CITY OF MUSKEGON

CITY COMMISSION MEETING

JULY 28, 2020 @ 5:30 P.M.

MUSKEGON CITY COMMISSION CHAMBERS

933 TERRACE STREET, MUSKEGON, MI 49440

REMOTE MEETING

MINUTES

The Regular Commission Meeting of the City of Muskegon was held electronically with the Mayor, Vice Mayor and Commissioners participating via Zoom – a remote conferencing service, Clerk staff present at 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, July 28, 2020.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

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

Absent: Commissioner Michael Ramsey

2020-43 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the July 13, 2020 Worksession and July 14, 2020 Regular City Commission meetings.

STAFF RECOMMENDATION: To approve the minutes.

B. FY2020-21 Sewer Rate Resolution Update Finance

SUMMARY OF REQUEST: The FY 2020-21 sewer rate increase as agreed to at the July 13, 2020 Commission Worksession is 5%, this resolution establishes the new rate.

At the June 23, 2020 meeting the Commission approved a 3% sewer rate increase, after further discussion at the July 13, 2020 Worksession, a 5% sewer rate was agreed upon. This resolution establishes the new sewer rate.

STAFF RECOMMENDATION: To adopt the FY2020-21 Sewer Rate Resolution.

C. 9th Street Sewer & Getty Force Main Project – Change Order #001
Public Works

SUMMARY OF REQEUST: Change Order #001 for projects 91852 & 91853 exceeds the staff authorization levels and requires Commission Approval.

Change Order #001 for the 9th Street Sewer & Getty Force Main Project (91852 & 91853 exceeds the staff approval level of $30,000. The change order includes additional payment for removal of timber obstructions on the bore and jack placement under Shoreline Drive and other minor revisions. The total Change Order value represents an increase of $35,202.25 which has been reviewed by staff and is recommended.

The original contract value is $1,899,971.50 The recommended change order represents an increase of 1.8% to the project cost.

The total project budget includes up to a 6% contingency which is not exceeded by this change order. Staff will pursue reductions in project cost on future items to offset the increase.

AMOUNT REQUESTED: $0 – (Covered by budgeted contingency)

AMOUNT BUDGETED: $2,217,530.00

FUND OR ACCOUNT: 290-91852/91853

STAFF RECOMMENDATION: Authorize staff to approve Change Order #001 for Project 91852 & 91853.

D. Tetratech Professional Services Agreement Public Works

SUMMARY OF REQUEST: Filtration plant is requesting approval to enter into professional services agreement with Tetratech for MCC upgrades at Harvey Booster Station.

The 1960's Motor Control Center (MCC) #1 at Harvey Station requires upgrading because of reliability issues. Upgrading soft starters for constant speed Pumps #1 and #2 to variable frequency drives (VFDs) will add reliability, efficiency and level of service. The scope of work also includes bidding, construction assistance, and programming. Tetra Tech is being recommended since they were the engineer for the control system upgrades project and their familiarity with our system. The funding will come from budgeted item for Harvey Pump Station for $405,000. Shown as Water Filtration – WRMWA Ineligible in the 20/21 Budget.

AMOUNT REQUESTED: $31,000 **AMOUNT BUDGETED:** $405,000

FUND OR ACCOUNT: 591-60558-5400

STAFF RECOMMENDATION: Authorize staff to enter into professional services agreement with Tetratech for MCC up grades at Harvey Booster Station for $31,000.

E. Concession Agreement – Pizza Cone Trolley **Public Works**

SUMMARY OF REQUEST: Staff is asking permission to enter into a contractual agreement with Greg Bush of "The Pizza Cone Trolley" at Pere Marquette Park.

Staff is asking permission to enter into a Concession Agreement for 2020 with Greg Bush of "The Pizza Cone Trolley" at Pere Marquette Park. Commission from said Concession would be $300.00 (Prorated for partial season in 2020) plus 5% of Gross Receipts.

STAFF RECOMMENDATION: Authorize staff to enter into a Concession Agreement with Greg Bush of "The Pizza Cone Trolley" at Pere Marquette Park.

