

# CITY OF MUSKEGON

## CITY COMMISSION MEETING

**AUGUST 14, 2012**

**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. Non-Discrimination Resolution. CITY MANAGER
  - C. Water Treatment Plant Sluice Gate Repair. PUBLIC WORKS
  - D. Engineering Services Agreement for Environmental Reports.  
ENGINEERING
  - E. Purchase of Concrete Saw. PUBLIC WORKS
  - F. Liquor License Request from Muskegon Nights, Inc., 939 Third Street.  
CITY CLERK
  - G. Grant Application for Fisherman's Landing. FINANCE
  - H. Lakeshore Museum Loan Agreement (LaFrance Fire Truck). PUBLIC  
SAFETY
  - I. 2012-2013 Muskegon High School Community Officer Agreement.  
PUBLIC SAFETY
  - J. New Cingular Wireless Second Amended Tower Lease Agreement.  
PUBLIC WORKS
- ❑ **PUBLIC HEARINGS:**
- ❑ **COMMUNICATIONS:**
- ❑ **CITY MANAGER'S REPORT:**

❑ **UNFINISHED BUSINESS:**

❑ **NEW BUSINESS:**

A. Sale of 2265 Lincoln Street. COMMUNITY & NEIGHBORHOOD SERVICES

B. Appointment of Vice Mayor. CITY MANAGER

C. Water Supply Agreement. 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.)

❑ **CLOSED SESSION:**

❑ **ADJOURNMENT:**

ADA POLICY: THE CITY OF MUSKEGON WILL PROVIDE NECESSARY AUXILIARY AIDS AND SERVICES TO INDIVIDUALS WHO WANT TO ATTEND THE MEETING UPON TWENTY FOUR HOUR NOTICE TO THE CITY OF MUSKEGON. PLEASE CONTACT ANN MARIE CUMMINGS, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TTY/TDD DIAL 7-1-1 TO REQUEST A REPRESENTATIVE TO DIAL (231) 724-6705.

**Date: August 14, 2012**  
**To: Honorable Mayor and City Commissioners**  
**From: Ann Marie Cummings, City Clerk**  
**RE: Approval of Minutes**

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SUMMARY OF REQUEST: To approve minutes of the July 23<sup>rd</sup> Special Commission Meeting and the July 24<sup>th</sup> City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

City of Muskegon  
Special City Commission Meeting  
July 23, 2012  
City Commission Chambers  
5:30 PM

MINUTES

2012-57

Present: Commissioners Gawron, Hood, Wierengo, German, Turnquist, and Spataro.

Absent: None.

**Interviews for Vacant At-Large City Commission Seat.**

The City Commission accepted letters of interest from residents interested in filling the vacant seat of the At-Large City Commission seat that expires December 31, 2013.

All interested candidates were interviewed. They are as follows: Bill Larson (5:30 p.m.), Chris Cater (5:50 p.m.), Ruby Clark (6:00 p.m.), Lea Markowski (6:30 p.m.), Dyllon Hock (6:45 p.m.), Kevin Yeck (7:05 p.m.), and Hugh Kallen (7:30 p.m.).

City Manager, Bryon Mazade asked the following questions on behalf of the City Commission:

Please provide the City Commission with your background as it relates to the position of City Commissioner.

Why do you want to be a City Commissioner?

What do you believe should be the goals/priorities for the City of Muskegon? What would be the best way to accomplish them?

What types of community involvement have you participated in?

Mayor Gawron gave the City Commissioners the opportunity to ask questions of the candidates.

After interviews were completed, the City Commission was allowed to vote for their top three choices. They were scored as follows: first choice - 3, second choice – 2, third choice – 1.

The results were as follows:

Markowski – 13

Carter – 6

Kallen – 6

Yeck – 2

Hock – 2

Larson – 1

Clark – 1

This item has been placed on the July 24, 2012 City Commission Meeting for consideration by City Commissioners.

**Adjournment.**

**Motion by Commissioner Hood, seconded by Commissioner Spataro to adjourn the meeting at 8:20 p.m.**

***MOTION PASSES***

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**Ann Marie Cummings, MMC  
City Clerk**

# CITY OF MUSKEGON

## CITY COMMISSION MEETING

**JULY 24, 2012**

**CITY COMMISSION CHAMBERS @ 5:30 P.M.**

### **MINUTES**

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, July 24, 2012.

Mayor Gawron opened the meeting with a prayer from Reverend David Dahlberg after which the Commission and public recited the Pledge of Allegiance to the Flag.

#### **ROLL CALL FOR THE REGULAR COMMISSION MEETING:**

Present: Mayor Stephen Gawron, Commissioners Byron Turnquist, Eric Hood, Lawrence Spataro, Willie German, and Sue Wierengo, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Cummings.

#### **2012-58 CONSENT AGENDA:**

##### **A. Approval of Minutes. CITY CLERK**

SUMMARY OF REQUEST: To approve minutes of the July 9<sup>th</sup> Commission Worksession Meeting and the July 10<sup>th</sup> City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

##### **B. Appointment to Housing Commission. CITY MANAGER**

SUMMARY OF REQUEST: To appoint Rosie Walker to the Housing Commission.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the appointment.

##### **C. Approval of the Use and Maintenance of City Owned Property at 1278 Terrace Street to be Combined with the Existing Lease Agreement with McLaughlin Neighborhood Association. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: To add 1278 Terrace (City owned lot) to the existing lease agreement that the City has with McLaughlin Neighborhood Association. The properties are contiguous. They intend to use the property for a park and garden.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

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

**D. Consideration of Bids for H-1645 Bourdon Street, Fair to Lakeshore Drive.**  
ENGINEERING

SUMMARY OF REQUEST: Award the reconstruction of the Bourdon contract to McCormick Sand since they were the lowest responsible bidder with a total bid price of \$285,734.

FINANCIAL IMPACT: The construction cost of \$285,734 plus engineering.

BUDGET ACTION REQUIRED: The water cost will have to be added to the Water budget under CIP for 2012/2013 from the "various upgrades" line item.

STAFF RECOMMENDATION: Award the contract to McCormick Sand.

**E. Consent Special Assessment Agreement with Harbour Towne Condo. Association to Pave Harbour Towne Circle and Cul-de-Sacs.**  
ENGINEERING

SUMMARY OF REQUEST: Approve the consent special assessment agreement with Harbour Towne Condo. Association to mill and resurface all public roads within the Harbour Towne area as described in the proposed agreement, and authorize the Mayor and Clerk to execute said agreement.

FINANCIAL IMPACT: The total cost of the construction project, including engineering, less the association's contribution.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the agreement with Harbour Towne Condominium Association and authorize the Mayor and Clerk to sign off on said agreement.

**Motion by Commissioner German, second by Commissioner Wierengo to approve the Consent Agenda as presented.**

**ROLL VOTE: Ayes: Gawron, Hood, Spataro, German, Wierengo, and Turnquist**

**Nays: None**

**MOTION PASSES**

**2012-59 NEW BUSINESS:**

**A. Consideration of Bids for H-1691 Williams' Street Outfall, North of White Street.** ENGINEERING

SUMMARY OF REQUEST: Authorize staff to award and enter into a construction contract with the lowest responsible bidder, Jackson-Merkey with a bid amount of \$106,320 to reestablish the Williams' Street outfall.

FINANCIAL IMPACT: The construction cost of an estimated bid of \$106,000

plus construction engineering.

BUDGET ACTION REQUIRED: If approved, the adopted 2012/2013 budget will have to be amended to add this project into the 2012/2013 CIP.

STAFF RECOMMENDATION: Authorize staff to enter into a construction contract with Jackson-Merkey who was the lowest responsible bidder due to the urgent nature of the required repairs.

**Motion by Commissioner Spataro, second by Commissioner Turnquist to approve the bids for H-1691 Williams' Street Outfall, North of White Street to Jackson-Merkey who is the lowest responsible bidder.**

**ROLL VOTE: Ayes: Hood, Spataro, German, Wierengo, Turnquist, and Gawron**

**Nays: None**

***MOTION PASSES***

**B. Consideration of Bids for H-1639 Harbour Towne Circle and Cul-de-Sacs. ENGINEERING**

SUMMARY OF REQUEST: Given the City's local preference policy of 1% advantage to local contractors: Award the milling and resurfacing of Harbour Towne Circle to Asphalt Paving out of Muskegon for a proposed price of \$225,290.94. Furthermore, if approval is granted, it should be contingent on the Harbour Towne Association signing the consent special assessment agreement by which they are responsible for up to 20% of the total cost. Asphalt Paving was the third lowest bidder.

