

CITY OF MUSKEGON

CITY COMMISSION MEETING

JULY 28, 2009

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. Certification of MERS Representatives. FINANCE
 - C. Liquor License Request for The Cheese Lady, LLC, 808 Terrace Street.
CITY CLERK
 - D. 2009-2010 Michigan Municipal League Membership Dues. CITY CLERK
 - E. Upgrade to Front Entrance of McGraft Park Building. CITY CLERK
 - F. Special Event – Multiple Liquor License Request for 2009 AVP Crocs Tour, Muskegon Open. LEISURE SERVICES
- ❑ PUBLIC HEARINGS:
 - A. Establishment of a Commercial Rehabilitation District – 971 Washington Avenue. PLANNING & ECONOMIC DEVELOPMENT
 - B. Request for a Commercial Rehabilitation Certificate for Fatty Lumpkins.
PLANNING & ECONOMIC DEVELOPMENT
 - C. Request for an Industrial Facilities Exemption Certificate for Johnson Technology. PLANNING & ECONOMIC DEVELOPMENT
 - D. Request for Exemption of New Personal Property (PA 328) for Johnson Technology. PLANNING & ECONOMIC DEVELOPMENT
- ❑ COMMUNICATIONS:

❑ **CITY MANAGER'S REPORT:**

❑ **UNFINISHED BUSINESS:**

❑ **NEW BUSINESS:**

A. Police Patrol Retirement Incentive. CITY MANAGER

B. Prosecution Services. CITY MANAGER

C. Concurrence with the Housing Board of Appeals Notice and Order to Demolish 529 Mulder Street. PUBLIC SAFETY

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

Date: July 28, 2009
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes for the July 13th Commission Worksession, and the July 14th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

City of Muskegon
City Commission Worksession
July 13, 2009
City Commission Chambers
5:30 PM

MINUTES

2009-59

Present: Commissioners Warmington, Carter, Wierengo, Shepherd, Gawron, Wisneski, and Spataro.

Absent: None.

Deer Herd in Beachwood.

Tony Kleibecker, Public Safety Director, spoke to the DNR regarding deer herd in Beachwood neighborhood. Several suggestions were given to deter the deer. The Mayor suggested that residents use the recommended spray, place plantings in the yard that are resistant to deer, and erect fences around gardens.

Commissioner Carter asked that the information be placed on the city website.

Third Street Promenade.

Gary Post made a presentation to replace three lights with five new street lights at Muskegon Downtown Development in front of the condominium site. The additional cost of the type of lighting chosen is \$300. The site is willing to pay the extra \$300 per year if the City chooses to approve the request.

Motion by Commissioner Shepherd, seconded by Commissioner Wierengo for the City to enter into an agreement with the Downtown Muskegon Development Corporation Site Condominium Group One Association in regards to taking down three and the replacement of five lights and the association would do the up-charge at the Cities charge of somewhere between \$280 and \$300 per unit.

ROLL CALL VOTE:

Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, Gawron, and Shepherd.

Nays: None.

MOTION PASSES

Trustees of MML Workers' Compensation Fund.

Motion by Commissioner Spataro, seconded by Vice Mayor Gawron to vote for Larry Nielsen to serve at trustee on the Michigan Municipal Workers' Compensation Fund.

MOTION PASSES

Any Other Business.

Public participation was accepted.

Adjournment

Motion by Commissioner Carter, seconded by Commissioner Shepherd to adjourn at 6:17 p.m.

MOTION PASSES

**Ann Marie Becker, MMC
City Clerk**

CITY OF MUSKEGON

CITY COMMISSION MEETING

JULY 14, 2009

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 5:30 p.m., Tuesday, July 14, 2009.

Mayor Warmington opened the meeting with a prayer from Pastor Tim Cross from the Living Word Church 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 Stephen Gawron, Commissioners Sue Wierengo, Steve Wisneski, Chris Carter, Clara Shepherd, and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

RECYCLING ANNOUNCEMENT:

Mayor Warmington explained that beginning August 1, 2009, the recycling program will be discontinued for all residents unless they pay \$42 per year or else they can drop off their recyclables at 1970 Port City Blvd. between the hours of 7:00 a.m. and 3:45 p.m. As of today we have approximately 400 families that have signed up for recycling. We need 500 families to sign up for this service at \$42 per year in order to continue uninterrupted. The phone number to call is (231)773-8551 or (231)773-8407.

2009-60 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, June 23, 2009.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. SECOND READING: Vacant Building Registration Ordinance Amendments. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend the Code of Ordinances Chapter 10,

Section 107, Annual Registration of Vacant Buildings and Registration Fees, for the purpose of exempting legal storage uses, located in the proper zoning district, from the definition of a vacant structure.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of Chapter 10, Section 107 Annual Registration of Vacant Buildings and Registration Fees, specifically to amend the definition of Vacant found in sub-section (b)(1)(f).

E. Fireworks Display Permit for Muskegon Bike Time. CITY CLERK

SUMMARY OF REQUEST: West Michigan Burnerz is requesting approval of a fireworks display permit for July 17th and 18th during the Muskegon Bike Time. Fire Marshall Metcalf has reviewed the request and recommends approval contingent on inspection of the fireworks.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval contingent on inspection of the fireworks.

F. Ammunition Purchase. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety is requesting approval of the purchase of ammunition for the 2010 calendar year. The request includes both practice and duty ammunition.

Generally, the bid is sought in early 2010; however, we have been advised that there is a shortage of ammunition. Therefore, we are requesting that we be allowed to begin the purchase process at this time.

Only one vendor replied to our bid request: CMP Distributors, 6539 Westland Way, Lansing, MI. Based upon the bids that were received, I am recommending CMP Distributors be awarded the bid.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: Available in 2009 budget.

STAFF RECOMMENDATION: Approval of this request.

G. 2009 Water Treatment Chemical Bids. WATER FILTRATION

SUMMARY OF REQUEST: Recommend endorsement of contract extension for the previous lowest responsible bidders to supply aluminum sulfate and fluoride for the Water Filtration Plant as allowed by contract.

FINANCIAL IMPACT: Annual cost of \$143,462 (based on average annual water pumped to mains).

BUDGET ACTION REQUIRED: None at this time. These chemicals are budgeted

annually.

STAFF RECOMMENDATION: Staff recommends the Mayor and City Commission endorse the bid extensions received and allow staff to enter into contract with US Aluminate Co. (USALCO) for aluminum sulfate and Lucier Chemical Industries Ltd. for fluoride.

H. Budgeted Vehicle Replacement. PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase one 2009 Ford F-250 4x4.

FINANCIAL IMPACT: \$17,773.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve purchase from Vanderhyde Ford.

J. Request to Hold a Leisure Services Yard Sale. LEISURE SERVICES

SUMMARY OF REQUEST: The Leisure Services Department would like to hold a yard sale using donated clothing items, softball equipment and leftover uniforms from previous programs. Donated items from City of Muskegon employees will also be sought. It is planned to hold the yard sale on July 31, 2009, at the former Central Fire Station along Walton Street. The purpose is to raise revenue for the Summer Adventure Program to provide additional programming and offer field trips lost due to budget cuts.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approval.

K. Budgeted Equipment Setup. PUBLIC WORKS

SUMMARY OF REQUEST: Authorize staff to purchase three dump bodies, one utility box, and one service body with crane from Hoekstra Equipment and three plows from Muskegon Brake.