F. Concession Agreement – Carlson Almonds Public Works

SUMMARY OF REQUEST: Staff is asking permission to enter into a contractual agreement with Ron Carlson of "Carlson Almonds" at Pere Marquette Park.

Staff is asking permission to enter into a Concession Agreement for 2020 with Ron Carlson of "Carlson Almonds" at Pere Marquette Park. Commission from said Concession would be $300.00 (prorated for partial season in 2020) plus 5% Gross Receipts.

STAFF RECOMMENDATION: Authorize staff to enter into a Concession Agreement with Ron Carlson of "Carlson Almonds" at Pere Marquette Park.

G. Vehicle Replacement DPW/Equipment

SUMMARY OF REQUEST: The Equipment Division is requesting permission to purchase two (2) Chevy Impalas from Betten Chevrolet for police administration vehicle replacement. The cost for the two vehicles will be $51,053.36

One vehicle was scheduled to be replaced in the current budget year and the second, to be reforecast, after insurance payout for the first quarter. This vehicle was involved in a "not at fault" accident and was totaled out by the insurance company, it is being replaced immediately because of GM stopping production of the Impala line, making them very hard to find. We were very fortunate to find two at our local dealer as they are no longer available through MiDeal.

With the rent already collected on the wrecked vehicle ad the insurance payout we will have money in the Equipment budget for this purchase.

AMOUNT REQEUSTED: $51,053.36

AMOUNT BUDGETED: $25,000 + TBD Insurance

FUND OR ACCOUNT: 661-60932

STAFF RECOMMENDATION: Authorize staff to move forward with purchase.

H. 2020 Byrne JAG Grant Public Safety

SUMMARY OF REQUEST: Approval to enter into a MOU with the County of Muskegon and the City of Muskegon Heights for the 2020 JAG Grant like

previous years. The City of Muskegon will continue to act as fiduciary and receive $17,866, the City of Muskegon Heights would be our sub-awardee and receive $15,130 and the County of Muskegon would not receive funding. There is no match requirement for this grant. The City of Muskegon's portion of this grant will be used in continuation of the manner in previous years where it is used for prosecution of city ordinance cases dealing primarily with neighborhood issues.

STAFF RECOMMENDATION: Approve the MOU for the 2020 Byrne JAG Grant.

I. <u>Cooperative Mutual Aid Fire Control Agreement</u> Public Safety

SUMMARY OF REQUEST: This is to request the City of Muskegon enter into agreement with the Michigan Department of Natural Resources (DNR), the Cooperative Mutual Aid Fire Control Agreement as described under Public Act 7 of 1967 and Part 515 of Act 451 of 1994, as amended.

This agreement will give the City access to the Department of Defense (DoD) "Firefighter Program Property" for local fire department's use. In short, the agreement gives the City access to wildland firefighting equipment at no cost. The City currently protects 1,784 acres of public land and 1,824 acres of vacant land with few resources to fight wildland fires. The fire department would like the ability to apply for wildland firefighting equipment to enhance the protection of vacant and wildland properties.

STAFF RECOMMENDATION: Enter into agreement with the DNR's Cooperative Mutual Aid Fire Control Agreement.

K. <u>Purchase Agreement 1188 4th Street</u> City Manager

SUMMARY OF REQUEST: City staff is seeking authorization to enter into the purchase agreement with LeighAnn Mikesell, a City of Muskegon employee.

1188 4th Street was a regular area of concern among neighbors. In an attempt to help mitigate the concerns, the City purchased the property and completed a renovation. The property was listed on the MLS for $229,900; an offer was accepted for $225,000. Staff is seeking permission to approve the purchase agreement and complete the sale. Note that this property si part of the scattered site brownfield project. Any difference in sales price and renovation cost will be recovered via tax capture.

In order to comply with state and local conflict of interest concerns, Ms. Mikesell has submitted a letter to the mayor disclosing her interest in the property and outlining the benefits of this sale to her and to the City. The letter has been noticed to the public along with the agenda for the commission meeting.

The sale can only be approved by a unanimous vote of all commissioners.

If approved, the minutes of the commission meeting must disclose the name of each party involved in the contract, the terms of the contract, the nature of the financial interest of the public servant with the conflict, and that the sale is in the

best interests of the City.

