says that he is the Publisher of the MUSKEGON CHRONICLE, a newspaper printed in Muskegon County and circulated within the Counties of Muskegon, Ottawa, Newaygo, Mason, and Oceana; that the annexed notice was duly printed and published in said MUSKEGON CHRONICLE for one (1) day(s); that is to say, on the 11th day(s) of July 2005, and the 11th day(s) of July 2005, and that said publication was continued during said time without any intermission or omission, and that he has a personal knowledge of the facts above set forth.

[Signature]
Subscribed and sworn to before me this 11th day
of July A.D. 2005



[Signature]
Notary Public, Muskegon County, Mich.

*West Shore Wash
Citgo/Quality Car Wash
1931 E. Sherman Blvd.
2204 Glade Street
Muskegon, MI 49444
(231)737-4300*

August 11, 2005

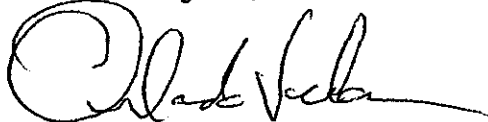
City of Muskegon
Clerks Dept.
P.O. Box 536
Muskegon, MI 49443-0536

Re: Bid for Exterior Cleaning

To Whom It May Concern:

Thank you for your request for bid of exterior cleaning of City vehicles. We have two locations to serve you, 1931 E. Sherman Blvd., and 2204 Glade Street. Please accept the following bid for all city vehicles, including police, fire, and city at \$4.50 each. Also, we would like to offer free small coffee or fountain pop for police and fire only. If you have any questions, please let me know.

Thank you,

A handwritten signature in black ink, appearing to read "Orrie Vela", written over a horizontal line.

Orrie Vela
President



Letavis Enterprises, Inc.

8478 Miller Rd. • P.O. Box 27 • Swartz Creek, MI 48473
(810) 635-7013 • Fax (810) 635-2207

August 12, 2005

**Muskegon Police Department
980 Jefferson Street
P.O. Box 536
Muskegon, MI 49443**

**Attn: Tolonda Robinson
RE: EXTERIOR VEHICLE CLEANING BID**

**Express wash for cars \$2.99 each
Express wash for Blazers, Trucks, Vans, etc. \$3.99 each**

**Thank you for giving us the opportunity to bid for servicing
your vehicles.**

Sincerely,

Ed Letavis

2417 S. Getty St.
Muskegon Hts., MI 49444
(231) 206-0028 or (231) 737-5859

.....

The Bird Bath Auto Washing and Detailing

June 12, 2005

Muskegon Police Department
933 Terrace Ave.
Muskegon, MI 49442

Dear Sir or Madam:

This is a letter of proposal from The Birdbath Hand Wash & detail for the car washing of your entire fleet of vehicles. The price will be \$7.00 per car for exterior cleaning on site.

The services that you'll be receiving is:

Exterior Cleaning: Soap and power wash exterior, clean rims and tires.

Thank you,

The Bird Bath Auto Washing & Detailing
Darrice Vines
Owner

.....

2417 S. Getty St.
Muskegon Hts., MI 49444
(231) 206-0028 or (231) 737-5859

.....

The Bird Bath Auto Washing and Detailing

June 12, 2005

Muskegon Police Department
933 Terrace Ave.
Muskegon, MI 49442

Dear Sir or Madam:

This is a letter of proposal from The Birdbath Hand Wash & detail for the car washing of your entire fleet of vehicles. The price will be \$9.00 per car for exterior cleaning if you choose to come to our place of business.

The services that you'll be receiving is:

Exterior Cleaning: Hand wash and dry exterior, clean rims and tires.

Thank you,

The Bird Bath Auto Washing & Detailing
Darrice Vines
Owner

.....

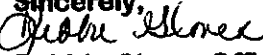


August 05, 2005

The City of Muskegon Police Dept.
City of Muskegon
Clerks Dept. P.O. Box 536
Muskegon, Michigan 49443-0536

Exterior Vehicle Cleaning Bid

Van's Car Wash Inc. will do hand prep entire vehicles with automatic cleaning (exterior body, underbody, wheels, tires, windows and mirrors) for \$3.00 per car. Thank You.

Sincerely,

Debbie Glover Office Manager
Van's Car Wash

dkg

CONTRACT
OPERATION OF EXTERIOR CLEANING

City of Muskegon and Van's Car Wash have entered into this contract following submission of a bid. The bid by the Operator complied with the request of service will continue to be a material part of this contract and require continued compliance.

Contract, made and entered into this 24th day of August, 2005 by and between the CITY OF MUSKEGON, municipal corporation, of Muskegon County, Michigan hereinafter referred to as the City, and Van' Car Wash hereinafter referred to as the Operator.

Whereas, Operator did on the 16th of August, 2005 submit a proposal for the exterior cleaning of police vehicles as set forth in the bid proposal for two-years commencing on the 1st day of September, 2005 and ending on the 31st day of August, 2007.

Now, therefore, it is agreed by and between the City and Operator as follows:

1. Statement of Work. Operator shall hand prep entire vehicles followed by automated cleaning of soap, wash, rinse of vehicles exterior body, wheels, tires, windows and mirrors for approximately 35 vehicles requiring no more than twice per week cleaning.
2. Charges. During said two-year period, Operator shall charge the City \$3.00 per car per cleaning. Operator is to bill the City on a monthly basis. Operator will be paid by check, direct deposit or credit card.
3. Appointment by City. City herewith appoints Operator and the Operator's facilities at 1230 W. Sherman Blvd and 2226 Apple Ave as the vehicular exterior cleaning locations during the term of the contract or until the City/Operator revokes the appointment.

4. Revocation of Appointment. The contract may be cancelled on the part of the City of Muskegon by giving forty-eight (48) hours written notification addressed to the Operator and sent by ordinary mail to the Operator's address as shown on the proposal. The contract may be cancelled if, in the sole judgement of the Chief of Police, the Operator has not performed according to the specifications.

The contract may be cancelled on the part of the Operator by giving sixty (60) days notice in writing to the Chief of Police.

5. Non-Assignability. The appointment as set forth in Section 3 of the contract is personal to Operator and cannot, in whole or in part, be subcontracted or assigned without the prior written consent of the City.
6. Nondiscrimination. The operator shall be required to observe and comply with all laws and policies, Federal, State and local, regarding discrimination based on race, color, creed, nationality, handicap, sex, height, weight and other such factors set forth for protective parties.

In witness whereof, the parties hereto have caused this contract to be executed in two original counterparts on the day and year first above written.