FINANCIAL IMPACT: The construction cost of \$225,290.94 plus engineering.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Contingent award to Asphalt Paving.

**Motion by Commissioner Wierengo, second by Commissioner Spataro to award the paving of Harbour Towne Circle and Cul-de-Sacs to Asphalt Paving.**

**ROLL VOTE: Ayes: Spataro, German, Wierengo, Turnquist, Gawron, and Hood**

**Nays: None**

***MOTION PASSES***

**C. Police Patrol Labor Agreement. CITY MANAGER**

SUMMARY OF REQUEST: To ratify a collective bargaining agreement with the Police Officers Labor Council (Police Patrol Union) for years 2012 and 2013.

FINANCIAL IMPACT: Provided in separate summary.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the request and authorize the Mayor and Clerk to execute the agreement.

**Motion by Commissioner Hood, second by Commissioner German to approve**

the collective bargaining agreement with the Police Officers Labor Council for 2012 and 2013.

ROLL VOTE: Ayes: German, Wierengo, Turnquist, Gawron, Hood, and Spataro

Nays: None

**MOTION PASSES**

**D. Emergency Pump Repair/Replacement of Apple Avenue Lift Station.**  
ENGINEERING

SUMMARY OF REQUEST: Authorize Staff to purchase one new 15 HP Flygt Submersible Sewage Pump from Kennedy Industries for the quoted price of \$10,360.

FINANCIAL IMPACT: Total cost \$10,360.

BUDGET ACTION REQUIRED: None, expenditures for the purchase would come from the Sewer Fund.

STAFF RECOMMENDATION: Approve purchase.

**Motion by Commissioner Wierengo, second by Commissioner German to approve the purchase of the new pump.**

ROLL VOTE: Ayes: Wierengo, Turnquist, Gawron, Hood, Spataro, and German

Nays: None

**MOTION PASSES**

**E. Appointment of City Commissioner.** CITY MANAGER

**Motion by Commissioner Spataro, second by Commissioner Wierengo to appoint Lea Markowski to fill the vacant Commission At-Large seat.**

ROLL VOTE: Ayes: Turnquist, Gawron, Hood, Spataro, German, and Wierengo

Nays: None

**MOTION PASSES**

**PUBLIC PARTICIPATION:** Public comments were received.

**ADJOURNMENT:** The City Commission Meeting adjourned at 5:46 p.m.

Respectfully submitted,

Ann Marie Cummings, MMC  
City Clerk

**AGENDA ITEM NO. \_\_\_\_\_**

**CITY COMMISSION MEETING August 14, 2012**

**TO:** Honorable Mayor and City Commissioners

**FROM:** Bryon L. Mazade, City Manager

**DATE:** July 25, 2012

**RE:** Non-Discrimination Resolution

**SUMMARY OF REQUEST:**

To approve a resolution prohibiting discrimination on the basis of sexual orientation or gender identity.

**FINANCIAL IMPACT:**

None.

**BUDGET ACTION REQUIRED:**

None.

**STAFF RECOMMENDATION:**

None.

**COMMITTEE RECOMMENDATION:**

None.

**RESOLUTION PROHIBITING DISCRIMINATION  
ON THE BASIS OF SEXUAL ORIENTATION OR GENDER IDENTITY**

City of Muskegon  
County of Muskegon, State of Michigan

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WHEREAS, federal and state laws prohibit discrimination based on race, color, religion, national origin, sex, age, height, weight, marital status, physical or mental disability, and family status.

WHEREAS, the City of Muskegon ("the City") acknowledges the need and desire for protection of the additional categories of sexual orientation, or gender identity.

WHEREAS, the City defines "sexual orientation" as male or female homosexuality, heterosexuality or bisexuality, whether by orientation or practice. Sexual orientation does not include the physical or sexual attraction to a minor by an adult.

WHEREAS, the City defines "gender identity" as a person's actual or perceived gender, including a person's self-image, appearance, expression, or behavior, whether or not that self-image, appearance, expression, or behavior is different from that traditionally associated with the person's biological sex as assigned at birth as being either female or male.

NOW, THEREFORE, BE IT RESOLVED THAT:

As to all City-provided services, the City shall not discriminate on the basis of sexual identity or sexual orientation.

The City shall not adopt, enforce or employ any policy or requirement, or publish, post or broadcast any advertisement, sign or notice which discriminates or indicates discrimination in providing services based on sexual identity or sexual orientation.

No person shall conspire with, assist, coerce or request another person to discriminate in any manner prohibited by this resolution.

No person shall adopt, enforce or employ any policy or requirement which has the effect of creating unequal opportunities with regard to City-provided services according to sexual orientation or gender identity.

The prohibitions against discrimination as provided for in this resolution shall not be deemed preempted by federal or state law, but are intended to supplement state and federal civil rights law prohibiting discrimination in the area of City-provided services; provided, however, this resolution shall be construed and applied in a manner consistent with First Amendment jurisprudence regarding the freedom of speech and exercise of religion.

Nothing in this resolution shall require preferential treatment of any person or group on the basis of sexual orientation or gender identity.

AYES:       Members \_\_\_\_\_

NAYS:       Members \_\_\_\_\_

RESOLUTION DECLARED ADOPTED.

CITY OF MUSKEGON

By: \_\_\_\_\_  
Ann Cummings  
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    day of   , 2012, 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: , 2012

Ann Cummings  
Clerk, City of Muskegon

**Date: August 14, 2012**

**To: Honorable Mayor and City Commissioners**

**From: DPW/Filtration**

**RE: Water Treatment Plant Sluice Gate Repair**

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SUMMARY OF REQUEST: Authorize staff to enter into contract with Northwest Kent Mechanical Co. to repair the clearwell sluice gate for a cost of \$10,600.

FINANCIAL IMPACT:  
None

BUDGET ACTION REQUIRED:  
None

STAFF RECOMMENDATION: To contract with the lowest responsible bidder, Northwest Kent Mechanical Co. at cost of \$10,600, for repair of the Water Treatment Plant clearwell #2 sluice gate.

**Date: 7/31/2012**

**To: DPW Director**

**From: Water Filtration Plant Staff**

**Re: Sluice Gate Repair in Clearwell #2.**

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From inspections of the clearwell completed in 2010, the gate (valve) separating the finished water storage reservoir (clearwell) #2 & 3 needs replacing. Repair of the valve will allow staff to isolate sections of the finished water storage tank for future inspections and repairs to each section, and maintain enough storage capacity for reliable operations. The work can be completed after the summer season, when the water demand is reduced and the tank can be removed from service. Staff anticipates this to be done in September.

The work is proposed by the three contractors listed. The lowest responsible bidder is Northwest Kent Mechanical Co. for \$10,600.

|                                      |                                                                 |          |
|--------------------------------------|-----------------------------------------------------------------|----------|
| <b>Northwest Kent Mechanical Co.</b> | PO Box 216K<br>4095 16 mile rd<br>Cedar Springs, MI 49319       | \$10,600 |
| Franklin Howerda Co.                 | PO Box 9100<br>2509 29 <sup>th</sup> st SW<br>Wyoming, MI 49519 | \$14,300 |
| Allied Mechanical Serv., Inc.        | 3380 Highland Dr.<br>Hudsonville, MI 49426                      | \$15,500 |

Sluice Gate 2-3



Staff recommends awarding the work to the lowest responsible bidder, Northwest Kent Mechanical Co. for \$10,600.