STAFF RECOMMENDATION: Declare that the sale is in the best interest of the City to sell the property to Ms. Mikesell and authorize the City Manager to sign the purchase agreement and complete the sale.

Motion by Commissioner Rinsema-Sybenga second by Commissioner Johnson, to approve the consent agenda as presented, except item J.

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

Nays: None

MOTION PASSES

2020-44 REMOVED FROM CONSENT AGENDA:

J. <u>Lakeview Lofts Phase II Bridge Loan</u> Economic Development

SUMMARY OF REQUEST: The developers at Lakeview Lofts have run into COVID-19 related delays and impacts from MEDC related to their contribution to the capital stack for the second building on Western Avenue. The project has a reservation for some crucial components and are requesting a bridge loan from the Economic Development Fund to keep the project on schedule.

Lakeview Lofts Phase II has a capital stack that includes financing from both PNC Bank and the Michigan Economic Development Corporation. The MEDC has previously issued a letter of intent (LOI) that expired during the pandemic due to PNC Bank holding up their end of the financing. Since then, MEDC has been very slow to reissue the LOI and has held up the process to a point that the developers are at risk of losing their reservation for commercial concrete and foundation construction. If this occurs, the project will be pushed to next year, and the PNC portion of the financing will be lost as a portion is Opportunity Fund investments which must be committed by the end of the calendar year. This would endanger the project in total, which consists of 35 apartments and a new restaurant space. Staff recommends granting the loan as applied for, with a maximum interest free term of 6 months. If 6 months is exceeded, retroactive interest payments of prime plus 2% should be added to the principal, and default may be pursued by the City of Muskegon.

AMOUNT REQUESTED: $450,000

AMOUNT BUDGETED: N/A, Capital Funding

FUND OR ACCOUNT: Economic Development Revolving Fund

STAFF RECOMMENDATION: Motion to approve Economic Development Loan to 351 II LLC in the amount of $450,000 for a term not to exceed 180 days, and with immediate lump sum repayment upon execution of other project financing.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga,

to approve Economic Development Loan to 351 II LLC in the amount of $450,000 for a term not to exceed 180 days, and with immediate lump sum repayment upon execution of other project financing.

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

Nays: None

MOTION PASSES

2020-45 PUBLIC HEARINGS:

A. Infill Housing Project Brownfield Public Hearing Economic Development

SUMMARY OF REQUEST: To hold a public hearing and approve the resolution which seeks to adopt an amendment to the Brownfield Plan (city's Infill Housing Project, 1st Amendment) On July 14, 2020 the BRA approved the Plan amendment and further recommends that the Muskegon City Commission approve the Plan Amendment.

City staff has prepared a brownfield plan to include 108 eligible parcels, primarily located within the Nelson and Jackson Hill Neighborhoods, that will facilitate the development of new affordable housing opportunities at eligible properties. Activities include the redevelopment and rehabilitation of subject parcels; construction of new residential units; possible demolition of the former Froebel school in order to redevelop that property with residential units; and public infrastructure at the former farmers market to add additional residential units. Brownfield TIF to reimburse developer for "eligible expenses" in the redevelopment and rehabilitation on 108 eligible parcels; after lot splits, total of 249 parcels for redevelopment. Plan Amendment eligible activities: $3,880,000 for cost of sale; $1,200,000 for demolition and abatement; $777,000 for public infrastructure; $20,000 for Brownfield Plan Preparation and Development; $881,550 in continency fees (15%); $6,758,550 – total eligible activities to be paid under this Plan. End of 2023 for estimated completion date of the homes associated with Project. After all eligible costs incurred by the various parties are reimbursed, BRA is authorized to continue to capture local taxes for five more years for deposit into a Local Site Remediation Revolving Fund.

STAFF RECOMMENDATION: To close the public hearing and approve the resolution of the Brownfield Plan Amendment for the city's Infill Housing Project (1st Amendment).

PUBLIC HEARING COMMENCED: No public comments received.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to close the public hearing and approve the resolution of the Brownfield Plan Amendment for the City's Infill Housing Project (1st Amendment).