WITNESSES:

By: John Vanderstelt

Linda Potter
Linda Potter

By: A. L. Kleibecker
Chief Anthony L. Kleibecker
City of Muskegon Police Department

JoAnn Krukowski
JoAnn Krukowski

By: Steven Warmington
Steven Warmington, Mayor

Irene Dempsey
Irene Dempsey

By: Gail A. Kunderger
Gail A. Kunderger, Clerk

CITY COMMISSION MEETING
Tuesday August 23, 2005

TO: Honorable Mayor and City Commissioners

FROM: Anthony L. Kleibecker
Director of Public Safety

DATE: August 10, 2005

SUBJECT: Purchase of Replacement Body Armor

SUMMARY OF REQUEST:

As stated in my memorandum to the City Manager (attached), we received notice from Second Chance Body Armor on June 23rd of this year advising us that the body armor currently being worn by members of the police department may be subject to unexpected failure. We immediately began the process of seeking out a replacement vest with two guidelines in mind. First, the vest must be custom fit. Second, it must meet the criteria for Level II protection (national standard).

There are two custom-fit body armor products currently available to us; Gatorhawk, which is provided by Nye Uniform in Grand Rapids and First Choice, which is sold by Michigan Police Equipment of Charlotte, Michigan. Both vendors currently serve this department.

Based upon field tests and feedback from our officers, I am recommending the purchase of the First Choice MF8 vest. This vest meets our guidelines. The price quoted to us of \$398 per unit includes two vest carriers and a soft trauma pack. The vest does not contain Zylon. Based upon the fact that we need to replace 80 vests, I am requesting that you authorize the expenditure of \$32,000 from the State Criminal Forfeiture Fund in order to complete this purchase.

FINANCIAL IMPACT:

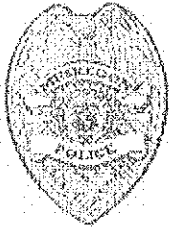
Expend \$32,000 from the State Criminal Forfeiture Fund which leaves a balance of approximately \$37,000.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval of this request.



Muskegon Police Department

Anthony L. Kleibecker
Director of Public Safety

980 Jefferson
Muskegon, Michigan
49443-0536

www.muskegonpolice.com

Phone: 231-724-6750
FAX: 231-722-5140

MEMORANDUM

TO: Mr. Bryon Mazade
City Manager

FROM: Anthony L. Kleibecker
Director of Public Safety

CC: Mr. John Schrier
City Attorney

DATE: August 10, 2005

SUBJECT: Replacement of Police Department Body Armor

On June 23rd of this year, I received correspondence from Second Chance Body Armor. In their letter, Second Chance advised those agencies who are currently wearing body armor manufactured by Second Chance that vests that rely partially on a fabric known as Zylon "may be subject to unexpected failure". We have been monitoring this situation for many months. Previously, Second Chance had advised agencies that vests made totally of Zylon could fail. Our current vest, the Tri-Flex, is one of the models that are a mix of materials, including Zylon.

In the same letter, Second Chance advised that this situation had forced the company into a bankruptcy reorganization proceeding and that they had petitioned the bankruptcy court to approve a procedure that would allow newly affected agencies, such as our, to present a claim.

Based upon this notice we immediately began a process of seeking out a replacement vest with two criteria in mind. First, the vest must be custom fit. This is essential for the safety and comfort of our officers. Second, it must meet the national standard of Level II protection. We identified two vests that met these criteria. The first, GatorHawk, is available through Nye Uniform. The second, First Choice, is available through Michigan Police Equipment. Both vendors currently serve this department.

Both vendors provided us with vests to field test. The vest from GatorHawk was described as being very stiff. While it did soften after some wear, the officers also stated that it did hinder some movement. The feedback from the First Choice was all positive. We have also received information that the Holland Police Department is utilizing First Choice and is pleased with this vest. The quoted prices from the companies are as follows: GatorHawk: \$425 per unit and First Choice: \$398 per unit.

Based upon this information, I am recommending that we move forward with purchasing 80 units of the First Choice vests. I suggest that we utilize State Criminal Forfeiture monies and this purchase does meet the criteria for this expenditure. We currently have \$69,000 in this account. Utilizing \$32,000 for this purchase will leave a remaining balance of approximately \$37,000.

In regards to potential legal proceedings against Second Chance, a class action lawsuit in regards to this issue was filed some time ago. A proposed settlement in the amount of \$29,000,000 has been reached against the manufacturer of the Zylon, Toyobo and Toyobo America. A hearing has been scheduled for September 25, 2005 in Mayes County, Oklahoma to determine the settlement. We do qualify as a class member and have registered as such. According to the court papers that we have received, we stand to receive a \$25 voucher for each of our TriFlex vests.

I will keep you and Mr. Schrier posted on the outcome of the hearing, as we receive the information.

I have attached a memo to the City Commission recommending the purchase of the First Choice vests. It is my recommendation that we discuss this at the August 23rd meeting as our price quotes are good until mid-September.

If you have any questions, please don't hesitate to contact me.

Commission Meeting Date: August 23, 2005

Date: August 16, 2004
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department *CBE*
RE: Sale of Parcel in Seaway Industrial Park

SUMMARY OF REQUEST:

To approve the sale of Lot #6 in Seaway Industrial Park (see attached map) to Wood Trucking Company, 2540 Lakeshore Drive, Muskegon, MI 49441. The purchase price is \$61,000 (asking price \$64,000). This company is currently located on the Sappi property, and will need to move in light of the recent downsizing of the Sappi plant. They plan to invest \$100,000 in a 4,000 sq. ft. building, plus a parking lot. Presently they employ 15-22, depending on the season. Of these jobs, 4-5 are directly related to work performed for Sappi. They may be initially lost due to the loss of work, however, the hope is that once Wood Trucking relocates and can pick up other business, those employees would be recalled to work.

FINANCIAL IMPACT:

The sale of this lot, while is located in a Renaissance Zone, will still generate City of Muskegon income tax.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the attached resolution and to authorize both the Mayor and the Clerk to sign said resolution, deed, and all other necessary documents.

COMMITTEE RECOMMENDATION:

Resolution No. 2005-81(e)

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING THE SALE OF A LOT #6 IN SEAWAY INDUSTRIAL PARK TO
WOOD TRUCKING COMPANY

WHEREAS, the City of Muskegon has ownership of the property known as Lot #6 located in Seaway Industrial Park, Muskegon, Michigan, designated as parcel numbers 24-895-001-0006-00; and

WHEREAS, Wood Trucking Company, 2540 Lakeshore Drive, Muskegon, MI, has made a legitimate offer to purchase the subject property; and

WHEREAS, both the Seller (City of Muskegon) and Buyer (Wood Trucking Company) agree to the terms of the purchase as outlined in the attached development agreement; and

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

WHEREAS, the redevelopment of the subject property is consistent with the City's objective of development of Seaway Industrial Park.

NOW THEREFORE BE IT RESOLVED, that the Muskegon City Commission approves the sale of the property known as Lot #6 to Wood Trucking Company for the sum of \$61,000.

See attachment A for property description.