# Northwest Kent Mechanical Co.

Commercial • Industrial • Institutional

P.O. Box 216K • 4095 16 Mile Road

Cedar Springs, MI 49319

(616) 696-9026 • Fax (616) 696-9327

[www.nwkentmech.com](http://www.nwkentmech.com)

## Proposal

May 17, 2012

City of Muskegon  
Kevin Herbert

Project: Water Filtration Plant sluice gate repairs –

NWK will provide labor and material for the following:

- A. – Install new stem, guide and stop for faulty gate
- B. – Subcontract Hesco to commission gate and make necessary adjustments ( NWK to be onsite at this time )

Note: City of Muskegon to provide all confined space equipment and personnel

Time and Material not to exceed: **\$10,600**

Northwest Kent Mechanical Co.  
Rick Budres  
Sales/Project Management  
616-835-4498

Terms: Net due upon completion. A 1.5% service charge per month will be added to all accounts 30 days past due. This quotation subject to acceptance within 30 days. Signed copy constitutes an agreement to proceed as quoted.

# FHC

MECHANICAL • SHEET METAL • FIRE PROTECTION • SERVICE

May 7, 2012

Mr. Kevin Herbert  
Muskegon WTP  
1900 Beach St.  
Muskegon, MI 49442

Re: Sluice gate repair

Dear Kevin:

We are pleased to offer the following mechanical work proposal for modifications to your plant:

Repair 42" sluice gate in clearwell. Work to include:

Remove 2" stem and replace with new 304SS stem and stop collar

New stem guide

Remove gate, clean gate and frame inside of tank

Reset wedges

This work will take approximately (3) three days to demo and reinstall gate.

Total Value for this work is: **\$14,300**

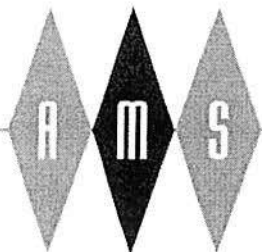
We appreciate the opportunity for your request and look forward to working with you on this and other work.

If you have any questions, please call.

Sincerely,



Dave Reynhout  
Franklin Holwerda Co.



# ALLIED MECHANICAL SERVICES, INC.

PLUMBING - HEATING - AIR CONDITIONING - SHEET METAL - PROCESS PIPING

June 6, 2012

Kevin Herbert  
City of Muskegon Water Filtration Plant  
Muskegon, Michigan 49441

**Subject: Sluice Gate Repair**

Allied Mechanical Services is pleased to furnish the necessary labor, tools, and supervision to perform the subject project. Our proposal is based on our site inspection.

**Scope of Work:**

1. Remove existing damaged stem and guide.
2. Re-install new Rodney Hunt 2" stem and stem guide.
3. Remove buildup on the existing gate and mating surface.
4. Arrange for factory authorized startup and adjustment of the gate and new stem.

**Clarifications:**

1. Our pricing excludes any taxes.
2. Our price is based on working normal straight time hours.
3. Disinfection of the tank is by the City.
4. Dewatering of the tank is by the City.

**Price.....\$15,500.00**

Thank you for requesting a proposal from Allied Mechanical Services. We look forward to working with the City of Muskegon on this project. If you have any questions, please contact our office.

Sincerely,

Rich Wackerle  
Project Manager

Date: August 14, 2012

To: Honorable Mayor and City Commissioners

From: Engineering

RE: Engineering Services Agreement for Environmental Reports

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#### SUMMARY OF REQUEST:

Accept the attached proposal from Westshore Engineering to prepare the necessary closing documents for the public Service Building and Hartshorne Marina to get both locations off of the open Leaking Underground Storage Tank sites. The proposed costs are; \$8,710.00 for the PSB and \$14,560.00 for the Marina Site.

#### FINANCIAL IMPACT:

The total cost of \$23,270.00

#### BUDGET ACTION REQUIRED:

none

#### STAFF RECOMMENDATION:

Accept proposal from Westshore Engineering for \$23,270.00 to prepare the closing reports.

#### COMMITTEE RECOMMENDATION:



[WestshoreConsulting.com](http://WestshoreConsulting.com)

*Sent Via Email & Hardcopy*

June 12, 2012  
Revised July 20, 2012



Mr. Mohammed Al-Shatel, P.E.  
City of Muskegon - Engineering  
933 Terrace Street  
P.O. Box 536  
Muskegon, MI 49443-0536

Mr. Kelly DeFrench  
City of Muskegon DPW  
1350 E. Keating Avenue  
Muskegon, MI 49442

*Re: Environmental Services for Public Service Building and Hartshorn Marina*

**Muskegon**  
2534 Black Creek Road  
Muskegon, MI 49444  
Ph: (231) 777-3447  
Fax: (231) 773-3453

**Grand Haven**  
(616) 844-1260

**Manistee**  
(231) 920-5818

Gentleman:

I have prepared this cost proposal following our meeting with Ms. Brenda Mecher of the Michigan Department of Environmental Quality (MDEQ). The meeting focused on the actions necessary to close the Muskegon Public Services Building (MPSB) and the Hartshorn Marina properties from their present status as open Leaking Underground Storage Tank sites. Our discussion also included a brief status of the revision of the Part 201 and Part 213 regulations that pertain to contaminated sites. Since our meeting took place, these amendments have been signed by the Governor, and are now in place. Following is a brief discussion of the tasks that will need to be accomplished to close these sites.

### **Muskegon Public Services Building**

The majority of environmental investigative work has been accomplished at the MPSB site, and the remainder of the services necessary is primarily related to report writing, deed restriction and surveying. Following are a list of those services and estimated costs.

|                                                                |                       |
|----------------------------------------------------------------|-----------------------|
| Prepare a letter of Road Permanence .....                      | \$ 560.00             |
| Survey MPSB property for Restrictive Covenant.....             | \$ 500.00             |
| Prepare Restrictive Covenant for MPSB property.....            | \$ 500.00             |
| Finalize Closure Report .....                                  | \$ 4,950.00           |
| Monitoring Well Abandonment (following Closure approval) ..... | \$ 2,200.00           |
| Removal and Abandonment of Remediation Equipment .....         | <u>Not Determined</u> |
| <b>Total .....</b>                                             | <b>\$ 8,710.00</b>    |

June 12, 2012 – Revised July 20, 2012

## Hartshorn Marina

The Hartshorn Marina site will require all the services mentioned in the MPSB estimate, but will also include some soil and groundwater sampling and laboratory analyses, and the determination of risk associated with the vapor intrusion/indoor air pathway for the onsite maintenance building. Following are a list of those services and estimated costs.

|                                                           |                    |
|-----------------------------------------------------------|--------------------|
| Sidewall Soil Sampling & Laboratory Analyses .....        | \$ 970.00          |
| Vapor Intrusion/Indoor Air Sampling.....                  | \$ 1,060.00        |
| Groundwater Sampling & Laboratory Analyses.....           | \$ 1,955.00        |
| Survey Hartshorn property for Restrictive Covenant .....  | \$ 500.00          |
| Prepare Restrictive Covenant for Hartshorn property ..... | \$ 500.00          |
| Preparation of Closure Report .....                       | \$ 7,175.00        |
| Project Management .....                                  | \$ 750.00          |
| Monitoring Well Abandonment.....                          | \$ 1,650.00        |
| <b>Total .....</b>                                        | <b>\$14,560.00</b> |

Based upon Westshore's understanding of the project requirements we recommend a budget of \$8,710.00 and \$14,560.00 for the MPSB and the Hartshorn Marina sites, respectively. The costs are estimated, and are not expected to be exceeded. If the scope of work is modified, typically because of MDEQ requests, Westshore will meet with you to discuss those changes prior to performing any activities that would result in additional expense above that provided in this letter.

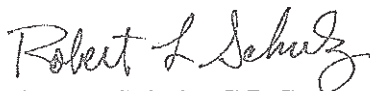
## Schedule & Authorization

Westshore will proceed with the work necessary to close these sites immediately after receiving authorization from the City of Muskegon. The work at each site will move at its own pace, but the goal will be to submit Closure Reports in late August or September (as discussed with Ms. Mecher). If the MDEQ indicates that a more appropriate time for report submittal may be to our advantage, I will contact you and we can discuss the situation at that time.

I look forward to hearing from you; please contact me if you have any additional comments or questions regarding this matter.