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

Sybenga

Nays: None

MOTION PASSES

2020-46 NEW BUSINESS:

A. <u>West Urban Properties Agreement</u> City Manager

SUMMARY OF REQUEST: In June, the City Commission accepted a Letter of Intent from West Urban Properties and authorized the city manager and city attorney to finalize a development agreement. The proposed development agreement is attached and recommended for approval.

We are proposing the framework of a Pilot program that we would use to initially partner with West Urban Properties to construct 100 units on vacant city lots. As part of the program, either the City of West Urban Properties may choose to stop home construction prior to the completion of the 100 homes. The program is expected to be applicable to many different builders/developers and many different housing types and densities. As the City tries to reverse 40+ years of neighborhood disinvestment, it is important that we acknowledge the areas that make us less-attractive for development than urban areas. Some of those items are more in our control than others. This program focuses strictly on developer return on investment – with the goal of the city acting as a partner to help ensure that a major investment in rental housing neither fails to cashflow nor causes unreasonable increases in local rents. Many times, affordability and profitability contradict one another – this Pilot Program is designed to help attain both.

STAFF RECOMMENDATION: To authorize the City Manager to sign the Development Agreement.

Motion by Commissioner Rinsema-Sybenga, second by Johnson, to authorize the City Manager to sign the Development Agreement.

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

Nays: None

MOTION PASSES

B. <u>Amendment to the Temporary Uses Ordinance</u> Planning

SUMMARY OF REQUEST: Staff initiated request to amend section 2324 of the zoning ordinance to allow mobile food vending as a temporary use.

The Planning Commission unanimously voted in favor of the ordinance amendment.

STAF RECOMMENDATION: To approve the amendments to the temporary uses zoning ordinance.

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to approve amendments to the zoning ordinance.

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

Nays: None

MOTION PASSES

SECOND READING REQUIRED

C. <u>Mobile Food Vending Ordinance Updates</u> City Clerk

SUMMARY OF REQUEST: Interest in operating food trucks in the City has increased since the initial passage of the Mobile Food Vending Ordinance in 2014. Based on community and Commission feedback, staff has identified some language updates to more effectively regulate mobile food vendors and areas they operate.

The City Commission held work sessions to update the mobile food vending ordinance on February 10 and March 9. Based on the feedback received from the community and Commission, the following changes are before you for recommended approval:

Regulatory Ordinance
Changes to Chapter 50 include requiring proof of permission to be on private property, compliance with fire safety and all other legal requirements (including health department inspections and licenses), and display of city license. The updates also include a change to allow temporary approval by the City Clerk to allow overnight parking on public property or streets and a clarification that a mobile food vendor cannot operate on public or private property within 1,000 of an event or the Farmers Market during market hours. As requested, a map showing this distance is attached. The required distance from brick and mortars is increased to 100 ft as measured from the service window to the lot line. A formal complaint, revocation, and appeals process was also added. A red lined copy of all these changes is attached.

Public Areas and Streets
Allowing mobile food vending on private property in B-2, B-4, LR, WM, I-1, I-2, MC and all Form Based Code context areas except Urban Residential and Lakeside Residential was added and addressed through the amendment to the temporary uses in the Zoning Ordinance.

A resolution allowing mobile food vendors on public property and streets in the same areas is attached along with rescinding the previously identified areas.

STAFF RECOMMENDATION: **Motion to amend and adopt Chapter 50, Article VIII Section 50-303 through 50-305 and approve the resolution for mobile food vending in public areas.**

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to approve and adopt Chapter 50, Article VIII Section 50-303 through 50-305 and approve the resolution for mobile food vending in public areas.

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

Nays: None

MOTION PASSES

SECOND READING REQUIRED

ANY OTHER BUSINESS: **A brief discussion took place regarding the purchase of gift cards. The city attorney will be reviewing documents and investigating this issue and will provide a report to the City Commission.**

Congressman John Lewis was recognized and remembered, he passed away recently and will be remembered as a leader of the civil rights movement.

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

ADJOURNMENT: **The City Commission meeting adjourned at 7:37 p.m.**

Respectfully Submitted,

Ann Marie Meisch – MMC, City Clerk