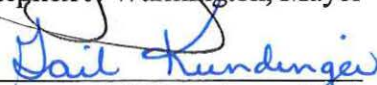
Adopted this 23 day of August, 2005

Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis

Nays: None

Absent None

By: 
Stephen J. Warmington, Mayor

Attest: 
Gail Kunding, Clerk

ATTACHMENT A

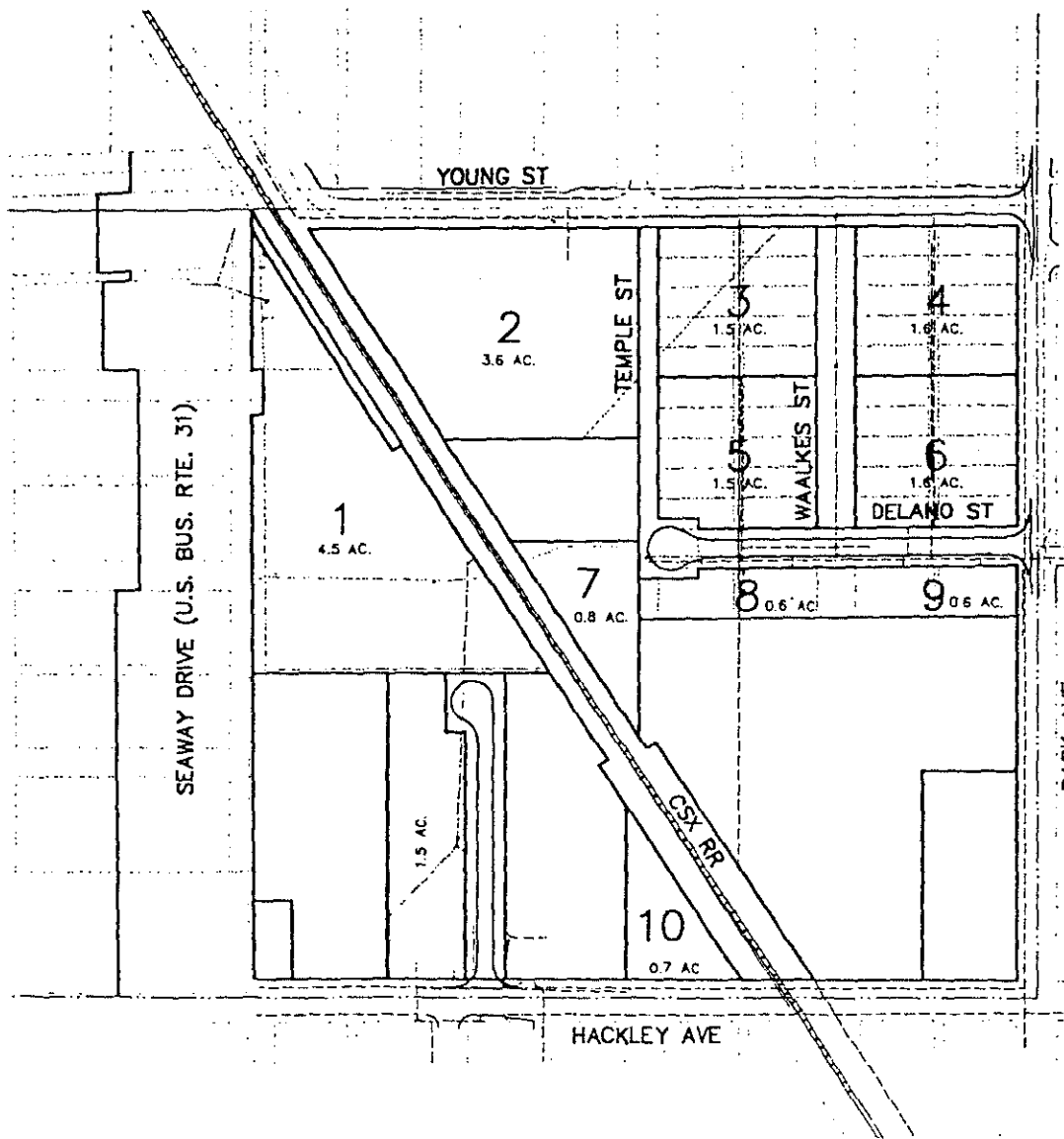
CITY OF MUSKEGON PT OF BLK 1 AND PT OF THE VAC ALLEY IN SD BLK 1 YOUNG
& WILLIAMS ADDN COM AT THE SE COR OF THE NW FRL 1/4 OF SEC 31 T10N
R16W TH N 00D 00M 00S E 795.00 FT ALG THE E LN OF SD NW FRL 1/4 TH S 89D 40M
00S W 33.00 FT ALG THE N R/W LN OF DELANO AVE AND ITS EXTENSION IN
SD YOUNG & WILLIAMS ADDN FOR POB TH S 89D 40M 00S W 274.43 FT ALG SD R/W
LN TH N 00D 00M 00S W 251.00 FT ALG THE E R/W LN OF WAALKES ST TH N 89D 43M
30S E 274.43 FT TH S 00D 00M 00S E 250.78 FT ALG THE W R/W LN OF PARK AVE TO
POB.

CERTIFICATION

2005-81(e)

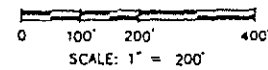
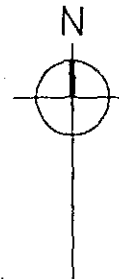
I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan at a regular meeting held on August 23, 2005.

By: Gail Kunderger
Gail Kunderger, Clerk



LEGEND

EXISTING GAS MAIN	---
EXISTING WATERMAIN	---
EXISTING STORM SEWER	---
EXISTING SANITARY SEWER	---
PROPOSED WATERMAIN	---
PROPOSED STORM SEWER	---
PROPOSED SANITARY SEWER	---



PRELIMINARY

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN
SEAWAY INDUSTRIAL PARK
Prein & Newhof

This form is issued under authority of
P.A. 415 of 1994. Filing is mandatory.

PROPERTY TRANSFER AFFIDAVIT

This form must be filed whenever real estate or some types of personal property are transferred (even if you are not recording a deed). It is used by the assessor to insure the property is assessed properly and receives the correct **taxable value**. It must be filed by the new owner with the **assessor for the city or township** where the property is located within **45 days** of the transfer. If it is not filed timely, a penalty of \$5/day (maximum \$200) applies. The information on this form is NOT CONFIDENTIAL.