Sincerely,

WESTSHORE CONSULTING



Robert L. Schulz, C.P.G.  
Vice President

RLS/jlg/770 for 339-29 & 339-27B

cc: Mr. John Schrier, Parmenter O'Toole (sent Via Email Only)

Date: 8/14/2012

To: Honorable Mayor and City Commissioners

From: DPW/Equipment

RE: Purchase of Concrete Saw

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#### SUMMARY OF REQUEST:

Authorize staff to purchase Husqvarna FS 4800 walk behind concrete saw from J & J Farms who submitted the lowest bid, see attached tabulation.

#### FINANCIAL IMPACT:

\$21,954.00

#### BUDGET ACTION REQUIRED:

None. Amount is under what was budgeted.

#### STAFF RECOMMENDATION:

Authorize staff to purchase new concrete saw from J&J Farms who was the lowest responsible bidder.

#### COMMITTEE RECOMMENDATION:



# MUSKEGON City of Muskegon

## Bid Tabulation sheet

Requisition: Concrete Saw

|           | Name of Bidder | Name of bidder | Name of Bidder |
|-----------|----------------|----------------|----------------|
| Vendor    | J&J Farm Sales | Hammersmith    | Fastenal       |
| Telephone | (231)744-7140  | (616)452-2400  | (231)727-0568  |
| Location  | Twin Lake, Mi  | Grand Rapids   | Muskegon       |
| Quoted by | Scott          | Steve Spruit   | Jason          |

| Quantity | Description            | Price       | Price       | Price       |
|----------|------------------------|-------------|-------------|-------------|
| 1        | Husqvarna Concrete Saw | \$21,954.00 | \$23,000.00 | \$22,900.00 |
|          |                        |             |             |             |
|          |                        |             |             |             |
|          |                        |             |             |             |
|          |                        |             |             |             |
|          | TOTAL BID              | \$21,954.00 | \$23,000.00 | \$22,900.00 |

Lowest bid

\$21,954.00

Bid Requested by: Joe Buckingham, Equipment Supervisor

**Date: August 14, 2012**  
**To: Honorable Mayor and City Commissioners**  
**From: Ann Marie Cummings, City Clerk**  
**RE: Liquor License Request**  
**Muskegon Nights, Inc.**  
**939 Third Street**

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SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Muskegon Nights, Inc., 939 Third Street to transfer shares of stock to new stockholder.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.



# Muskegon Police Department

Jeffrey Lewis  
Director of Public Safety

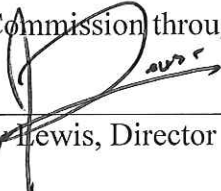
980 Jefferson  
Muskegon, Michigan  
49443-0536

[www.muskegonpolice.com](http://www.muskegonpolice.com)

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

July 31, 2012

To: City Commission through the City Manager

From:   
Jeffrey Lewis, Director of Public Safety

Re: Liquor License Investigation — 939 Third Street  
Transfer of Stock in 2012 Resort B-Hotel Licensed Corporation

The Muskegon Police Department has received a request from the Michigan Liquor Control Commission for an investigation of applicant Muskegon Nights, Inc, comprised of Gamal Elkhoully of Muskegon MI and Thamer Gasso of West Bloomfield MI.

Muskegon Nights, Inc requests to transfer stock (in 2001 Licensing Year) in 2012 Resort B-Hotel licensed corporation, with Permits, by dropping Samei Pataq (f/k/a Samei Btk) as stockholder through transfer of stocks to Gamal Elkhoully and Thamer Gasso.

The applicants have experience in the alcohol service industry and are aware of the Muskegon Police Department's position on enforcing local alcohol laws and ordinances.

A check of Muskegon Police Department records and criminal history showed no reason to deny this request.

JL/kd



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN LIQUOR CONTROL COMMISSION  
ANDREW J. DELONEY  
CHAIRMAN

STEVEN H. HILFINGER  
DIRECTOR

**Notice: Impending Investigation**  
(Authorized by MCL 436.1217)

June 1, 2012

Muskegon Nights, Inc.  
939 Third  
Muskegon, MI 49440

Request ID #631566

Reference: Muskegon Nights, Inc. requests to transfer stock (in 2001 licensing year) in 2012 Resort B-Hotel licensed corporation issued under MCL 436.1531(4) with Sunday Sales (PM), Sunday Sales (AM), Specific Purpose Permit (Food, Guest Registration), Dance-Entertainment Permit, Outdoor Service (1 area), 3 bars, and 201 rooms, located at 939 Third, Muskegon, MI 49440, Muskegon County, wherein Samei Pataq (f/k/a Samei Btk) transfers 990 shares of stock to new stockholder, Simona Anton on or about 1-1-02; transfer stock (in 2002 licensing year) by dropping Simona Anton as stockholder through transfer of 990 shares of stock to new stockholder, Thamer Gasso on or about 9-18-02; by dropping Samei Pataq (f/k/a Samei Btk) as stockholder through transfer of 510 shares of stock each to existing stockholders, Akram Namou and Malik Abdulnoor and 990 shares of stock to new stockholder, Gamal Elkhoully on or about 10-21-02; wherein Akram Namou transfer 5 shares of stock each to existing stockholders, Thamer Gasso and Gamal Elkhoully; and wherein Malik Abdulnoor transfers 5 shares of stock each to existing stockholders, Gamal Elkhoully and Thamer Gasso, on or about 01-01-03.

Please let this serve as notice that your application has been authorized for investigation by the Michigan Liquor Control Commission. You will be contacted by an Enforcement investigator from:

- ☐ Escanaba District Office (906) 786-5553
- ☐ Grand Rapids District Office (616) 447-2647
- ☐ Lansing District Office (866) 813-0011
- ☐ Southfield District Office (313) 456-1170

You may contact the above-referenced office regarding any appointments or questions with regard to documentation requested by your investigator. **If you do not provide requested information or keep your appointments, your file will be returned to the Lansing office for cancellation of your application.**

To check the status of your request, visit [www.michigan.gov/lcc](http://www.michigan.gov/lcc) and click on "Online Services". Scroll down to Liquor Control Commission and click on "Online Status Check." Enter your request id number (RID) to check on your application 24 hours a day. Only completed files will be submitted to the Commission for its consideration.

cc: Attorney Michael A. Brower

**Date:** August 14, 2012

**To:** Honorable Mayor and City Commissioners

**From:** Finance Director

**RE:** Grant Application for Fisherman's Landing

---

**SUMMARY OF REQUEST:** The City is seeking this grant from the Great Lakes Fisheries Trust (GLFT) for Fisherman's Landing for the purpose of: a) renovating badly deteriorated restroom facilities to comply with ADA standards and, b) providing increased opportunities for bikers, trail users and the general public to more fully utilize the facility by adding a fishing pier, trail spur and other amenities.

The restrooms at Fisherman's Landing were cited in a Department of Justice ADA audit conducted in 2008. The City has since entered into a settlement agreement with DOJ to remedy these audit findings over time.

**FINANCIAL IMPACT:** The total project cost is estimated to be \$200,000 (see attached). There is no required local match. A project budget follows:

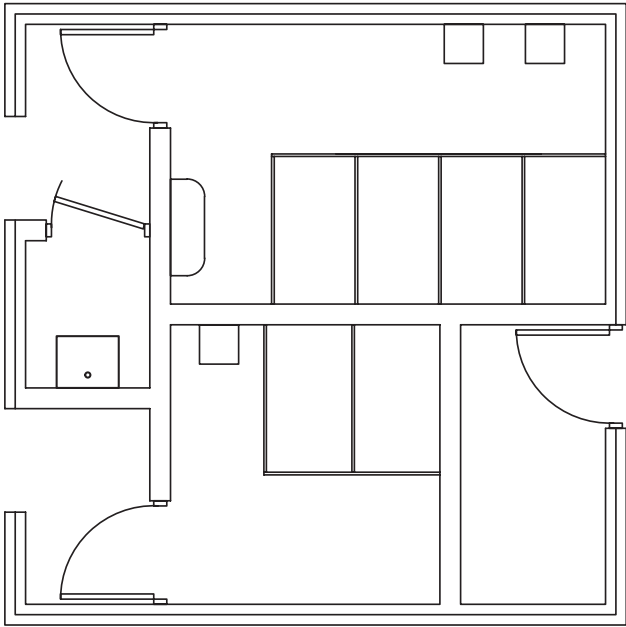
| Item                                | Quantity | Unit | Price                                   | Total               |
|-------------------------------------|----------|------|-----------------------------------------|---------------------|
| <b>Removals</b>                     |          |      |                                         |                     |
| Existing concrete sidewalk          | 88       | SYD  | \$4.00                                  | \$352.00            |
| Existing furnishings                | 1        | LS   | \$1,500.00                              | \$1,500.00          |
| Existing park entry sign            | 1        | EA   | \$800.00                                | \$800.00            |
| Fence removal                       | 180      | LFT  | \$4.00                                  | \$720.00            |
|                                     |          |      | <b>Subtotal:</b>                        | <b>\$3,372.00</b>   |
| <b>Restroom</b>                     |          |      |                                         |                     |
| Renovate existing restroom          | 1        | LS   | \$81,500.00                             | \$81,500.00         |
|                                     |          |      | <b>Subtotal:</b>                        | <b>\$81,500.00</b>  |
| <b>Overall Sitework</b>             |          |      |                                         |                     |
| Fishing platform                    | 1        | EA   | \$35,000.00                             | \$35,000.00         |
| Concrete Sidewalk, 4"               | 2,000    | SFT  | \$4.00                                  | \$8,000.00          |
| Asphalt parking area                | 120      | SYD  | \$19.00                                 | \$2,280.00          |
| Striping and handicapped signage    | 1        | LS   | \$650.00                                | \$650.00            |
| Crosswalk to trail                  | 1        | LS   | \$500.00                                | \$500.00            |
| New park signage                    | 1        | EA   | \$5,000.00                              | \$5,000.00          |
| Trash receptacle                    | 4        | EA   | \$1,500.00                              | \$6,000.00          |
| ADA Picnic table                    | 1        | EA   | \$3,200.00                              | \$3,200.00          |
| Bench                               | 3        | EA   | \$1,800.00                              | \$5,400.00          |
| Bike rack                           | 3        | EA   | \$500.00                                | \$1,500.00          |
|                                     |          |      | <b>Subtotal:</b>                        | <b>\$67,530.00</b>  |
| <b>Landscape</b>                    |          |      |                                         |                     |
| Lawn restoration and overseeding    | 670      | SYD  | \$3.58                                  | \$2,398.60          |
| Tree                                | 5        | EA   | \$500.00                                | \$2,500.00          |
| Shrubs, Perennials, and Groundcover | 300      | SFT  | \$9.00                                  | \$2,700.00          |
|                                     |          |      | <b>Subtotal:</b>                        | <b>\$7,598.60</b>   |
|                                     |          |      | <b>CONSTRUCTION SUBTOTAL =</b>          | <b>\$160,000.60</b> |
|                                     |          |      | <b>ENGINEERING FEES (10%)=</b>          | <b>\$16,000.06</b>  |
|                                     |          |      | <b>CONSTRUCTION CONTINGENCY (15%) =</b> | <b>\$24,000.09</b>  |
|                                     |          |      | <b>CONSTRUCTION TOTAL =</b>             | <b>\$200,000.75</b> |

**BUDGET ACTION REQUIRED:** If the City is awarded the GLFT grant, it will be programmed into the 2013-14 budget.

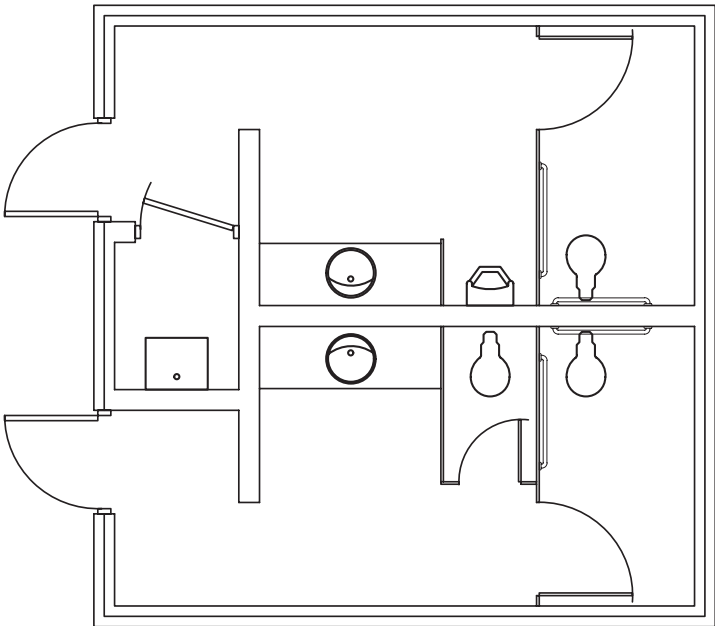
**STAFF RECOMMENDATION:** Approval.

**COMMITTEE RECOMMENDATION:** None.





EXISTING



PROPOSED

SHEET TITLE:

DRAWN:

DESIGNER: JMS

REVIEW:

QA/QC: JDB

DATE: 2012

SCALE:

As Noted

ACI JOB #

12-0000

SHEET NO.

A1.1

**Date:** August 7, 2012

**To:** Honorable Mayor and City Commissioners

**From:** Director of Public Safety Jeffrey Lewis 

**RE:** Lakeshore Museum Loan Agreement (LaFrance Fire Truck)

---

**SUMMARY OF REQUEST:**

The Director of Public Safety requests that the City Commission review and authorize the Lake Shore Museum Center Loan Agreement relating to the 1923 American LaFrance Fire Truck with attached equipment.

Currently, the LaFrance is on display at the Fire House Museum (Clay St.). Curator of Collections (Sharon McCullar) is requesting the city consider authorizing five (5) additional years in which the LaFrance Fire Truck would remain on loan to the museum for the enjoyment of the community at large.

**FINANCIAL IMPACT:**

N/A

**BUDGET ACTION REQUIRED:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of this extended loan agreement.



# Loan Agreement

☐ Loan to Museum ☐ Loan From Museum

Name: \_\_\_\_\_ Organization: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

State \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Date of Loan: 8-1-2012 renewed Date to be Returned: To be reviewed in 5 years August 2017

Loans left unclaimed more than one year from the termination date are subject to the Michigan Disposition of Property Act and the Uniform Unclaimed Property Act

1923 American LaFrance Fire Truck with attached equipment:

- 1 extension ladder
- 1 roof ladder
- 1 attic ladder
- 1 Fire Hose Reducer
- 1 hard suction intake screen
- 1 Fyr Fyter brass hand operated fire extinguisher
- 1 oil can approximately 12" tall and 6" in diameter attached to right fender and painted silver

See attachments for conditions governing this loan – including special exemptions and access agreements for Fire Department, City and Museum personnel.

**I (we) understand that the items listed above are to be handled with care and discretion. As the recipient of this loan I (we) agree to exercise reasonable care of these objects while in my (our) possession.**

**Special provision: Lakeshore Museum Center will provide basic property insurance coverage.**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Staff Signature: \_\_\_\_\_ Date: \_\_\_\_\_

After Return: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Staff Signature \_\_\_\_\_ Date: \_\_\_\_\_

Condition Upon Return \_\_\_\_\_

### **Care and Preservation**

1. The Lakeshore Museum Center (LMC) will exercise reasonable care of the truck and will do what is reasonably necessary to preserve it in as good a condition as when received with the exception of deterioration due to age and wear and tear due to approved use of truck for education and special event hands on use.
2. LMC does not agree to keep the truck in operating condition or to maintain any components, including tires, brakes or any other mechanical system. Cleaning will be limited to dusting when necessary unless otherwise advised in writing by the lender.
3. City of Muskegon and Fire Department agree that the truck is available for hands on interaction with the public under the supervision of LMC staff – including but not limited to allowing the public to sit in the driver's seat, stand on running boards and other surfaces available for such use in normal operating conditions. Members of the public will not be allowed to operate the fire truck or be in physical contact with it while in motion.
4. City of Muskegon and/or Fire Department personnel will cooperate to start engine or move vehicle outside of Lakeshore Museum Center's Fire Barn Museum property for special events or to facilitate City of Muskegon/Fire Department maintenance activities. LMC requests a 30 day notice if possible before these activities occur.
5. In the event of damage to the object(s) while in the possession of the LMC, LMC will notify the City of Muskegon or Fire Department representative for the appropriate reports and repairs.
6. City of Muskegon or Fire Department personnel are welcome during business hours or at some other mutually agreed upon time to come upon Museum premises to service the fire truck and, if desired by both parties, keep it in operating condition.
7. Any expense associated with keeping fire truck in operating condition is the responsibility of the City of Muskegon.