FINANCIAL IMPACT: \$53,460.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the purchases.

Motion by Commissioner Carter, second by Commissioner Shepherd to approve the Consent Agenda as read minus items C, D, and I.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

MOTION PASSES

2009-61 ITEMS REMOVED FROM THE CONSENT AGENDA:

C. Contract for Demolition of 1387 7th Street. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve for Community and Neighborhood Services to execute a contract with Press's LLC, 8081 Holton Duck Lake Road, Holton, MI for the demolition of the structure located at 1387 7th Street. This activity is under the Neighborhood Stabilization Program. The bid was for \$4,800. The City received three additional bids:

1. Fenstermacher Asphalt Paving, 18573 Northland Drive, Big Rapids, MI for \$4,800. Bid was not accepted because it was dropped off at the Clerk's Office and the notice specifically stated bids needed to be dropped off at the CNS Office.
2. Valentine Excavating LLC, 2493 64th Street, Fennville, MI for \$6,850.
3. Ken Adams Excavating, 8770 North Oceana Drive, Pentwater, MI for \$8,975. Bid was not accepted because it was dropped off at the Clerk's Office and the notice specifically stated bids needed to be dropped off at the CNS Office.

FINANCIAL IMPACT: The funding will be allocated from the City's NSP Grant.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the request.

COMMITTEE RECOMMENDATION: The program was reviewed by the Citizen's District Council.

Motion by Commissioner Wisneski, second by Commissioner Carter to approve the contract for demolition of 1387 7th Street.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Wisneski, and Carter

Nays: None

MOTION PASSES

D. Create Lakeshore Trail Fund. FINANCE

SUMMARY OF REQUEST: The City includes on its income tax form the option for tax filers to donate refunds to various causes. For both 2007 and 2008 tax returns, "Lakeshore Trail Improvements" was the most popular donation check-off.

Year	Number of Donations	Total Donations
2008	279	\$1,309
2007	243	\$1,272

Staff believes the best use of the donated monies is to seed an endowment at the Community Foundation for the long-term care and improvement of the trail. Using the Foundation will give the fund greater visibility and, hopefully, encourage other donations for this cause in addition to the income tax check-off.

FINANCIAL IMPACT: Will provide a funding tool to protect and improve the City's investment in its Lakeshore Trail system.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to execute the "Build a Fund Agreement" with the Community Foundation for Muskegon County.

Motion by Commissioner Spataro, second by Commissioner Wierengo to approve the creation of the Lakeshore Trail Fund with the amendments recommended by the City Attorney.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

I. Agreement for General Services with a Retired City Employee. PUBLIC WORKS

SUMMARY OF REQUEST: Authorize staff to enter into an agreement with Robert Fountain to provide assistance in various fields at DPW including storm sewer and cross connection compliance. The proposed contract would be for an average of 40-hours a month (based on needs and availability). Anticipated starting date is August 1, 2009.

Furthermore, it is respectfully requested that staff be authorized to extend and/or terminate said agreement to best serve the City.

FINANCIAL IMPACT: Approximately \$6,500 for 2009 and an average of \$16,000 per year after 2009 based on 480-hours of work per year.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with Mr. Fountain.

Motion by Commissioner Shepherd, second by Vice Mayor Gawron to approve the agreement for general services with Robert Fountain.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, Gawron, and Shepherd

Nays: None

MOTION PASSES

2009-62 NEW BUSINESS:

**A. Rescind Restrictive Covenant Action for 1470 Lakeshore Drive. CITY
MANAGER**

SUMMARY OF REQUEST: To rescind action taken by the City Commission to approve an amendment to the Declaration of Restrictive Covenant for 1470 Lakeshore Drive. The anticipated transaction is not proceeding so the amendment is not required.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To rescind the action taken by the City Commission on June 23, 2009.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to rescind the previous action regarding the Restrictive Covenant for 1470 Lakeshore Drive.

ROLL VOTE: Ayes: Warmington, Wierengo, Wisneski, Carter, Gawron, Shepherd, and Spataro

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Various comments were heard.

2009-62 CLOSED SESSION: To Discuss Pending Litigation.

Motion by Commissioner Spataro, second by Commissioner Carter to go into Closed Session to discuss pending litigation.

ROLL VOTE: Ayes: Wierengo, Wisneski, Carter, Gawron, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Commissioner Wierengo to come out of Closed Session.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, Warmington and Wierengo

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Commissioner Wierengo to concur with the recommendation made by the City Attorney.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 6:05 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk

Date: July 28, 2009

To: Honorable Mayor and City Commissioners

From: Finance Director

RE: Certification of MERS Representatives

SUMMARY OF REQUEST: The MERS plan document provides that "the governing body for each municipality shall certify the names of two (2) delegates to the Annual Meeting. One delegate shall be a member who is an officer of the municipality appointed by the governing body of the municipality. The other delegate shall be a member who is not an officer of the municipality, elected by the member officer/employees of the municipality."

Each City bargaining unit selects a member to attend the MERS annual meeting. The bargaining units have agreed to a rotating system (based on date of joining MERS) to select one official employee representative. This year the employee representative will be Teresa Ackerberg from the Clerical unit.

FINANCIAL IMPACT: Registration for the MERS conference in Grand Rapids is \$185 per person. Additionally, mileage costs will be incurred.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Certification of Tim Paul and Teresa Ackerberg to be the City's officer and employee delegates at the MERS annual meeting in Grand Rapids September 15 – 17.

COMMITTEE RECOMMENDATION: None.



Officer and Employee Delegate Certification Form

MERS 63rd Annual Meeting | September 15-17, 2009 | Amway Grand Plaza Hotel | Grand Rapids, Michigan

[see reverse for information]

IMPORTANT: Complete and return this form. Your registration is not confirmed until this form has been received by MERS.

In order to be your municipality's (including a court) delegate representative to MERS Annual Meeting, you must be a member of MERS. A member of MERS is defined as an individual on payroll who is enrolled in MERS Defined Benefit Plan (including Hybrid) or Defined Contribution Plan. Please refer to "Delegate Information" on the back for specific requirements.

OFFICER (ALTERNATE) DELEGATE INFORMATION

The officer delegate (or alternate) shall be an officer member who holds a department head position or above, exercises management responsibilities, and is directly responsible to the legislative, executive, or judicial branch of government.

Please type or print:

Officer Delegate Tim Paul

Officer Alternate _____

OFFICER DELEGATE APPOINTMENT

By official action of the governing body (or chief judge for a participating court) on July 28, 2009, the officer delegate and alternate listed above were appointed to serve at the 2009 MERS Annual Meeting.

EMPLOYEE (ALTERNATE) DELEGATE INFORMATION

The employee delegate (or alternate) shall be an employee member who is not responsible for management decisions, receives direction from management and, in general, is not directly responsible to the legislative, executive, or judicial branch of government.

Please type or print:

Employee Delegate TERESA ACKENBERG

Employee Alternate _____

EMPLOYEE DELEGATE ELECTION

By secret ballot election conducted by an authorized officer on July 28, 2009, the employee delegate and alternate listed above were elected to serve at the 2009 MERS Annual Meeting.

CERTIFICATION

NOTE: Certification should be signed by a member of the governing body (or municipality's chief administrative officer), or the chief judge for a participating court, and municipality number provided in space at the bottom of certification box.