1. Street Address of Property Lot 6 Seaway Indust. Pk	2. County Muskegon	4. Date of Transfer (or land contract was signed) October 7, 2005
3. City/Township/Village of Real Estate City of Muskegon	☐ City ☐ Township ☐ Village	5. Purchase Price of Real Estate \$61,000.00
6. Property Identification Number (PIN). If you don't have a PIN, attach a legal description.		PIN. This number ranges from 10 to 25 digits. It usually includes hyphens and sometimes includes letters. It is on the property tax bill and on the assessment notice.
7. Seller's (Transferor) Name City of Muskegon, a Michigan Municipal Corporation	8. Buyer's (Transferee) Name and Mailing Address Eastwood Development, LLC 2540 Lakeshore Drive Muskegon, MI 49441	
Items 9-13 are optional. However, by completing them you may avoid further correspondence.		
<u>Transfers</u> include deeds, land contracts, transfers involving trusts or wills, certain long-term leases and interest in a business. See the back for a complete list.		
9. Type of <u>Transfer</u> ☐ Land Contract ☐ Lease ☐ Deed ☐ Other (specify) _____		
10. Is the transfer between related persons? ☐ Yes ☐ No	11. Amount of Down Payment	
12. If you financed the purchase, did you pay market rate of interest? ☐ Yes ☐ No	13. Amount Financed (Borrowed)	

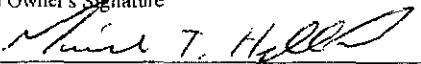
Exemptions

The Michigan Constitution limits how much a property's **taxable value** can increase while it is owned by the same person. Once the property is transferred, the **taxable value** must be adjusted by the assessor in the following year to 50 percent of the property's usual selling price. Certain types of transfers are exempt from adjustment. Below are brief descriptions of the types of exempt transfers; full descriptions are in MCL Section 211.27a(7)(a-n). If you believe this transfer is exempt, indicate below the type of exemption you are claiming. If you claim an exemption, your assessor may request more information to support your claim.

- ☐ transfer from one spouse to the other spouse
- ☐ change in ownership solely to exclude or include a spouse
- ☐ transfer of that portion of a property subject to a life lease or life estate (*until* the life lease or life estate expires)
- ☐ transfer to effect the foreclosure or forfeiture of real property
- ☐ transfer by redemption from a tax sale
- ☐ transfer into a trust where the settlor or the settlor's spouse conveys property to the trust and is also the sole beneficiary of the trust
- ☐ transfer resulting from a court order unless the order specifies a monetary payment
- ☐ transfer creating or ending a joint ownership if at least one person is an original owner of the property (or his/her spouse)
- ☐ transfer to establish or release a security interest (collateral)
- ☐ transfer of real estate through normal public trading of stocks
- ☐ transfer between entities under common control or among members of an affiliated group
- ☐ transfer resulting from transactions that qualify as a tax-free reorganization
- ☐ transfer of qualified agricultural property when the property remains qualified agricultural property and affidavit has been filed.
- ☐ other, specify: _____

Certification

I certify that the information above is true and complete to be best of my knowledge.

Owner's Signature 	Date October 7, 2005	If signer is other than the owner, print name and title.
--	-------------------------	--

ACKNOWLEDGMENT OF PROPERTY TRANSFER AFFIDAVIT

The undersigned hereby acknowledge(s) receipt of Property Transfer Affidavit form together with instruction (for L-4260) which form is required by Public Act 415 of 1994 which imposes obligations on Purchasers/Transferees to file said form within 45 days of the date of transfer. The undersigned further acknowledge(s) that Harbor Title Agency, Inc. is under no obligation to provide said form but does so as an accommodation to the undersigned. The undersigned assume(s) all responsibility relative to compliance with the Act and, accordingly, hold(s) the Company harmless from and against any liability relative thereto.

Date: October 7, 2005

Eastwood Development, LLC

by: Michael T. Hylland
its: Managing Member

PURCHASE AGREEMENT ADDENDUM

The undersigned parties to the Purchase Agreement dated August 9, 2005 on the property known as Lot 6 Seaway Indust. Pk, Muskegon, MI 49441, legally described as:

City Muskegon, County of Muskegon, State of Michigan:

Parcel 6:

Part of Block 1 and part of the vacated alley in said Block 1, Young & Williams Addition, according to the recorded plat thereof as recorded in Liber 3 of Plats, Page 39: Commence at the Southeast corner of the Northwest fractional 1/4 of Section 31, Town 10 North, Range 16 West; thence North 00 degrees 00 minutes 00 seconds East 795.00 feet along the East line of said Northwest fractional 1/4; thence South 89 degrees 40 minutes 00 seconds West 33.00 feet along the North Right of Way of Delano Avenue and its extension in said Young & Williams Addition for Point of Beginning; thence South 89 degrees 40 minutes 00 seconds West 274.43 feet along said Right of Way line; thence North 00 degrees 00 minutes 00 seconds West 251.06 feet along the East Right of Way line of Waalkes Street; thence North 89 degrees 43 minutes 30 seconds East 274.43 feet; thence South 00 degrees 00 minutes 00 seconds East 250.78 feet along the West Right of Way line of Park Avenue to Point of Beginning.

also known as Property Address: Lot 6 Seaway Indust. Pk, Muskegon, MI 49441
PIN:

hereby mutually agree to amend said contract as follows:

CLOSING DATE TO BE OCTOBER 7, 2005; LEGAL DESCRIPTION IS AS DESCRIBED ABOVE; BUYER RELEASES CONTINGENCIES ON ENVIRONMENTAL, SITE PLAN APPROVAL AND CITY APPROVAL; BUYER IS NOW TO BE EASTWOOD DEVELOPMENT, LLC.

All other conditions of the Purchase Agreement to remain the same.

Dated: October 7, 2005

Seller(s)

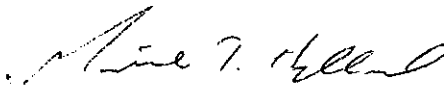
Buyer(s)

City of Muskegon

Eastwood Development, LLC



by: Donna Angell
its: Planner III



by: Michael T. Hylland
its: Managing Member

100538869

CLOSING AFFIDAVIT

Commitment Number 100538869

State of Michigan }
County of Muskegon } s.s.

The undersigned, being duly sworn, deposes and says that to the best of their knowledge and belief:

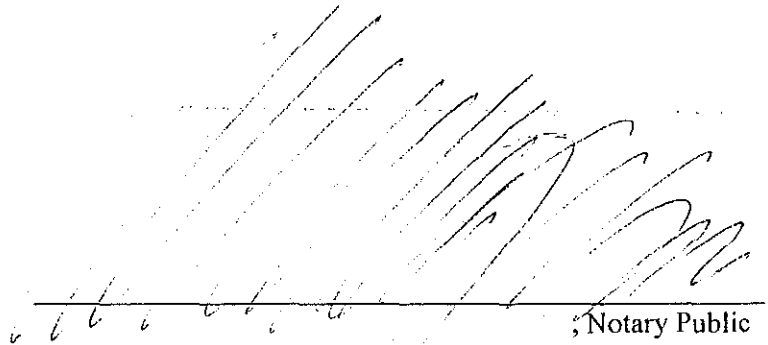
1. The undersigned has read the requirements and exceptions on the commitment set forth above.
2. The closer has explained that item(s) _____ show mortgages or liens that will be paid off as a result of this closing.
3. Except as stated in paragraph 2 above, there are no other mortgages, equity loans, revolving credit loans, bridge loans, remodeling loans or other liens of any kind which affect the land.
4. The undersigned has not taken a loan or borrowed money during the past six months.