### **Insurance**

1. LMC agrees to insure the truck under its contents insurance policy for an amount not less than \$4000.00. LMC shall have no liability for destruction or diminution in value of the truck above and beyond the insurance coverage.

### **Change of Address and/or Ownership.**

1. Lender is responsible for updating address and contact information with Recipient for the duration of the loan.
2. The Lakeshore Museum Center may periodically renew the loan (typically on a five year basis) to keep current with responsible parties within City of Muskegon and Fire Department management

### **Reproduction and Credit**

1. The Lakeshore Museum Center may photograph object(s) and the photographs may be reproduced for exhibit catalogues or publicity purposes unless otherwise advised in writing by the Lender. The Lender may be identified in publications and labels unless the Lender requests anonymity.
2. Loaned object(s) may be photographed by the general public while on exhibit unless prohibited in writing by the Lender.

### **Return of Loans**

1. Lakeshore Museum Center determines whether, for how long, and in what manner loaned object(s) are exhibited to the public.
2. In the event a loan must be terminated before the date on this form, LMC requests a written request and will make every effort to return loan object(s) within ninety (90) days of receipt of written request to terminate by Lender or legal representative.
3. Long term loan agreements will be renewed on an annual basis or timeframe specified on loan form.
4. At the end of the loan period and if the loan has not been renewed, Lender will return loaned object(s) within thirty (30) days. If, after making every reasonable effort the Lakeshore Museum Center, through no fault of its own, is unable to return the loan object(s), then the Lakeshore Museum Center shall have the right to consider the object(s) abandoned property and follow procedures outlined in relevant statutes regarding abandoned property in the State of Michigan.
5. Loaned object(s) will be returned to the Lender at the end of the loan period either in person or sent to the address indicated on the first page of this form unless written instructions are received by the Lakeshore Museum Center prior to termination of the loan agreement.

Lakeshore Museum Center  
430 West Clay Avenue  
Muskegon, MI 49440

---

**From:** John C. Schrier [mailto:JCS@parmenterlaw.com]  
**Sent:** Thursday, July 12, 2012 10:02 AM  
**To:** Jeff Lewis; Bryon Mazade  
**Cc:** Pat Bice  
**Subject:** RE: Lakeshore Museum Center - 071212

Agreement looks fine with me.

If people are getting on the vehicle, then I would have city staff talk with Risk Authority concerning insurance in addition to a contents insurance, i.e., a liability policy and how auto insurance may be needed.

John C. Schrier

**PARMENTER O'TOOLE**

Attorneys at Law

Direct Dial: (231) 722-5401

Direct Fax: (231) 722-5401

601 Terrace Street, Muskegon, Michigan 49440

E-mail: jcs@parmenterlaw.com

Website: [www.parmenterlaw.com](http://www.parmenterlaw.com)



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---

**From:** Jeff Lewis [mailto:jeff.lewis@shorelinecity.com]  
**Sent:** Thursday, July 12, 2012 9:00 AM  
**To:** John C. Schrier; Bryon Mazade  
**Cc:** Jeff Lewis; Pat Bice  
**Subject:** FW: Lakeshore Museum Center - 071212

Morning, John could you do a quick review of this agreement (apparent long standing), if it's ok we'll sign/forward/file.



**Jeffrey Lewis**  
*Director of Public Safety*  
*City of Muskegon, MI*  
**Phone:** 231-724-6954  
**Fax:** 231-725-2043

980 Jefferson St. Muskegon, MI 49440  
<http://www.muskegonpolice.com>

---

**From:** Sharon McCullar [mailto:sharon@lakeshoremuseum.org]  
**Sent:** Tuesday, July 03, 2012 9:20 AM  
**To:** Jeff Lewis  
**Subject:** Lakeshore Museum Center

Mr. Lewis,

7/12/2012

## Jeff Lewis

---

**From:** Beth Lewis  
**Sent:** Monday, July 30, 2012 3:37 PM  
**To:** Jeff Lewis  
**Cc:** Bryon Mazade  
**Subject:** RE: Lefrance Fire Truck Loan Agreement - 072512

Hi Jeff, I have heard back from the MMRMA regarding the LeFrance Fire Truck Loan Agreement. Since the vehicle is not licensed for the road it does not require auto insurance. At this point Keith Potter our rep doesn't see any real liability but if something did happen it would be covered mostly likely by our retention with the MMRMA. So as far as the insurance goes there are no issues with signing the contract.

Beth

-----Original Message-----

**From:** Jeff Lewis  
**Sent:** Wednesday, July 25, 2012 5:50 PM  
**To:** Beth Lewis  
**Cc:** Jeff Lewis  
**Subject:** FW: Lefrance Fire Truck Loan Agreement - 072512

FYI.....

Jeffrey Lewis  
Director of Public Safety  
City of Muskegon

-----Original Message-----

**From:** Public\_Safety@ricoh.com [mailto:Public\_Safety@ricoh.com]  
**Sent:** Wednesday, July 25, 2012 5:44 PM  
**To:** Jeff Lewis  
**Subject:** Message from "PSAFETY-RicohC300"

This E-mail was sent from "PSAFETY-RicohC300" (Aficio MP C300SR).

Scan Date: 07.25.2012 17:43:53 (-0400)  
Queries to: Public\_Safety@ricoh.com

**Commission Meeting Date: August 14, 2012**

**Date: August 6, 2012**

**To: Honorable Mayor and City Commission**

**From: Public Safety Office**

**RE: 2012 – 2013 Muskegon High School Community Officer Agreement**

---

**SUMMARY OF REQUEST:** To approve the 2012 – 2013 Muskegon High School Community Officer Agreement. This agreement provides Muskegon High School with a Community Officer during the nine months school is in session.

**FINANCIAL IMPACT:** Muskegon Public Schools agrees to pay the City of Muskegon \$2,121.80 each month, from September 2012 through May 2013.

**BUDGET ACTION REQUIRED:** None.

**STAFF RECOMMENDATION:** Approve the 2012 – 2013 Muskegon High School Community Officer Agreement.

# COMMUNITY OFFICER & MUSKEGON PUBLIC SCHOOLS

## AGREEMENT 2012 – 2013

This Agreement is effective September 4, 2012 – through June 6, 2013, between the City of Muskegon, a Michigan municipal corporation, of 933 Terrace Street, Muskegon, Michigan 49440 ("City"), and Muskegon Public Schools, of 349 West Webster, Muskegon, Michigan, 49440 ("MPS"), with reference to the following facts:

### **Background**

A. City and MPS have determined that it is in each of their best interests to continue police services at the Muskegon High School ("MHS").

B. City has agreed to provide a police officer to be on patrol at MHS. At all times the officer assigned to work at MHS shall be a City police officer and, as such an employee of the City. Duties will be decided between mutual parties. However, it is agreed that a component of the role is to help establish a positive, safe learning environment at MHS and develop positive relationships with the student body.

C. MPS has agreed to pay the City a flat rate according to nine (9) months of service. The community officer will report to the MHS principal.

It is therefore agreed:

1. **Officer.** City shall provide a police officer to be on patrol at MHS during MHS's published academic calendar year, commencing September 4 2012 (which shall not include any published vacation days or summer school sessions. i.e. Christmas break, mid-winter break, Thanksgiving break, Professional Development days, Good Friday, Hackley Day or Memorial Day). The officer shall be present at MHS during hours which are mutually agreeable between the City and MPS.

2. **Payment.** MPS shall pay \$2,121.80 on the first of **EACH MONTH**, as invoiced, commencing September 4, 2012 through June 6, 2013. Total payment will not exceed \$19,096.20.