I certify that the officer delegate and alternate selections are true and correct, and the secret ballot election results for employee delegate and alternate are true and correct.

Name (Signature): _____

Name (Please Print): _____

Official Title: _____

Date: _____

NOTE: Municipality Number Required for Certification

Municipality Number: 6116

E-mail address: tim.paul@shorelinecity.com

Municipality: CITY OF MUSKEGON

Municipality Mailing Address: PO Box 536

MUSKEGON, MI 49443-0536

Date: July 28, 2009
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Liquor License Request
The Cheese Lady, LLC
808 Terrace Street

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from The Cheese Lady, LLC to transfer ownership of 2009 SDM License with Direct Connection-1 from Kathleen Fagan Riegler, located at 808 Terrace Street. This request is for purposes of adding the LLC to the license, the ownership remains the same.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.

RECEIVED

JUL 20 2009

MUSKEGON POLICE DEPT.
CHIEF of POLICE

To: Tony Kleibecker, Director of Public Safety

From: Det. Kurt Dykman

Date: 07-20-09

Re: Liquor License Investigation

Chief Kleibecker,

The Muskegon Police Department has received a request from the Michigan Liquor Control Commission for an investigation from applicant The Cheese Lady, LLC of 808 Terrace Street, Muskegon, MI. 49440.

The Cheese Lady, LLC is requesting to transfer ownership of 2009 SDM license with Direct Connection-1 from Kathleen Fagan Riegler, located at 808 Terrace Street, Muskegon, Mi. 49440. This request is for purposes of adding the LLC to the license; the ownership remains the same.

A check of MPD records showed no reason to deny this request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. Dykman', with a large 'X' drawn over it.

Det. Kurt Dykman



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)

7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

POLICE INVESTIGATION REPORT

[Authorized by MCL 436.1217 and R 436.1105; MAC]

FOR MLCC USE ONLY

Request ID # 518403

Business ID # 218839

7/14 7-15-09

Please conduct your investigation as soon as possible, complete all four sections of this report and return the completed report and fingerprint cards to the MLCC.

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

THE CHEESE LADY, LLC REQUESTS TRANSFER OWNERSHIP 2009 SDM LICENSE WITH DIRECT CONNECTION-1 FROM KATHLEEN FAGAN RIEGLER, LOCATED AT 808 TERRACE, MUSKEGON, MI 49440, MUSKEGON COUNTY.

Section 1. APPLICANT INFORMATION

APPLICANT #1:

KATHLEEN RIEGLER

1922 OAK AVE

N. MUSKEGON, MI 49445

PHONE: (231)343-7945

APPLICANT #2:

DATE FINGERPRINTED**:

NO FINGERPRINTS NEEDED

DATE FINGERPRINTED**:

DATE OF BIRTH:

Is the applicant a U.S. Citizen: ☐ Yes ☐ No*

*Does the applicant have permanent Resident Alien status?

☐ Yes ☐ No*

*Does the applicant have a Visa? Enter status:

DATE OF BIRTH:

Is the applicant a U.S. Citizen: ☐ Yes ☐ No*

*Does the applicant have permanent Resident Alien status?

☐ Yes ☐ No*

*Does the applicant have a Visa? Enter status:

Attach the fingerprint card and \$30.00 for each card and mail to the Michigan Liquor Control Commission

ARREST RECORD: ☐ Felony ☐ Misdemeanor

Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)

ARREST RECORD: ☐ Felony ☐ Misdemeanor

Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)

Section 2. INVESTIGATION OF BUSINESS AND ADDRESS TO BE LICENSED

Does applicant intend to have dancing, entertainment, topless activity, or extended hours permit?

☒ No ☐ Yes, complete LC-1636

Are motor vehicle fuel pumps at or directly adjacent to the establishment? ☐ No ☐ Yes, explain relationship:

Section 3. LOCAL AND STATE CODES AND ORDINANCES, AND GENERAL RECOMMENDATIONS

Will the applicant's proposed location meet all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, if this license is granted? ☒ Yes ☐ No If No, indicate which state and local ordinances the location does not meet:

☐ Building ☐ Plumbing ☐ Zoning ☐ Fire ☐ Sanitation ☐ Health

Section 4. RECOMMENDATION

1. Is this applicant qualified to conduct this business if licensed?

☒ Yes ☐ No*

2. Should the MLCC grant this request?

☒ Yes ☐ No*

*If any of the above questions were answered No, you must state your reasons for MLCC consideration of this recommendation on the back of this form or on an attached signed and dated sheet.

3. Is this recommendation subject to final inspection to determine that the proposed location meets all building, plumbing, zoning, fire, sanitation and health laws and ordinances?

☐ Yes ☒ No

4. Is this recommendation subject to any other conditions?

☐ Yes ☒ No

If Yes, list the conditions below or on an attached signed and dated sheet if more space is needed

[Signature]
Signature (Sheriff or Chief of Police)

7-20-09
Date

MUSKEGON POLICE DEPARTMENT



Michigan Department of Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

RECEIVED

JUN 12 2009

MUSKEGON
CITY MANAGER'S OFFICE

LOCAL GOVERNMENT 15-DAY NOTICE

[Authorized by R 436.1105 (2d) and (3)]

June 9, 2009

MUSKEGON CITY COMMISSION
933 TERRACE ST
PO BOX 536
MUSKEGON, MI 49443-0536

Request ID #: 518403

The Michigan Liquor Control Commission has received an application from THE CHEESE LADY, LLC REQUESTS TRANSFER OWNERSHIP 2009 SDM LICENSE WITH DIRECT CONNECTION-1 FROM KATHLEEN FAGAN RIEGLER, LOCATED AT 808 TERRACE, MUSKEGON, MI 49440, MUSKEGON COUNTY.

CONTACT:

KATHLEEN RIEGLER, 1922 OAK AVE, N. MUSKEGON, MI 49445, PHONE: (231)343-7945

Specially Designated Merchant (SDM) licenses permit the sale of beer and wine for consumption off the premises only. Specially Designated Distributor (SDD) licenses permit the sale of alcoholic liquor, other than beer and wine under 21 per cent alcohol by volume, for consumption off the premises only.

For your information, part of the investigation of the application is conducted by the local law enforcement agency and investigative forms will be released to them either in person or by mail.

Although local governing body approval is not required by the Michigan Liquor Control Code, Rules and Related Laws for off-premise licenses, the local governing body, or its designee, may notify the Commission at the above address within 15 days of receipt of this letter if the applicant location will not be in compliance with all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, or if the applicant is considered ineligible due to other factors.

All conditions of non-compliance must be outlined in detail, indicating the applicable laws and ordinances. A copy of the law and/or ordinance may be submitted with the notification.

If you have any questions, contact the appropriate unit (On Premises, Off Premises or Manufacturers & Wholesalers) at (517) 322-1400.

smg

Date: July 28, 2009
To: Honorable Mayor and City Commissioners
From: Ann Becker, City Clerk
RE: 2009-2010 Michigan Municipal League
Membership Dues

SUMMARY OF REQUEST: Approval to pay the 2009-2010 MML dues in the amount of \$9,855.