City of Muskegon


by:
its: Walter III

Subscribed and sworn before me this October 7, 2005.

KATHY R. HARRIS, NOTARY PUBLIC
MUSKEGON COUNTY, STATE OF MICHIGAN
MY COMMISSION EXPIRES 1-17-2007


_____, Notary Public
County, Michigan
My Commission Expires: _____

Acting in the County of Muskegon

QUIT CLAIM DEED
Statutory Form



Harbor Title

The Grantor(s): City of Muskegon, a Michigan Municipal Corporation, whose address is 933 Terrace, P.O. Box 536, Muskegon, MI 49443

quit claim(s) to: Eastwood Development, LLC, whose address is 2540 Lakeshore Drive, Muskegon, MI 49441

the following described premises situated in the City of Muskegon, County of Muskegon, and State of Michigan:

Parcel 6:

Part of Block 1 and part of the vacated alley in said Block 1, Young & Williams Addition, according to the recorded plat thereof as recorded in Liber 3 of Plats, Page 39: Commence at the Southeast corner of the Northwest fractional 1/4 of Section 31, Town 10 North, Range 16 West; thence North 00 degrees 00 minutes 00 seconds East 795.00 feet along the East line of said Northwest fractional 1/4; thence South 89 degrees 40 minutes 00 seconds West 33.00 feet along the North Right of Way of Delano Avenue and its extension in said Young & Williams Addition for Point of Beginning; thence South 89 degrees 40 minutes 00 seconds West 274.43 feet along said Right of Way line; thence North 00 degrees 00 minutes 00 seconds West 251.06 feet along the East Right of Way line of Waalkes Street; thence North 89 degrees 43 minutes 30 seconds East 274.43 feet; thence South 00 degrees 00 minutes 00 seconds East 250.78 feet along the West Right of Way line of Park Avenue to Point of Beginning.

also known as Property Address: Lot 6 Seaway Indust. Pk, Muskegon, MI 49441

for the full consideration of: Sixty One Thousand and 00/100 (\$61,000.00) dollars

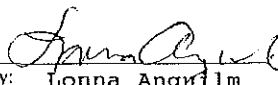
Exempt under MCL 207.505(h)(i) Exempt under MCL 207.526(h)(i)

subject to easements and building and use restriction of record

Dated this October 7, 2005

Signed by:

City of Muskegon


by: Lonna Anguilm
its: Planner III

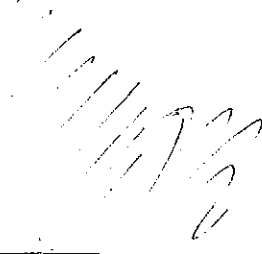
State of Michigan.
County of Muskegon

The foregoing instrument was acknowledged before me this October 7, 2005 by
Lonna Anguilm, Planner III

City of Muskegon, a Michigan Municipal Corporation.

Notary Public, _____ County,
Michigan
My commission expires: _____

Acting in the County of Muskegon


KATHY R. HARRIS, NOTARY PUBLIC
MUSKEGON COUNTY, STATE OF MICHIGAN
MY COMMISSION EXPIRES 1-17-2007

When Recorded Return To:
Eastwood Development, LLC
2540 Lakeshore Drive
Muskegon, MI 49441

Send Subsequent Tax Bills To:
Grantee

Drafted By:
C&A Commerical
525 W. Norton Avenue
Muskegon, MI 49444

Tax Parcel #

Recording Fee \$

Transfer Tax

*TYPE OR PRINT NAMES UNDER SIGNATURES.

Harbor Title Agency, Inc.
955 W. Broadway Avenue
Muskegon, MI 49441

Seller Statement
10/07/2005

Escrow No: 100538869

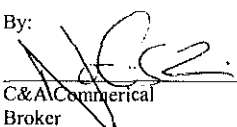
Seller: City of Muskegon, a Michigan Municipal Corporation
933 Terrace, P.O. Box 536
Muskegon, MI 49443

Purchaser: Eastwood Development, LLC
2540 Lakeshore Drive
Muskegon, MI 49441

Property Address: Lot 6 Seaway Indust. Pk Muskegon, MI 49441
Lot 6 Seaway Indust. Pk
Muskegon, MI 49441

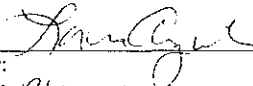
	Debits	Credits
Contract Sales Price		\$61,000.00
Commission Paid at Settlement to C&A Commerical	\$6,100.00	
Settlement or closing fee to Harbor Title Agency, Inc.	\$125.00	
Title insurance to Harbor Title Agency, Inc.	\$479.00	
Sub-totals	\$6,704.00	\$61,000.00
Balance Due To Seller		\$54,296.00

By:


C&A Commercial
Broker

I/We hereby acknowledge receipt of this statement.

City of Muskegon


by:
its: Planner III

THE UNDERSIGNED, by the execution hereof, hereby (i) acknowledge that they have read the above and foregoing Closing Statement, (ii) acknowledge that the same is true and correct, and (iii) authorize and direct the Closing Agent to receive all amounts and disburse all amounts pursuant to the foregoing Closing Statement.

It is mutually understood and agreed the taxes are estimated and in case of adjustment same will be made between the parties hereto. The Closing Agent is relieved of any responsibility with the adjustment of said taxes.

CLOSING AGREEMENT

Property Address: Lot 6 Seaway Indust. Pk, Muskegon, MI 49441

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that, I/we, as Seller(s), for valuable consideration, receipt of which is acknowledged, have bargained and sold and do grant and convey to the Buyer(s), in an "AS IS" condition with no warranty, either expressed or implied, the following goods and chattels: All items listed in the Purchase Agreement together with the following: **NOT APPLICABLE - VACANT LAND**

ACCEPTING PROPERTY

Buyer(s) understand and acknowledge, that he/she (they) is/are buying the property in an "AS IS" condition and that neither the Seller(s) nor Realtors make any warranties as to the structure(s) located upon the land purchased or the condition thereof. We agree to hold harmless the listing and/or selling broker, and/or their agents, the lender, and Harbor Title from any liability concerning this matter.

BUY AND SELL RESOLUTION

It is agreed, between the Buyer(s) and Seller(s) of this property, that all contingencies and addenda to the offer to purchase thereto, have been met or are hereby resolved or removed to the satisfaction of the parties concerned. We agree to hold harmless the listing and/or selling broker, and/or their agents, the lender, and Harbor Title from any liability concerning this matter. Buyer will be responsible for all the taxes billed after the date of closing.

SELLERS AFFIDAVIT

The undersigned Seller(s) represent and warrant to the Buyer(s), and Harbor Title that I/we have no knowledge of any proceedings instituted or taken by anyone which will result in a lien or special assessment upon the premises. That I/we have no knowledge of any delinquent taxes, special assessments, water bills, utility bills, furnished or financed insulation, or Homeowners Association fees covering subject property, except as follows:

Seller(s) further agree that in the event it is determined there are unpaid fees for any of the above specified items for amounts due and payable prior to and including the date of closing or which become due after the date of closing, and which are the responsibility and obligation of the Seller(s), that the Seller(s) shall pay any and all amounts as so charged as their obligation and responsibility during the time they had possession of said property, and shall provide proof of payment of same to listing and selling broker, Harbor Title and Buyer(s) of said property.