3. **Term: Termination.** The term of this Agreement shall be for one year from September 4, 2012 through June 6, 2013, and may be renewed annually by mutual agreement. This Agreement may be terminated before the end of its term by subsequent written agreement, which shall be signed by both parties.

4. **Venue.** The parties agree that for purposes of any dispute in connection with this agreement, the Muskegon County Court shall have exclusive jurisdiction and venue.

**MUSKEGON PUBLIC SCHOOLS**

**CITY OF MUSKEGON**

By: \_\_\_\_\_

Name: Louis Churchwell

Title: President

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Stephen J. Gawron

Title: Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Jon A. Felske

Title: Superintendent

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: Corry Lohman

Title: Principal

Date: \_\_\_\_\_

**Date:** August 14<sup>th</sup>, 2012  
**To:** Honorable Mayor and City Commission  
**From:** Department of Public Works  
**RE:** New Cingular Wireless Second Amended Tower Lease Agreement

---

**SUMMARY OF REQUEST:** New Cingular Wireless PCS, LLC a Delaware Corporation and the Department of Public Works have been in negotiations to amend section one of the First Amendment to the 1998 lease agreement for the Nims and Marshall Street Water Towers. The Second Amendment would increase the current monthly rent, for two sites, from \$4,884.48 per month to \$7,326.36 per month.

The Second amended lease would allow New Cingular Wireless to install on each water tower up to a total of 9 antennas, 3 additional antennas from the current number of 6.

**FINANCIAL IMPACT:** Monthly rental will increase to \$ 7,326.36 per month effective upon the installation of the 3 additional antennas per site which is expected to be October 1, 2012. Monthly rental amounts to be escalated at the rate of 3% annually.

**BUDGET ACTION REQUIRED:** None.

**STAFF RECOMMENDATION:** To approve of the second amendment to the 1998 Lease Agreement and to authorize the Mayor and Clerk to sign

Market: MIIN  
Cell Site Number: GRANMI5602  
Cell Site Name: Muskegon Marshall Water Tank  
Fixed Asset Number: 10124756

Market: MIIN  
Cell Site Number: GRANMI5603  
Cell Site Name: Muskegon Nims Water Tank  
Fixed Asset Number: 10124755

## **SECOND AMENDMENT TO THE SITE LEASE**

THIS SECOND AMENDMENT TO THE SITE LEASE ("Second Amendment") is made this \_\_\_\_ day of \_\_\_\_\_, 2012, by and between City of Muskegon, a Michigan Municipal Corporation, whose mailing address is 933 Terrace Street, Muskegon, Michigan 49443 ("Owner"), and New Cingular Wireless PCS, LLC, a Delaware limited liability company, with an address of 12555 Cingular Way, Suite 300, Alpharetta, Georgia 30004, as successor in interest to Dobson Cellular Systems, Inc. ("Tenant").

### **WITNESSETH:**

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

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

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

1. Owner and Tenant agree and acknowledge that Tenant may install on each Water Tank the equipment described in exhibit A-1 for the Marshall Street Water Tank, and exhibit A-2 for the Nims Street Water Tank, as part of the Antenna Facilities.

2. Owner and Tenant agree and acknowledge that Section 1 of the First Amendment To The Site Lease shall be amended to increase the monthly rent to Seven Thousand Three Hundred Twenty-Six and 36/100 Dollars (\$7,326.36) per month, effective upon the installation of the equipment depicted in exhibit A-1 for the Marshall Street Water Tank, and exhibit A-2 for the Nims Street Water Tank. A rent escalation of 3% annually will be in force during the remainder of the term of the Site Lease. The Rent payments for any partial months shall be appropriately prorated.

3. Except as provided in this Second Amendment, every term, condition and agreement contained in the Site Lease and First Amendment To The Site Lease will remain in full force and effect. If there is any inconsistency between the terms of the Site Lease or the terms of the First Amendment To The Site Lease, the terms of this Second Amendment will govern.

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

**Owner:**

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

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Its: Mayor**

**Date:** \_\_\_\_\_

**By:** \_\_\_\_\_

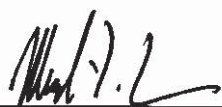
**Name:** \_\_\_\_\_

**Its: City Clerk**

**Date:** \_\_\_\_\_

**Tenant:**

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

**By:**  \_\_\_\_\_

**Name: Mark F. Caesar**

**Its: Sr. Real Estate & Construction Manager**

**Date:** 8/8/2012

## **EXHIBIT A-1**

### **Site Modification Drawings**

**Commission Meeting Date: August 14, 2012**

**Date: August 7, 2012**  
**To: Honorable Mayor & City Commission**  
**From: Community and Neighborhood Services**  
**Department**  
**RE: Sale of 2265 Lincoln Street**

---

SUMMARY OF REQUEST: To approve the sale of 2265 Lincoln Street to Lindsey J Dutkiewicz for the purchase price of \$ 45,000.00 through the City of Muskegon's Homebuyer Program.

Originally obtained through HUD's 1\$ Program, the CNS department totally rehabilitated the structure to continue neighborhood revitalization and stabilization.

FINANCIAL IMPACT: The program income obtained from the sale will be used to continue affordable housing projects in the City of Muskegon.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the request to sell this home and provide a resolution for the purchase.

COMMITTEE RECOMMENDATION: None needed

MUSKEGON CITY COMMISSION

RESOLUTION TO APPROVE THE PURCHASE OF  
CURRENTLY CITY-OWNED PROPERTY AT 2265 LINCOLN STREET

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 sale of 2265 Lincoln Street to Lindsey Dutkiewicz of 5075 Hillview Drive, Muskegon, MI 49441. Miss. Dutkiewicz will purchase the house as an owner-occupied structure.

Adopted this 14th day of August, 2012.

Ayes:

Nays:

By \_\_\_\_\_  
Stephen J. Gawron, Mayor

By \_\_\_\_\_  
Ann Marie Cummings, MMC City Clerk

AGENDA ITEM NO. \_\_\_\_\_

CITY COMMISSION MEETING \_\_\_\_\_

**TO:** Honorable Mayor and City Commissioners

**FROM:** Bryon L. Mazade, City Manager

**DATE:** August 6, 2012

**RE:** Appointment of Vice Mayor

**SUMMARY OF REQUEST:**

To appoint a Vice Mayor who will serve through December 31, 2013.

**FINANCIAL IMPACT:**

None.

**BUDGET ACTION REQUIRED:**

None.

**STAFF RECOMMENDATION:**

To appoint a Vice Mayor.

**COMMITTEE RECOMMENDATION:**

None.

**AGENDA ITEM NO. \_\_\_\_\_**

**CITY COMMISSION MEETING August 14, 2012**

**TO:** Honorable Mayor and City Commissioners

**FROM:** Bryon L. Mazade, City Manager

**DATE:** July 31, 2012

**RE:** Water Supply Agreement

**SUMMARY OF REQUEST:**

To approve a water supply agreement with the City of North Muskegon, City of Roosevelt Park, and County of Muskegon. This action will create a single agreement for the City of Muskegon to supply water to these customers at a uniform rate.

**FINANCIAL IMPACT:**

May be a minor loss in revenue initially, but the agreement will provide long-term financial stability.

**BUDGET ACTION REQUIRED:**

None.

**STAFF RECOMMENDATION:**

To approve the agreement and authorize the mayor and clerk to sign it.

**COMMITTEE RECOMMENDATION:**

None.

## AGREEMENT FOR MUNICIPAL WATER SUPPLY

This Agreement is effective on October 1, 2012, between the **City of Muskegon**, 933 Terrace Street, Muskegon, MI ("Muskegon"), the **City of North Muskegon**, 1502 Ruddiman Dr. North Muskegon, MI ("North Muskegon"), the **City of Roosevelt Park**, 900 Oakridge Road, Roosevelt Park, MI ("Roosevelt Park") and the **County of Muskegon** by and through its **Board of Public Works**, 990 Terrace St. Muskegon, MI ("County"). North Muskegon, Roosevelt Park and County are referred to herein as "Buyers" or collectively as "Buyer".