FINANCIAL IMPACT:

MML Dues	\$8,078
Environmental Assessment	\$ 969
Legal Defense Fund	<u>\$ 808</u>
Total	\$9,855

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

Date: July 28, 2009
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Upgrade to Front Entrance of McGraft Park Building

SUMMARY OF REQUEST: The City has been awarded a grant in the amount of \$15,750 to replace the doors at McGraft Park so they may be ADA compliant.

The lowest quote was received from Tridonn Construction in the amount of \$15,750 to upgrade the front entrance of the building. The grant requires that the awardee pay Davis-Bacon wage rate. This quote does not include Davis-Bacon wage rate. Staff is asking authorization to negotiate the Davis-Bacon wage rate within the bid.

Automatic Equipment Sales & Service, Inc. was the lowest quote in the amount of \$3,434 to supply and install automatic door openers.

FINANCIAL IMPACT: \$3,434 match.

BUDGET ACTION REQUIRED: The funds will come out of the ADA budget.

STAFF RECOMMENDATION: It is requested that staff be authorized to negotiate to incorporate Davis-Bacon wage rate within the bid and execute the contracts with Tridonn and Automatic Equipment Sales & Service, Inc. if it is found to be acceptable. It is also recommended that the Mayor be authorized to execute the grant.

Mcgraff Park

To: Mohammed Al-Shatel
Fr. JR Gann
Date: 7-21-09

Upgrade to front entrance and automatic door openers

I recommend we use Tridonn Cons't. for this project. Only the base bid will be used with wood siding not face brick. The bids are as follows.

1. Tridonn Cons't. -----\$ 15,750.00
2. Clifford Buck Cons't.---\$ 17,300.00
3. Muskegon Cons't.-----\$ 21,472.00

The automatic doors will be supplied and installed by Automatic Equipment Sales & Service, Inc. at a Price of \$ 3,434.00

It is my understanding that Dwana Thompson's ADA budget will cover the automatic doors.

The grant will cover the cons't. and they will reimburse after payment to Tridonn Cons't.

Thanks JR Gann
Bldg. Maint. Supvr.

POLLING PLACE ACCESSIBILITY IMPROVEMENT PROGRAM
AUTHORIZED WORK PLAN
MUSKEGON CITY, MUSKEGON COUNTY

Attachment A

The Authorized Work Plan provides a detailed listing, by polling place location, of the improvements for which the jurisdiction is authorized to receive reimbursement under the Polling Place Accessibility Improvement Program. Each location may have up to three sections listed:

Section I: A listing of the authorized improvements for which the jurisdiction is eligible to receive reimbursements.

Section II: A listing of the improvements requested that are ineligible for reimbursement under this program. (The section will be blank if there are no ineligible improvements.)

Section III: A listing of the accessibility standards identified in the Polling Place Accessibility Checklist for which 1) the location is identified as noncompliant with a particular standard and 2) funding was not sought in the grant application for improvements related to that area of noncompliance. (The section will be blank if there are no discrepancies such as this.)

Authorized Work Plan Stipulations:

1. The award amount shown in this Authorized Work Plan is the maximum amount that has been approved.
2. This is a reimbursement program. All reimbursements will require proof of payment by the local jurisdiction before reimbursement will be issued.
3. Actual reimbursements will be issued for the lesser of 1) the actual cost of the improvement or 2) the award amount listed in this Authorized Work Plan.
4. All improvements must be completed by September 30, 2009.
5. Before the grant award is authorized, the Grantee must verify and sign this Authorized Work Plan, then return it to: Gina Feguer, Michigan Department of State, Grants Management Section, Richard H. Austin Building, 4th Floor, Lansing, Michigan 48918. If sending by overnight mail, use: 430 W. Allegan, Richard H. Austin Building 4th Floor, Lansing, Michigan 48918.

Section I: Eligible Reimbursible Improvements

		Polling Place Total:	
Location	Improvement	Requested Amount	Award Amount
McGast Park	Building Entrance	New footings & foundation, new hollow metal double door & frame for ADA access, replace existing electrical in the entrance to code standards, and disposal costs.	\$15,750.00
	Building Entrance	Four Automatic Door Openers	\$3,434.00
			\$3,434.00

City's part of \$3,434

Section II: Ineligible Improvements (None if Blank)

Location	Improvement	Description	Requested Amount
McGast Park	Building Entrance	Placement of face brick on entrance	\$3,700.00

Comments:

Section III: Noted Discrepancies from ADA Compliance Survey (None if Blank)

**POLLING PLACE ACCESSIBILITY IMPROVEMENT PROGRAM
AUTHORIZED WORK PLAN
MUSKEGON CITY, MUSKEGON COUNTY**

Attachment A

<u>Jurisdiction Totals</u>	
<u>Requested Amount:</u>	<u>\$19,184.00</u>
<u>Award Amount:</u>	<u>\$15,750.00</u>

I hereby certify that I am in agreement with the terms of the Approved Work Plan outlined above.

Printed Name _____ Title _____

Signature _____ Date _____

<i>Approved By:</i>	
Cindy Paradine, Acting Director Budget Services Division Michigan Department of State	Date _____

Date: July 22, 2009
To: Honorable Mayor and City Commissioners
From: Lowell Kirksey, Recreation Supervisor
RE: Special Event-Multiple Liquor License Request
2009 AVP Crocs Tour, Muskegon Open

SUMMARY OF REQUEST: The AVP Pro Beach Volleyball Tour, Inc. 6100 Center Dr. Los Angeles, Ca. is requesting a temporary liquor license, to setup an adult beverage tent at their professional volleyball tournament to be held at Pere Marquette beach from August 20 through August 23, 2009. The Muskegon Yacht Club was previously approved for a temporary alcohol license on August 21 through August 23, 2009.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: The request was recommended for approval by the Leisure Services Board at their July 20, 2009 meeting

COMMITTEE RECOMMENDATION: None

Commission Meeting Date: July 28, 2009

Date: July 21, 2009
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development *CBC*
RE: Public Hearing – Establishment of a Commercial Rehabilitation District – 971 Washington Avenue

SUMMARY OF REQUEST:

Pursuant to Public Act 210 of 2005, as amended, Fatty Lumpkins, 971 Washington Avenue, has requested the establishment of a Commercial Rehabilitation District. The creation of the district will allow the building owner to apply for a Commercial Rehabilitation Certificate. The Commercial Rehabilitation Tax freezes the taxable value of the building and exempts the new investment from local taxes. The school operating tax and the State Education Tax (SET) are still levied on the new investment. Land and personal property cannot be abated under this act.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Establishment of the Commercial Rehabilitation District at 971 Washington Ave

COMMITTEE RECOMMENDATION:

None

Resolution No. _____

MUSKEGON CITY COMMISSION

**RESOLUTION APPROVING THE CREATION OF A COMMERCIAL REHABILITATION DISTRICT
971 Washington Avenue**

WHEREAS, Fatty Lumpkins has requested in writing for the City to establish a Commercial Rehabilitation District at 971 Washington in a letter dated May 27, 2009; and

WHEREAS, the creation of this district is calculated to and will have the reasonable likelihood to retain, create, or prevent the loss of employment in Muskegon, Michigan; and

WHEREAS, the building at this location is at least 15 years old; and

WHEREAS, a Public Hearing was held on July 28, 2009 at which the applicant, the assessor and representatives of the affected taxing units were given written notice and were afforded an opportunity to be heard;

NOW, THEREFORE, BE IT RESOLVED, the City Commission of Muskegon does hereby establish a "Commercial Rehabilitation District" for the property at 971 Washington Avenue on the following described parcel of real property

CITY OF MUSKEGON REVISED PLAT OF 1903 E 24 FT OF W 54 FT LOT 1 BLK 479

Adopted this 28th Day of July 2009.