Seller(s) have not undertaken, within the past three (3) months, to have any work performed or materials furnished to the premises, which could give rise to any claim of a mechanic's lien against the premises.

Seller(s) further agree to pay any final water/sewer bills charged as their obligation and responsibility during the time they had possession of the property and shall hold harmless the lender, the Selling/Listing Realtors and Harbor Title from any liability concerning this matter.

The foregoing closing agreements are hereby accepted and approved.

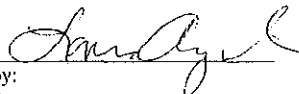
Date: October 7, 2005

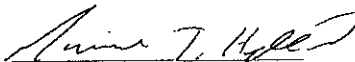
Seller(s)

Buyer(s)

City of Muskegon

Eastwood Development, LLC

by: 
its:

by: 
its: Michael T. Hylland
Managing Member

NOV-4-2005 10:29A FROM: CRYSTAL ANDERSON (231)739-9331 TO: 7551678
 Aug 18 05 03:19p City of Muskegon Planning 231 724 6790

P.2
 p.2

DEVELOPMENT AGREEMENT
CITY OF MUSKEGON RENAISSANCE ZONE

THIS IS AN AGREEMENT between the CITY OF MUSKEGON, a municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49441 ("City") and WOOD TRUCKING COMPANY., a MICHIGAN corporation, of 2540 Lakeshore Drive, Muskegon, Michigan (49441) ("Company"). ~~AND EASTWOOD DEVELOPMENT, LLC, A MICHIGAN LLC.~~

Recitals:

A. The City has established a Renaissance Zone. The Company desires to acquire property within the Renaissance Zone. The City deems this Agreement to constitute a necessary element in the City's determination regarding the location of Company in the Renaissance Zone.

B. The Company intends to acquire real property, construct a building and re-locate its business into a Renaissance Zone. The Company understands that the City relies upon the assurances of the Company in this Agreement as an inducement to sell certain real property.

NOW THEREFORE THE PARTIES, INCORPORATING THE ABOVE RECITALS, AGREE:

1. DOCUMENTS ATTACHED. Included in this Agreement are the following documents which have been collected and relied upon by the parties:

1.1 Exhibit containing Site/Building requirements for this project applying Article VII of the Development Agreement Policy.

1.2 Real Estate Purchase Agreement.

2. COMPANY AGREEMENT. The Company agrees to the following commitments which it shall perform in a timely and reasonably acceptable manner:

2.1 Execution of the Real Estate Purchase Agreement attached as Exhibit A, simultaneously with execution of this agreement, and delivery of both to the City.

2.2 Construction of buildings as indicated in Exhibit B subject to review and modification by the City Planning Commission and/or City Commission. The design and landscaping of the site shall be subject to the approval of the City, which shall reasonably apply its zoning, site plan and other land use requirements.

2.3 The investment in the amount of FOUR HUNDRED THOUSAND Dollars (\$400,000) (the "Investment Objective").

NOV-4-2005 10:30A FROM: CRYSTAL ANDERSON (231)739-9331 TO: 7551678
Aug 18 05 03:19p City of Muskegon Planning 231 724 6790

F.3
p.3

2.4 The retention of at least 10 (ten) jobs (the "Employment Objective") within the first three (3) years of operation. This number may include the transfer of jobs from other municipalities.

2.5 The closing of the purchase of the properties described in the Real Estate Purchase Agreement (the "Properties").

2.6 Cooperation with City representatives to supply all requested and required documentation necessary in the City's reasonable judgment to determine compliance with the undertakings set forth in this Agreement and its attachments.

2.7 The Company shall take all required precautions to avoid the release of any hazardous substance in violation of any environmental law on its premises, and shall report any releases to the appropriate authority in a timely and complete manner as required by law, providing copies of said documentation to the City. Subject to its rights to contest any proposed orders and actions, the Company shall comply with all orders and actions of any governmental agency having authority.

2.8 During the entire period for which the Renaissance Zone is in effect, the Company shall maintain the improvements so as to minimize physical or functional obsolescence.

3. Governing Law. This 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, and in particular the Renaissance Zone Act of the State, as amended.

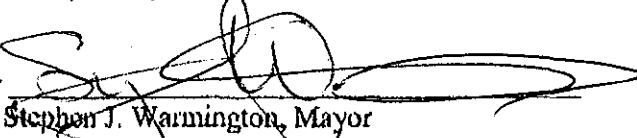
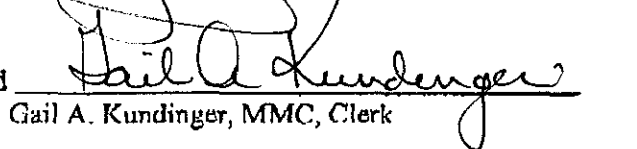
4. Counterparts. This Agreement may be executed in one or more counterparts. Notwithstanding such execution all such counterparts shall constitute one and the same Agreement.

5. Benefit. This Agreement shall be binding upon and inure to the benefit of the respective parties, their successors and personal representatives. The Company shall have the right to assign this Agreement subject to the consent of the City. Except as so provided, there is no third party beneficiary intended upon the execution of this Agreement.

NOV-4-2005 10:34A FROM: CRYSTAL ANDERSON (231)739-9331 TO: 7551678
Aug 18 05 03:20P City of Muskegon Planning 231 724 6790 P.4
P.4

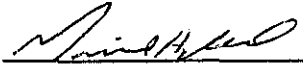
6. Invalidity. In the event any provision of this agreement is declared invalid by a court or tribunal having competent jurisdiction, the remainder of the agreement shall remain in full force and effect.

CITY OF MUSKEGON,
a municipal corporation

By 
Stephen J. Warmington, Mayor
and 
Gail A. Kunding, MMC, Clerk

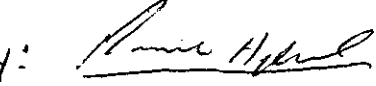
Dated: December 9, 2005

WOOD TRUCKING COMPANY
a MICHIGAN Corporation

By 
MICHAEL HYLAND, II's owner

Dated: 11/4, 2005

EASTWOOD DEVELOPMENTS, LLC

By: 
MICHAEL HYLAND, MANAGING MEMBER

DATED: 11/4, 2005

Commission Meeting Date: August 23, 2005

Date: August 23, 2005
To: Honorable Mayor & City Commission
From: Community and Neighborhood Services
Department
RE: Approval of Sale of City owned home at 253
Walton

SUMMARY OF REQUEST: To approve the attached resolution and instruct the Community and Neighborhood Services department to complete the sale transaction between Mr. Edward Spann for the new Infill home at 253 Walton which is part of the Operation Walton Renaissance AKA Hill Top View, which is a joint project between the City of Muskegon, Fifth Third Bank and Neighborhood Investment Corporation. Mr. Spann's purchase price is \$134,000 with a subsidy of \$39,000 dollars.