### RECITALS

- A. Muskegon owns and operates a water production and distribution system with a capacity currently capable of serving the present customers of Muskegon's system and the estimated number of water customers to be served by the Buyers pursuant to this agreement.
- B. North Muskegon and Roosevelt Park each own and operate water distribution systems within their respective corporate boundaries. The County, pursuant to a Management Contract authorized by 1957 PA 185, MCL 132.731 *et seq.*, operates the Muskegon County Regional Water System within the Townships of Dalton, Fruitland, Laketon and Muskegon. The Management Contract provides that the Regional Water System is the exclusive supplier of municipal water within each township.
- C. The Buyers presently have separate contracts with Muskegon for water supply and the Parties now desire to enter into a single agreement for Muskegon to supply water to Buyers at a uniform rate.
- D. The parties enter into this agreement for the mutual benefit of Muskegon and Buyers.

### THE PARTIES AGREE AS FOLLOWS:

1. **Supply of Water.** Muskegon shall sell, supply and deliver to Buyers, under positive pressure, such amounts of water as Buyers may require. The water shall be delivered to each Buyer at a master meter or meters used to measure the quantity delivered. The water shall have the same quality as that which Muskegon furnishes and delivers to its own customers and at a minimum meets the applicable purity standards of the State of Michigan, Department of Environmental Quality.
2. **Interruptions.** In the event the supply of water by Muskegon is interrupted for short periods of time, due to circumstances beyond its control, or due to breakdown in

Muskegon's system, such interruption shall not terminate or affect this contract, provided Muskegon exercises all due speed and diligence in eliminating the cause of such interruption, so as to minimize its duration.

3. **Rates For Water Supply.** The water supplied by Muskegon shall be paid for by each Buyer at a rate of 1.25 times the rate Muskegon charges a majority of its own commercial/industrial/residential customers within its corporate limits. The charges for water supply shall be determined using the metered volume of water supplied to each Buyer.

3.1 Muskegon reserves the right to increase its rates to its own customers for water service, and in such event, Buyer's rate shall increase at 1.25 times the increase charged Muskegon's customers.

3.2 Any rate increase shall not be effective, unless otherwise agreed, until Muskegon has given Buyers 90 days written notice thereof.

3.3 In the event any of the master meters fail to register the supply of water due to a breakdown or other failure, the charge for the water supply shall be determined by utilizing the average of the 30 day period prior to the breakdown. In the event the said measure is inaccurate because of a progressive breakdown or other reason, Muskegon reserves the right to use an average derived from a period of up to one year prior to the breakdown, in order to determine the charge for water supplied that meter.

3.4 The current water rate-setting methodology employed by the City of Muskegon does not include a ready-to-serve (RTS) component. Should the City opt to return to a rate format that includes a RTS charge, the Parties may negotiate a new rate multiplier.

3.5 The Parties may renegotiate the rate if Muskegon secures a substantial new municipal water customer (municipality). Muskegon may agree to sell water from its distribution system to any person or entity (including any municipal corporation or authority) outside Muskegon at a lesser rate than that payable hereunder, unless Buyer gives Muskegon written notice of unanimous disapproval within 90 days of receipt of a copy of the proposed agreement. In no event shall Muskegon sell water for less than Muskegon's cost to produce and pump finished water.

4. **Term.** This agreement has a term of Forty Years from the effective date, through September 30, 2052. However, this agreement can be renegotiated if a regional water agreement is reached and Muskegon and Buyers agree to participate in same.

5. **Muskegon the Sole Source of Water; No Resale.** Buyers agree that they shall purchase all of their municipal water supply from Muskegon, delivered through master meters to each Buyer. There shall be no purchase of water by Buyers for their municipal systems from any other source, and the water supply furnished by Muskegon shall be solely for consumption within the systems of Buyers. Buyers shall not sell or supply

water to any other governmental unit not a Party to this agreement, except service to government facilities located within Buyer's system. Buyers shall not, however, be prohibited from expansion of their systems to other geographical areas such as Egelston and Moorland Townships, provided Muskegon's facilities can supply the required quantity of water.

**6. Obligations of Muskegon.**

6.1 Muskegon shall supply water to each Buyer in the quantities required and bill each Buyer for the amount actually metered, which readings will be provided to Buyer and verified upon request.

6.2 Muskegon shall maintain and replace the master meters as required, and shall charge the expense thereof to Buyer in addition to the water charges. Meter replacement shall be done by prior agreement or if meter accuracy is demonstrated to be outside the AWWA standard of +/- 2%. The cost of meter testing and/or calibration shall be shared equally by Muskegon and Buyer.

**7. Obligations of Buyers.**

7.1 Each Buyer shall pay the water charges set forth above promptly on a schedule to be determined by the Parties.

7.2 Each Buyer shall pay all costs for construction, design and improvement of its own system, meters and facilities such as, but not limited to, underground systems, overhead facilities, system pumps, meters, access and repair devices, all necessary to operate its water system or to increase its pressure over that supplied by Muskegon.

7.3 Each Buyer shall include in each system all necessary devices to prevent back flow of any kind into the water system which might contaminate the water system of either Party.

7.4 Each Buyer shall reimburse Muskegon as appropriate for the repair, maintenance and replacement of the master meters as referred to above.

7.5 Each Buyer shall be responsible for the maintenance, repair, and replacement of its own water system unless otherwise provided for through a separate agreement.

7.6 Each Buyer shall administer its own water customer services including billings, collections, determining its customer rates and passing any ordinances and regulations required to operate its system and comply with this agreement.

7.7 Each Buyer shall save and hold Muskegon harmless from any and all claims, demands or damages arising out of the design, construction or operation of the Buyer's systems, the master meter(s), any connections between the Parties' systems,

including but not limited to all damages, costs, attorney fees, laboratory expenses, fines, penalties, or any other expense arising out of any such claim.

8. **System Master Plan and Reliability.** The Parties understand and agree that the physical and financial health, reliability and growth of the entire system are directly related to that of the individual systems. Periodic reliability studies are also required as a condition of system licensing by the State of Michigan. To that end the Parties commissioned a *Water System Master Plan and Reliability Study* by Black and Veatch Corporation which was submitted to the Parties in March 2011. In addition to a detailed system analysis, the Study makes specific recommendations for system improvements and regional system planning. The Parties agree to jointly discuss and consider implementing the recommendations of the current and future Reliability Studies.

9. **No Third Party Beneficiary.** There shall be no other beneficiary or third party beneficiary to this agreement. No remedy is provided or intended by this agreement for the customers of any Party.

10. **Assignment.** This contract may not be assigned to another entity by any Party without prior written consent.

11. **Entire Agreement.** This Agreement sets forth the entire understanding of the Parties with respect to its subject matter. This Agreement supersedes and/or replaces all prior oral or written Agreements between the Parties, and specifically, on its effective date, this Agreement terminates and replaces the following Agreements and Contracts:

- A. Agreement for Municipal Water Supply effective March 1, 2012, between the City of Muskegon and the City of Roosevelt Park.
- B. Agreement for Municipal Water Supply effective June 26, 2001, between the City of Muskegon and the City of North Muskegon.
- C. Water Purchase Contract effective October 7, 1981, between the City of Muskegon and the County of Muskegon.
- D. Water Purchase Contract effective April 22, 2003, between the City of Muskegon and the Charter Township of Muskegon assigned to the County of Muskegon.

12. **Severability.** In the event any provision of this agreement is determined to be invalid by any court or tribunal having jurisdiction, the balance of the agreement shall remain in full force and effect.

13. **Law Applicable.** This agreement shall be interpreted under Michigan Law.

14. **Notice.** Any notice required to be given or made to a Party must be in writing and will be deemed given when delivered personally or by registered or certified mail (return receipt requested), addressed to the Party at its address stated above. Addresses for giving notice may be changed by giving notice of the new address.

15. **Approvals.** This agreement shall be effective on the date above, but only after approvals given by the governing body of each Party.

CITY OF MUSKEGON

By \_\_\_\_\_

Its \_\_\_\_\_

CITY OF NORTH MUSKEGON

By \_\_\_\_\_

Its \_\_\_\_\_

CITY OF ROOSEVELT PARK

By \_\_\_\_\_

Its \_\_\_\_\_

COUNTY OF MUSKEGON  
BOARD OF PUBLIC WORKS

By \_\_\_\_\_

Its \_\_\_\_\_