Ayes:

Nays:

Absent:

BY: _____
Stephen J. Warmington
Mayor

ATTEST: _____
Ann Marie Becker
Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on July 28, 2009.

Ann Marie Becker
Clerk

Commission Meeting Date: July 28, 2009

Date: July 21, 2009
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development *CBC*
RE: Public Hearing –Request for a Commercial Rehabilitation Certificate– Fatty Lumpkins

SUMMARY OF REQUEST:

Pursuant to Public Act 210 of 2005, as amended, Fatty Lumpkins, 971 Washington Avenue, has requested the issuance of a Commercial Rehabilitation Certificate. The Sandwich Shop plans on investing \$5,000 in building upgrades and creating six (6) new jobs. This qualifies them for a seven (7) year abatement according to the City of Muskegon Commercial Rehabilitation Policy.

FINANCIAL IMPACT:

The real property taxes would be frozen at their pre-rehabilitated rate for the duration of the certificate

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval of the Commercial Rehabilitation Certificate for a duration of seven (7) years.

COMMITTEE RECOMMENDATION:

None

Resolution No. _____

MUSKEGON CITY COMMISSION

**RESOLUTION APPROVING APPLICATION FOR ISSUANCE
OF A COMMERCIAL REHABILITATION CERTIFICATE
*Fatty Lumpkins***

WHEREAS, pursuant to P.A. 210 of 2005 as amended, after duly noticed public hearing held on July 28, 2009, this Commission by resolution established a Commercial Rehabilitation District as requested by Fatty Lumpkins for the building at 971 Washington Avenue, Muskegon, Michigan 49441; and

WHEREAS, Fatty Lumpkins has requested in writing for the City to establish a Commercial Rehabilitation District at 971 Washington in a letter dated May 27, 2009; and

WHEREAS, the application for the issuance of a Commercial Rehabilitation Certificate was filed within six months of the projects commencement; and

WHEREAS, the rehabilitation of this building is calculated to and will have the reasonable likelihood to retain, create, or prevent the loss of employment in Muskegon, Michigan; and

WHEREAS, a Public Hearing was held on July 28, 2009 at which the applicant, the assessor and representatives of the affected taxing units were given written notice and were afforded an opportunity to be heard; and,

WHEREAS, the aggregate SEV of real property exempt from ad valorem taxes within the City of Muskegon, will not exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of personal and real property thus exempted.

NOW, THEREFORE, BE IT RESOLVED by the Muskegon City Commission of the City of Muskegon, Michigan that:

- 1) The Muskegon City Commission finds and determines that the Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 210 of the Public Act of 2005 as amended shall not have the effect of substantially impeding the operation of the City of Muskegon or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Muskegon.
- 2) The application of Fatty Lumpkins, for the issuance of a Commercial Rehabilitation Certificate with respect to the building improvements and equipment on the following described parcel of real property situated within the City of Muskegon to wit:

CITY OF MUSKEGON REVISED PLAT OF 1903 E 24 FT OF W 54 FT LOT 1 BLK 479

- 3) The Commercial Rehabilitation Certificate is issued and shall be and remain in force and effect for a period of _____ years.

Adopted this 28th Day of July 2009.

Ayes:

Nays:

Absent:

BY: _____
Stephen J. Warmington
Mayor

ATTEST: _____
Ann Marie Becker
Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on July 28, 2009.

Ann Marie Becker
Clerk

Commission Meeting Date: July 28, 2009

Date: July 20, 2009
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development *CBC*
RE: Public Hearing - Request for an Industrial Facilities Exemption Certificate – Johnson Technology

SUMMARY OF REQUEST:

Pursuant to Public Act 198 of 1974, as amended, Johnson Technology, 2034 Latimer Dr, has requested the issuance of an Industrial Facilities Tax Exemption Certificate. The company plans on investing \$2,900,000 in real property improvements, which qualifies them for a twelve (12) year abatement.

FINANCIAL IMPACT:

The City will capture certain additional property taxes generated by the expansion (see attached Summary Sheet).

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval of the attached resolution granting an Industrial Facilities Exemption Certificate for a term of twelve (12) on real property.

COMMITTEE RECOMMENDATION:

None

Resolution No. _____

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING APPLICATION FOR ISSUANCE
OF INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE
Johnson Technology

WHEREAS, pursuant to P.A. 198 of 1974 as amended, after duly noticed public hearing held on July 26, 1983, this Commission by resolution established an Industrial Development District as requested by the City of Muskegon for Port City Industrial Park, including the property owned by Johnson Technology, 2034 Latimer Drive, Muskegon, Michigan 49442; and

WHEREAS, Johnson Technology has filed an application for the issuance of an Industrial Facilities Tax Exemption Certificate with respect to a building expansion to be installed within said Industrial Development District ; and

WHEREAS, before acting on said application the Muskegon City Commission held a public hearing on July 28, 2009, at the Muskegon City Hall in Muskegon, Michigan at 5:30 p.m. at which hearing the applicant, the assessor and representatives of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, the installation of machinery and equipment is calculated to and will have the reasonable likelihood to retain, create, or prevent the loss of employment in Muskegon, Michigan; and

WHEREAS, the aggregate SEV of real property exempt from ad valorem taxes within the City of Muskegon, will not exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of personal and real property thus exempted.

NOW, THEREFORE, BE IT RESOLVED by the Muskegon City Commission of the City of Muskegon, Michigan that:

- 1) The Muskegon City Commission finds and determines that the Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Act of 1974 as amended and Act No. 255 of the Public Acts of 1978 as amended shall not have the effect of substantially impeding the operation of the City of Muskegon or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Muskegon.
- 2) The application of Johnson Technology, for the issuance of an Industrial Facilities Tax Exemption Certificate with respect to the building expansion on the following described parcel of real property situated within the City of Muskegon to wit:

CITY OF MUSKEGON PORT CITY INDUSTRIAL CENTER NO 2 LOT 30

- 3) The Industrial Facilities Tax Exemption Certificate is issued and shall be and remain in force and effect for a period of 12 years on real property.

Adopted this 28th Day of July 2009.

Ayes:

Nays:

Absent:

BY: _____
Stephen J. Warmington
Mayor

ATTEST: _____
Ann Marie Becker
Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on July 28, 2009.

Ann Marie Becker
Clerk



West Michigan's Shoreline City

City of Muskegon Industrial Facilities Exemption Application Summary Sheet

Project Summary:

Johnson Technology will be investing \$2.9 million in real property improvements. The project is expected to create 74 new jobs. They will also be applying for a 328 (exemption of new personal property) and have received a MEGA from the State of Michigan.