The land where the new home now stands is a former Urban Renewal area overlooking the City's present Farmers Market and is another example of the City's continuing efforts to redevelop its urban neighborhoods, by attracting home purchasers especially young purchasers to the City of Muskegon.

FINANCIAL IMPACT: The majority of the \$95,000 proceeds from the sale will be used to reimburse Fifth Third Bank for their \$60,000 investment in the project which was used to finance the cost of the new street between Murphy and Emerald.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution

COMMITTEE RECOMMENDATION: The Land Reutilization Committee and the City Commission approved the Walton Street Renaissance Project during the 2003-2004 fiscal year.

2005-81(f)
MUSKEGON CITY COMMISSION

RESOLUTION TO APPROVE THE PURCHASE OF
CURRENTLY STATE OWNED PROPERTY AT 253 Walton

WHEREAS, the City of Muskegon is dedicated to the redevelopment of its neighborhoods and;

WHEREAS, the City of Muskegon is dedicated to promoting high quality affordable single-family housing in the community and;

WHEREAS, the City of Muskegon is dedicated to promoting homeownership throughout its neighborhoods;

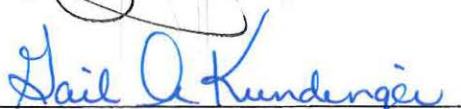
NOW THEREFORE, BE IT RESOLVED that the City Commission hereby approves the purchase of the currently City owned property for \$134,000, which is located at 253 Walton. After obtained the structure Mr. Edward Spann will used the structure as a single family owner-occupied home for the duration of his agreed upon affordability period. Unless he decides to break his agreement which will then cause the City to be compensated its subsidy on a prorated basis.

Adopted this 23rd day of August, 2005

Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson

Nays: None

By 
Stephen J. Warmington, Mayor

By 
Gail A. Kunderger, MMC City Clerk

CERTIFICATION
2005-81(f)

This resolution was adopted at a regular meeting of the City Commission, held on August 23, 2005. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By: Gail A. Kunderger
Gail A. Kunderger, MMC
City Clerk



Commission Meeting Date: August 23, 2005

Date: August 23, 2005
To: Honorable Mayor & City Commission
From: Community and Neighborhood Services
Department
RE: Approval of Sale of City owned home at 259
Walton

SUMMARY OF REQUEST: To approve the attached resolution and instruct the Community and Neighborhood Services department to complete the sale transaction between Mr. Tyrone Marshall for the new Infill home at 259 Walton which is part of the Operation Walton Renaissance AKA Hill Top View, which is a joint project between the City of Muskegon, Fifth Third Bank and Neighborhood Investment Corporation. Mr. Marshall's purchase price is \$155,000 with a subsidy of \$60,000 dollars.

The land where the new home now stands is a former Urban Renewal area overlooking the City's present Farmers Market and is another example of the City's continued efforts to redevelop its urban neighborhoods, by attracting home purchasers especially young purchasers to the City of Muskegon.

FINANCIAL IMPACT: The majority of the \$95,000 proceeds from the sale will be used to reimburse Fifth Third Bank for their \$60,000 investment in the project which was used to finance the cost of the new street between Murphy and Emerald.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution

COMMITTEE RECOMMENDATION: The Land Reutilization Committee and the City Commission approved the Walton Street Renaissance Project during the 2003-2004 fiscal year.

2005-81(g)
MUSKEGON CITY COMMISSION

RESOLUTION TO APPROVE THE PURCHASE OF
CURRENTLY STATE OWNED PROPERTY AT 259 Walton

WHEREAS, the City of Muskegon is dedicated to the redevelopment of its neighborhoods and;

WHEREAS, the City of Muskegon is dedicated to promoting high quality affordable single-family housing in the community and;

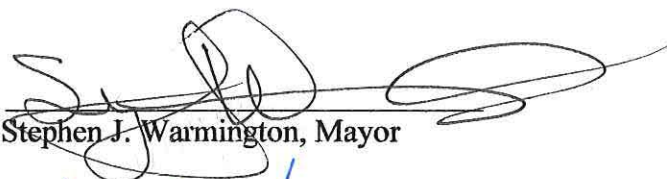
WHEREAS, the City of Muskegon is dedicated to promoting homeownership throughout its neighborhoods;

NOW THEREFORE, BE IT RESOLVED that the City Commission hereby approves the purchase of the currently City owned property for \$155,000, which is located at 259 Walton. After obtained the structure Mr. Tyrone Marshall will used the structure as a single family owner-occupied home for the duration of his agreed upon affordability period. Unless he decides to break his agreement which will then cause the City to be compensated its subsidy on a prorated basis.

Adopted this 23rd day of August, 2005

Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, and Spataro

Nays: None

By 
Stephen J. Warmington, Mayor

By 
Gail A. Kunderinger, MMC City Clerk

CERTIFICATION
2005-81(g)

This resolution was adopted at a regular meeting of the City Commission, held on August 23, 2005. The meeting was properly held and noticed pursuant to the Open Meetings Act of the State of Michigan, Act 267 of the Public Acts of 1976.

CITY OF MUSKEGON

By: Gail A. Kunderger
Gail A. Kunderger, MMC
City Clerk



Commission Meeting Date: August 23, 2005

Date: August 17, 2005
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department CBC
**RE: City-County Agreement for Community
Development Block Grant (CDBG) Funds**

SUMMARY OF REQUEST: To approve the Agreement between the City and the County for the expenditure of CDBG funds for the Downtown Western Avenue Redevelopment project.

FINANCIAL IMPACT: The City will receive \$1 Million in grant funds from the State of Michigan, through the County of Muskegon for the project.

BUDGET ACTION REQUIRED: None.

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

COMMITTEE RECOMMENDATION: None.

AGREEMENT

2005-81(h)

This Agreement is made as of August 23, 2005, between the County of Muskegon ("County"), and the City of Muskegon ("City").

RECITALS

A. The Downtown Muskegon Development Corporation ("DMDC") has acquired real property located in the City of Muskegon, commonly referred to as the Muskegon Mall property ("Property").

B. The DMDC intends to finance and have the City install public improvements on the Property, and has entered into a Development and Reimbursement Agreement with the City, for the purpose of planning a variety of public improvements on the Property.

C. The DMDC and City requested the County to apply for a Community Development Block Grant ("CDBG") in the amount of Three Million, Three Hundred Fifty-One Thousand, Eight Hundred Twenty-Seven Dollars (\$3,351,827), for use in the installing of public improvements on the Property.

D. The County applied for the grant and was approved for CDBG funding in the amount of One Million Dollars (\$1,000,000) by the Michigan Economic Development Corporation ("MEDC").