Employment Information: 259 employees

Racial Characteristics:

White	239
Minority	20
Total	259

Gender Characteristics:

Male	179
Female	80
Total	259

Total No. of Anticipated New Jobs: 74

Investment Information:

Real Property:	\$2,900,000
Personal Property	\$0
Total:	\$2,900,000

Property Tax Information: (Annual)	All Jurisdictions	City Only
Total New Taxes Generated	\$ 82,891	\$ 17,012
Value of Abatement	\$ 41,445	\$ 8,506
Total New Taxes Collected	\$ 41,445	\$ 8,506

Income Tax Information: (Annual)

Total Additional Income Tax Generated: \$ 10,774

Company Requirements:

Adopted Affirmative Action Policy	☒ Yes	☐ No
Meeting w/ City Affirmative Action Director	☒ Yes	☐ No
Signed Tax Abatement Contract	☒ Yes	☐ No
Taxes Paid In Full	☒ Yes	☐ No
Zoning Conflicts	☐ Yes	☒ No


Mike Franzak
Planner II


Dwana Thompson
Affirmative Action Director

Commission Meeting Date: July 28, 2009

Date: July 21, 2009
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development *CBC*
RE: Public Hearing - Request for Exemption of New Personal Property (PA 328) – Johnson Technology

SUMMARY OF REQUEST:

Pursuant to Public Act 328 of 1998, as amended, Johnson Technology, 2034 Latimer Dr, has requested an exemption of new personal property. The company plans on investing \$11,200,000 in personal property improvements and is asking Commission to determine the length of the abatement.

FINANCIAL IMPACT:

The City will forgo 100% of the personal property taxes for the length of the abatement.

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval of the exemption of new personal property for a duration on twelve (12) years.

COMMITTEE RECOMMENDATION:

None

Resolution No. _____

MUSKEGON CITY COMMISSION

**RESOLUTION APPROVING APPLICATION FOR EXEMPTION OF NEW PERSONAL PROPERTY UNDER
PA 328 OF 1998
*Johnson Technology***

WHEREAS, pursuant to P.A. 198 of 1974 as amended, after duly noticed public hearing held on July 26, 1983, this Commission by resolution established an Industrial Development District as requested by the City of Muskegon for Port City Industrial Park, including the property owned by Johnson Technology, 2034 Latimer Drive, Muskegon, Michigan 49442; and

WHEREAS, Johnson Technology has filed an application for Exemption of New Personal Property with respect to new personal property to be installed within said Industrial Development District ; and

WHEREAS, before acting on said application the Muskegon City Commission held a public hearing on July 28, 2009, at the Muskegon City Hall in Muskegon, Michigan at 5:30 p.m. at which hearing the applicant, the assessor and representatives of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, the installation of machinery and equipment is calculated to and will have the reasonable likelihood to retain, create, or prevent the loss of employment in Muskegon, Michigan; and

NOW, THEREFORE, BE IT RESOLVED by the Muskegon City Commission of the City of Muskegon, Michigan that:

- 1) The Muskegon City Commission finds and determines that the Exemption considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 328 of the Public Act of 1998 as amended and Act No. 198 of the Public Act of 1974 as amended and Act No. 255 of the Public Acts of 1978 as amended shall not have the effect of substantially impeding the operation of the City of Muskegon or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Muskegon.
- 2) The application of Johnson Technology, for the Exemption of New Personal Property with respect to the personal property expansion on the following described parcel of real property situated within the City of Muskegon to wit:

CITY OF MUSKEGON PORT CITY INDUSTRIAL CENTER NO 2 LOT 30

- 3) The Exemption of New Personal Property is issued and shall be and remain in force and effect for a period of _____ years on personal property.

Adopted this 28th Day of July 2009.

Ayes:

Nays:

Absent:

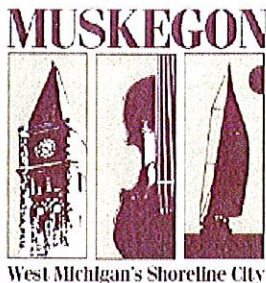
BY: _____
Stephen J. Warmington
Mayor

ATTEST: _____
Ann Marie Becker
Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on July 28, 2009.

Ann Marie Becker
Clerk



City of Muskegon Exemption of New Personal Property (PA 328) Summary Sheet

Project Summary:

Johnson Technology will be investing \$11.2 million in personal property improvements. The project is expected to create 74 new jobs. They will also be applying for an IFT and have received a MEGA from the State of Michigan. This summary sheet is similar to the IFT summary sheet, but please note the difference in property tax information.

Employment Information: 259 employees

Racial Characteristics:

White	239
Minority	20
Total	259

Gender Characteristics:

Male	179
Female	80
Total	259

Total No. of Anticipated New Jobs: 74

Investment Information:

Personal Property Total \$11,200,000

Property Tax Information: (Annual)

	<u>All Jurisdictions</u>	<u>City Only</u>
Total New Taxes Generated	\$ 185,729	\$ 62,010
Value of Abatement	\$ 185,729	\$ 62,010
Total New Taxes Collected	\$ 0	\$ 0

Income Tax Information: (Annual)

Total Additional Income Tax Generated: \$ 10,774

Company Requirements:

Adopted Affirmative Action Policy	☒ Yes	☐ No
Meeting w/ City Affirmative Action Director	☒ Yes	☐ No
Signed Tax Abatement Contract	☒ Yes	☐ No
Taxes Paid In Full	☒ Yes	☐ No
Zoning Conflicts	☐ Yes	☒ No

Mike Franzak
Planner II

Dwana Thompson
Affirmative Action Director

AGENDA ITEM NO. _____

CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Bryon L. Mazade, City Manager

DATE: July 14, 2009

RE: Police Patrol Retirement Incentive

SUMMARY OF REQUEST:

To provide a retirement incentive limited to one person (Ken Wansten) in the Police Patrol Unit. This incentive could encourage one person to retire and, thereby, limit the number of layoffs otherwise necessary due to budget constraints. It would also save the city money otherwise spent on unemployment compensation.

FINANCIAL IMPACT:

\$5,000.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

To approve the retirement incentive, the associated document, and authorize the City Manager to sign it.

COMMITTEE RECOMMENDATION:

None.

SEVERANCE AGREEMENT

KEN WANSTEN ("Wansten") voluntarily agrees to the terms and conditions of his separation from CITY OF MUSKEGON ("City") on the following terms and conditions:

1. Termination of Full Time Employment. Wansten's active employment with City will end pursuant to his retire on _____, 2009.

2. Consideration. As consideration for the commitments and releases in this agreement, City agrees to pay Wansten Five Thousand Dollars (\$5,000) on the first pay day after the effective date of this Severance Agreement. In addition, Wansten shall receive those benefits provided to an employee upon retirement from the patrol unit of the City of Muskegon Police Department.

3. Release.

The parties agree that this Severance Agreement applies to that party, and, on behalf, as applicable, of that party's heirs, beneficiaries, executors, administrators, assigns, and anyone claiming through or under any of the foregoing, and, in the case of City, any of its officers, agents, and employees.

3.1 Agreement Not to File Suit. The parties agree that each will not file or otherwise submit any charge, claim, complaint or action to any agency, court, organization, or judicial forum (nor will that party permit any person, group of persons, or organization to take such action on their behalf) against the other party arising out of any actions or nonaction that occurred on or prior to the date of execution of this agreement. Said claims, complaints, and actions include, but are not limited to (i) any breach of an actual or implied contract of employment between Wansten and City, (ii) any claim of unjust, wrongful, or tortious discharge (including any claim of fraud, negligence, whistleblowing, or intentional infliction of emotional distress), (iii) any claim of defamation or other common-law action, or (iv) any claim of violations arising under the Civil Rights Act of 1964, as amended, 42 U.S.C. . 2000 et seq., 42 U.S.C. . 1981, the Age Discrimination in Employment Act, 29 U.S.C. . 621 et seq., the American with Disabilities Act, 42 U.S.C. . 12101 et seq., the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. . 201 et Seq., the Rehabilitation Act of 1973, as amended, 29 U.S.C. . 701 et seq., the Employee Retirement Income Security Act (ERISA), 29 U.S.C. . 1001 et seq., or any other relevant federal, state, or local statute or ordinance or applicable collective bargaining agreement or civil service rules and regulations.

3.2 Release of Claims. The parties agree to remise, release and forever discharge the other party from any and all matters, claims, demands, damages, causes of action, debts, liabilities, controversies, judgments and suits of every kind and nature, whatsoever, foreseen, unforeseen, known or unknown, including claims, complaints and actions described in Paragraph 3.1, which have arisen or could arise between Wansten and City from matters which occurred on or prior to the date of execution of this agreement, which matters include this agreement and Wansten's separation of employment with City, and specifically include

grievances filed by or on behalf of Wansten and claims and appeals before the City of Muskegon Civil Service Commission.

3.3 Release and Waiver of Other Claims. Except as expressly provided in this agreement, the parties agree to further release and waive any claims related to salary, compensation, commission, vacation pay, insurance or welfare benefits, or any other benefits of employment with City arising from events occurring on or prior to the date of execution of this agreement.

Notwithstanding any provision of this agreement, this agreement does not include any release or waiver of Wansten's non-forfeitable rights to his accrued benefits (within the meaning of . . 203 and 204 of ERISA), if any, which rights are not released hereby, but survive unaffected by this agreement.

4. Severability. The provisions of this agreement are severable, and, if any part of it is found to be unenforceable, the other paragraphs shall remain fully valid and enforceable. This agreement shall survive the termination of any arrangements in this agreement.

5. Wansten agrees that he will not engage in any conduct that is injurious to the reputation or interests of any of the City entities, including, without limitation, publicly disparaging (or inducing or encouraging others to publicly disparage) City. For the purposes of this paragraph, the term "disparage" includes, without limitation, comments or statements to the press or any individual, which would adversely affect in any manner: (a) the conduct of the City, or (b) the reputation of the City. This paragraph applies only to issues involving his tenure and employment with the City.

6. This Severance Agreement shall not in any way be construed as an admission by City and its employees or agents that they have acted wrongfully with respect to Wansten, or that Wansten has any claims, whatsoever, against City and its employees or agents. Similarly, this agreement shall not be construed as an admission by Wansten that he has acted wrongfully in any respect or that City has any claims against him.

7. Wansten represents and agrees that he fully understands all aspects of this Severance Agreement. Wansten represents and acknowledges that, in executing this Severance Agreement, he does not rely upon, and has not relied upon, any representation or statement not set forth herein made by City or by any of City's agents, representatives, or attorneys with regard to the subject matter, basis, or effect of this Severance Agreement or otherwise.

8. City advises Wansten to consult with and to provide a copy of this Severance Agreement to an attorney prior to executing this Severance Agreement.

9. Wansten acknowledges that he has been deliberating whether to sign this agreement since July _____, 2009, and that City has given him until _____, 2009 (which is 21 days) to consider signing this agreement. If Wansten elects to sign this Agreement without availing himself the opportunity to consider it for at least 21 days, Wansten acknowledges that he waives right to the balance of the review period, and his decision to

shorten the time for considering this Agreement prior to signing is knowing and voluntary, and such decision is not induced by City through fraud, misrepresentation or a threat to withdraw or alter the provisions set forth in this Agreement prior to the expiration of the 21 day time period.

For a period of seven (7) days after Wansten's execution of this Agreement, Wansten may revoke this Agreement by giving written notice to John C. Schrier, attorney for City, at Parmenter O'Toole, 601 Terrace Street, P.O. Box 786, Muskegon, Michigan 49443-0786. This Agreement shall not become effective until the revocation period has expired without it being revoked.

This Severance Agreement sets forth the entire agreement between the parties hereto, and fully supersedes any and all prior agreements or understandings between the parties hereto pertaining to the subject matter hereof.

PLEASE READ CAREFULLY. THIS SEVERANCE AGREEMENT INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS.

Executed at Muskegon, Michigan, this ____ day of _____, 2009.

Ken Wansten

Executed at Muskegon, Michigan, this ____ day of _____, 2009.

City of Muskegon

By _____
Bryon Mazade
Its City Manager

AGENDA ITEM NO. _____

CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Bryon L. Mazade, City Manager

DATE: July 20, 2009

RE: Prosecution Services

SUMMARY OF REQUEST:

To consider an agreement with the County of Muskegon and the Muskegon County Prosecutor to provide prosecution services to the City.

FINANCIAL IMPACT:

\$86,377.00 for 8/1/09 through 7/31/10.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

To approve the agreement, authorize the Mayor to execute it, and authorize staff to make necessary arrangements with the City Attorney to discontinue these services.

COMMITTEE RECOMMENDATION:

None.

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY OF
MUSKEGON AND THE CITY OF MUSKEGON FOR PROSECUTION SERVICES**

This Agreement (hereinafter referred to as "Agreement") is made by and between the County of Muskegon, a political subdivision of the State of Michigan, and the Muskegon County Prosecutor (hereinafter, together referred to as "County"), having its principal place of business at 990 Terrace Street, Muskegon, Michigan 49442, and the City of Muskegon, a Michigan municipal corporation, having its principal place of business at 933 Terrace Street, Muskegon, Michigan 49443 (hereinafter referred to as "City"), concerning the intergovernmental transfer, and performance, of the Prosecution Services as specified herein.

WHEREAS the City Charter of the City, Chapter III, Section 2, authorizes the City Commission to designate the person or persons responsible to carry out the functions of City Attorney; and

WHEREAS, under Chapter V, Section 10 of the City Charter of the City, the functions of the City Attorney include, but are not limited to, the Prosecution Services as specified herein; and

WHEREAS Act 35 of 1951, MCL 124.1-124.13, and Act 8 of 1967, MCL 124.531 - 124.536, authorize intergovernmental contracts between municipal governments, including the contractual transfer of governmental functions and responsibilities; and

WHEREAS the City has a need for the Prosecution Services as specified herein, and desires to have the Prosecution Services performed by the Muskegon County Prosecutor's Office; and

WHEREAS the County, in exchange for good and valuable consideration, is willing to contract to undertake the performance of Prosecution Services for the City; and

WHEREAS this Agreement will not have any impact on the job of any existing City employee; and

WHEREAS the remaining duties of the City Attorney, except for the Prosecution Services as described herein, shall not be delegated and shall remain with the existing City Attorney,

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. SCOPE OF SERVICES. County, through the office of the Muskegon County Prosecutor, will perform Prosecution Services for the City. Prosecution Services shall consist of the administration and prosecution, through and including trial and all appeals, of all criminal ordinance violations and civil infractions, both traffic and non-traffic infractions.

2. **HIRING OF PERSONNEL.** In order to perform the Prosecution Services, for the duration of this Agreement, the office of the County Prosecutor will hire and employ one full-time Assistant Prosecutor I, along with one part-time secretary.