TERMS AND CONDITIONS

Therefore, in exchange for the consideration referred to by this Agreement, and effective beginning on the date the County accepts and executes the CDBG Agreement with the MEDC, the parties agree as follows:

1. The County shall be responsible for all administrative matters to obtain reimbursement on behalf of the City under the terms of the CDBG program for the expenses incurred by the City and shall forward monies received to the City, except that the County shall be entitled to one percent (1%) of any monies received as an administrative fee.
2. The City shall be subject to all requirements contained in the attached CDBG Agreement between the County and MEDC (See Exhibit 1). The City shall provide the County, within a reasonable time, any information and cooperate in any other reasonable manner to assure compliance with the CDBG Agreement.
3. City agrees to exonerate, save harmless, protect and indemnify County, its departments, officers, employees, and agents from and against any and all loss, damages, claims, suits, actions, judgments and costs, which may arise or grow out of any actions or omissions caused by City's officers, employees, or agents under this Agreement. Provided, however, City may defend instead of indemnify County in the event County is sued for City's actions, if it would be reasonable due to the nature of the case.

4. County agrees to exonerate, save harmless, protect and indemnify City, its departments, officers, employees, and agents from and against any and all loss, damages, claims, suits, actions, judgments and costs, which may arise or grow out of any actions or omissions caused by County's officers, employees, or agents under this Agreement. Provided, however, County may defend instead of indemnify City in the event City is sued for County's actions, if it would be reasonable due to the nature of the case.

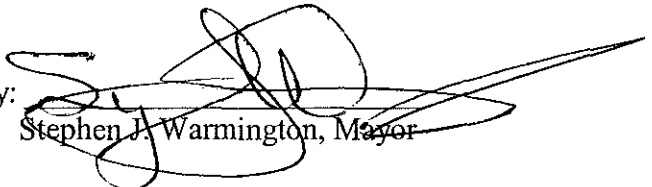
5. This is the entire agreement between the parties as to its subject, and is binding upon any successors or permitted assigns of the parties. It shall not be amended or modified except in writing signed by the parties.

6. This Agreement shall be interpreted and construed in accordance with Michigan law and the parties agree to jurisdiction and venue within the courts for the County of Muskegon.

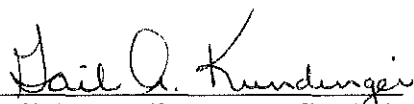
7. This Agreement may be executed in any number of counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

This Agreement has been executed as of the first date written above.

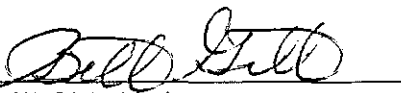
CITY OF MUSKEGON

By: 
Stephen J. Warmington, Mayor

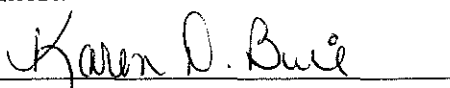
Attest:

By: 
Gail A. Kunderger, MMC, Clerk

County of Muskegon

By: 
Bill Gill, Chairman

Attest:


Karen Buie, Clerk

AGENDA ITEM NO. _____

CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Bryon L. Mazade, City Manager

DATE: August 16, 2005

RE: Award Infrastructure Contract for Western Avenue

SUMMARY OF REQUEST:

To award the contract to construct Western Avenue from Third Street to Terrace Street to Milbocker and Sons for the amount of \$1,246,574.88.

FINANCIAL IMPACT:

\$1,246,574.88; it is anticipated that decorative concrete work (\$477,920.57) will be added at a later date through a change order.

BUDGET ACTION REQUIRED:

The 3rd quarter 2005 and 2006 budgets will be adjusted to accommodate this project.

STAFF RECOMMENDATION:

To award the contract to Milbocker & Sons in the amount of \$1,246,574.88 and authorize the Mayor and Clerk to execute the contract.

COMMITTEE RECOMMENDATION:

The City Commission met on 8/9/05 and determined that the Milbocker alternative #3 would be selected, which would include beginning the construction in 2005, but the concrete work would be done in 2006, thus allowing the concrete work to be awarded to a minority contractor (Martin J Concrete).



**Lakeshore Minority
Contractors**
Association of Michigan

SPECIAL INVITATION

**to all minority, women and
disadvantaged business (DBE) owners**

Join us for an informational meeting to discuss business opportunities with the Michigan Department of Transportation and learn more about the Disadvantage Business Enterprise (DBE) Program.

**Wednesday, August 31, 6 p.m.
Holiday Inn Muskegon Harbor
939 3rd Street, Muskegon**



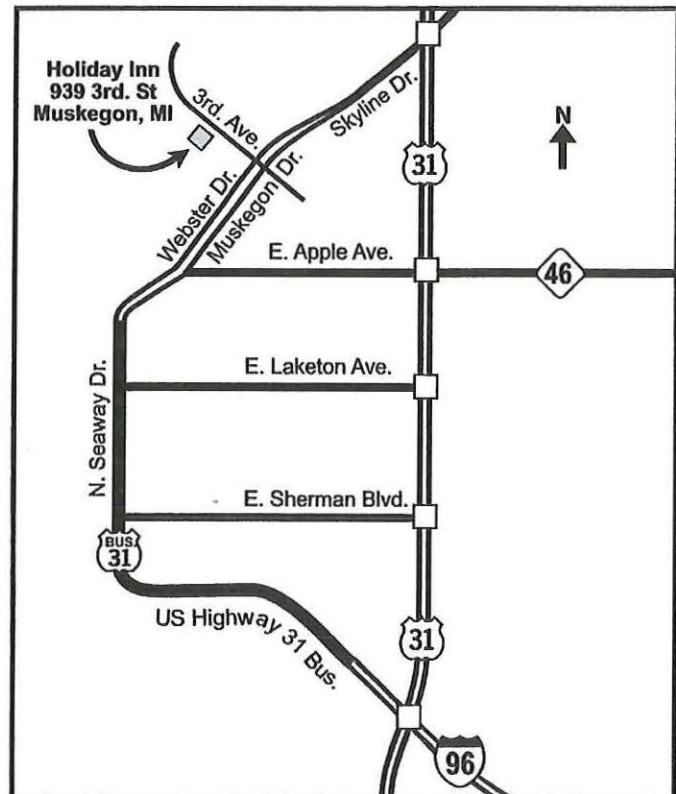
Speakers

**Dr. Patricia Collins, Ms. Ann
Williams and Ms. Doris Wilson**

Check-in 5:15 -5:45 p.m., the meeting
will start promptly at 6:00 p.m. and
last until 8:00 p.m.

Directions: From I-96 or US-31 expressway follow
signs to Muskegon take Bus. US-31, (Seaway Dr.)
for 6 miles, turn left on 3rd St., hotel on the left.

**Holiday Inn Muskegon Harbor
Ph. (231) 720-7100**



MDOT: Providing the highest quality integrated transportation services for economic benefit and improved quality of life.

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