3. **TERM.** Subject to Paragraph 5 (early termination), the initial term of this Agreement is for five (5) years, from August 1, 2009, through July 31, 2014, and the Agreement will automatically renew on a year-to-year basis unless written notice of termination is given by either party not less than ninety (90) days in advance of the renewal date (i.e., May 2, 2014, or May 2 of a subsequent year). If the renewal date falls on a Saturday or Sunday, then written notice can be given on the next business day.

4. **PAYMENT TERMS.** For Prosecution Services rendered from August 1, 2009, through July 31, 2010, the City shall pay the County \$86,377.00. In subsequent years of the initial term and renewal terms of this Agreement, the payment from the City to the County shall escalate at the same rate as the escalation in the County projected budget (including, but not limited to salary and benefits) for the personnel required to be hired under this Agreement. The anticipated escalation in salaries and fringe benefits is based on the following factors: a seven-step salary range for the assistant prosecuting attorney approximating a 5% salary increase each year; a nine-step salary range for the part-time secretary approximating a 5% salary increase after the equivalent of a full-time year; a contractual annual cost of living increase for the secretary approximating a 2.5% increase; a potential annual cost of living increase for the assistant prosecuting attorney approximating a 2.5% increase; any increase in fringe benefit costs including health coverage based on increased provider cost or change in plan designation pursuant to a change in family status. Any increase for non-personnel costs will be based on the Consumer Price Index.

5. **INVOICING AND PAYMENT.** The County shall invoice the City for the Prosecution Services on a monthly basis, and payment shall be due within thirty (30) days of the date of each invoice. If payment is late, then the invoiced amount shall bear interest at a rate of one percent (1%) per month, compounded, commencing with the date of the invoice.

6. **EARLY TERMINATION.** Either the City or the County may, at any time, terminate this Agreement, upon ninety (90) days advance written notice.

7. **DESIGNATED REPRESENTATIVE.** Tony Tague, Muskegon County Prosecutor, at phone number (231-724-6435) is the representative of County and will administer this Agreement for and on behalf of County. Bryon Mazade, Muskegon City Manager, at phone number (231-724-6724) is the authorized representative for City. Changes in designated representatives shall be made only after advance written notice to the other party.

8. **NOTICES.** Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To County:	Tony Tague, Muskegon County Prosecutor 990 Terrace Street
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Muskegon, Michigan 49442

To City: Bryon Mazade, Muskegon City Manager
933 Terrace Street
Muskegon, Michigan 49443

or at such other address or to such other person that the parties may from time-to-time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the United States mail.

9. **NONDISCRIMINATION.** The County assures that in accordance with Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title IX of the Education Amendment of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.), the Regulations issued thereunder by the U.S. Department of Health and Human Services (45 CFR Parts 80, 84, 86, and 91), the Michigan Handicapper's Civil Rights Act (1976, P.A. 220), and the Michigan Civil Rights Act (1976, P.A. 453), no individual shall, on the ground of race, creed, age, color, national origin or ancestry, religion, sex, marital status, handicap, or other protected characteristic or status, be excluded from participation, be denied the benefit of, or be otherwise subjected to discrimination or harassment under any program or activity of the County related to this Agreement.

10. **NONEXCLUSIVE AGREEMENT.** City understands that this is not an exclusive Agreement and that County shall have the right to negotiate with and enter into contracts with others relating to the same or similar services as those provided by the County under this Agreement.

11. **ASSIGNMENT.** Neither the City nor the County shall assign any rights or transfer any obligations under this Agreement without the prior written consent of the other Party and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

12. **SECTION HEADINGS.** The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

13. **SEVERABILITY.** If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

14. **REMEDIES NOT EXCLUSIVE.** No remedy herein conferred upon or reserved to County is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy

given hereunder or now or hereafter existing at law or in equity or otherwise.

15. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement and each covenant and term is a condition herein.

16. NO WAIVER OF DEFAULT. No delay or omission of County or the City to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to County or City shall be exercised from time-to-time and as often as may be deemed expedient in the sole discretion of County or City, respectively.

17. ENTIRE AGREEMENT AND AMENDMENT. In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the Parties and there have been no promises, representations, agreements, warranties or undertakings by any of the Parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the Parties to this Agreement and by no other means. Each Party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded or changed by any oral agreements, course of conduct, waiver or estoppel.

18. SUCCESSORS AND ASSIGNS. All representations, covenants and warranties set forth in the Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

19. NO THIRD-PARTY BENEFICIARY. No person dealing with the County or the City shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement. This Agreement is not intended to, nor shall it be interpreted to create a special relationship between the County or the City and any staff, visitors, residents, or other individuals who may have business through the County or the City.

20. TERMS AND CONDITIONS. The terms and conditions used in this Agreement shall be given their common and ordinary definition and will not be construed against either party.

21. EXECUTION OF COUNTERPARTS. This Agreement may be executed in any number of counterparts and each such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

22. FILING WITH SECRETARY OF STATE. Pursuant to the Intergovernmental Transfers of Functions and Responsibilities Act, Act 8 of 1967, MCL 124.531 – 124.536, an original counterpart of this Agreement shall be filed with the Secretary of State of the State of Michigan.

23. AUTHORITY. All parties to this Agreement warrant and represent that they have

the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, person, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any State and/or Federal law in order to enter into this Agreement have been fully complied with.

In Witness Whereof, the parties have executed this Agreement to be effective on the date executed by County.

COUNTY OF MUSKEGON

Dated:_____

By:_____
Kenneth Mahoney, Chairperson
County Board of Commissioners

CITY OF MUSKEGON

Dated:_____

By:_____
Steve Warmington, Mayor

DATE: 07/17/2009

TO: Honorable Mayor and Commissioners

FROM: Anthony Kleibecker, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN090048

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 **529 MULDER ST** 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: # EN090048 - 529 MULDER ST

Location and ownership: This structure is located on Mulder between Ellifson and Jackson Streets and is owned by ALC HOLDINGS.

Staff Correspondence: A dangerous building inspection was conducted on 02/17/09. The Notice and Order to Repair was issued on 02/26/09. On 05/07/09 the HBA declared the structure substandard and dangerous.

Owner Contact: No one was present for the HBA meeting dated 05/07/09. No permits have been issued, no inspections scheduled and no owner contact.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: \$16,000

Estimated cost to repair: \$10,000 (Exterior only)

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

SUMMARY FOR: 529 MULDER ST

This is a vacant two story wood frame, single family dwelling that has been boarded for over 180 days. The building exterior is deteriorating including the roof, siding, and windows. With no intervention from the property owner this will continue to be a blighting influence on the neighborhood.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Thursday, February 19, 2009

Enforcement # EN090048
Parcel # 24-205-019-0013-00

Property Address 529 MULDER ST
Owner ALC HOLDINGS

Inspector: Henry Faltinowski

Date completed: 02/17/09

DEFICIENCIES:

AREA: Exterior - Uncorrected

#1. Repair damaged roof covering.

Area: Exterior - Uncorrected

#2. Replace rotted open fascia.

Area: Exterior - Uncorrected

#3. Replace damaged siding.

Area: Exterior - Uncorrected

#4. Repair or replace all damaged window frames, windows, door frames and doors.

Area: Exterior - Uncorrected

#5. Scrape and paint all exterior wood trim or replace.

Area: Exterior - Uncorrected

#6. Provide interior by trade inspectors.

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact Inspection Services with any questions or to schedule an inspection at 933 Terrace St., Muskegon, MI 49440 (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



529 Mulder

