

CITY OF MUSKEGON

CITY COMMISSION MEETING

JULY 26, 2022 @ 5:30 P.M.

**MUSKEGON CITY COMMISSION CHAMBERS
933 TERRACE STREET, MUSKEGON, MI 49440**

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, July 26, 2022, Vice Mayor, Willie German, Jr., opened the meeting with prayer, after which the Commission and public recited the Pledge of Allegiance to the Flag.

Present: Mayor Ken Johnson, Vice Mayor Willie German, Jr., Commissioners, Teresa Emory, Rachel Gorman, Rebecca St.Clair, and Michael Ramsey, Interim City Manager LeighAnn Mikesell, City Attorney John Schrier, and City Clerk Ann Meisch.

Absent: Commissioner Eric Hood

PUBLIC COMMENT ON AGENDA ITEMS: Public comments received.

2022-70 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the June 15, 2022 Special Meeting and the June 28, 2022 Regular Meeting.

STAFF RECOMMENDATION: To approve the minutes.

B. 2022 Justice Assistance Grant (JAG) Public Safety

SUMMARY OF REQUEST: Public Safety is seeking approval to enter into an MOU (Memorandum of Understanding) with the County of Muskegon and Muskegon Heights and to apply for the allocated 2022 JAG (Justice Assistance Grant) grant funds.

Public Safety is seeking approval to enter into an MOU with the County of Muskegon and Muskegon Heights and to apply for the allocated 2022 Edward Byrne Memorial Justice Assistance Grant (JAG) program funds. This year's local JAG allocations to disparate jurisdictions in our county totals \$41,661. The City of Muskegon will continue to act as the fiduciary and receive \$22,790, the City of Muskegon Heights would be a subawardee and receive \$18,871 and the County of Muskegon would not receive funding. The County will be reviewing the agreement for approval at their July meeting. There is no match requirement for this grant. Similar to past years, the City of Muskegon's portion of

this grant will be used for the prosecution of city ordinance cases dealing primarily with neighborhood issues.

STAFF RECOMMENDATION: To approve the 2022 JAG Program Award Memorandum of Understanding (MOU), authorize the Mayor to sign, and authorize staff to apply for the 2022 JAG grant funds.

C. Uncollectible Accounts Finance

SUMMARY OF REQUEST: Write off CMI- Site Assessment \$22,195.21 and Hendrickson Brownfield load \$18,554.93 as bad debt. The Hendrickson Brownfield is from March of 2017 and the CMI Assessment is from 2004.

STAFF RECOMMENDATION: Write off CMI-Site Assessment \$22,195.21 and Hendrickson Brownfield loan \$18,554.93 as bad debt.

D. Certification of MERS Representatives Finance

SUMMARY OF REQUEST: Assigning Delegates for MERS Conference.

The MERS plan document provides that "the governing body for each municipality shall certify the names of (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."

The City's employee units previously agreed to a rotating system (based on date of joining MERS) to select one official employee representative. This year the official employee representative attending the MERS conference will be Michael Hewartson from the Fire Unit.

STAFF RECOMMENDATION: To approve Hayden Nickell (Finance Management Assistant) as designated delegate to MERS Conference and to make Michael Hewartson employee representative.

E. Haunted Fields Cannabis Event DPW

SUMMARY OF REQUEST: 420 Harvey Events LLC would like to host a small cannabis event on their property located at 420 Harvey Street on Friday, October 28, 2022.

This will be a Halloween themed cannabis event on private property located in the marijuana overlay district. They expect to host 200 guests from 7-11 pm.

STAFF RECOMMENDATION: To approve the cannabis event to be held at 420 Harvey Street on October 28, 2022.

H. Sherman Boulevard Scrap Tire Grant DPW/Engineering

SUMMARY OF REQUEST: Staff is requesting permission to approve two contracts. The City was awarded a market development grant to use scrap tires in the

concrete on the reconstruction of Sherman. One contract is with EGLE, to receive and administer the grant funds. The other contract is with Michigan Technological University (MTU). MTU has agreed to do all of the research and development for the project, including on site testing and lab analysis. Legal counsel is still reviewing the contracts for legal conformity.

STAFF RECOMMENDATION: To authorize staff to approve contracts with EGLE and MTU, pending legal review.

I. Concession Agreement – Baby Suga’s DPW

SUMMARY OF REQUEST: Staff is seeking permission to enter into a contractual agreement with Joseph Lopez of “Baby Suga’s Cheesesteak Shack” at various locations including Pere Marquette Park for 2022. Fees to the City of \$1,000 plus 5% of Gross Receipts are proposed in accordance with the policy being adopted.

Mr. Lopez’s proposal states: “My name is Joseph Lopez, owner/operator of Baby Suga’s Cheesesteak Shack, we are a fairly new, local food tent building a truck to serve out of. We would ask for consideration to sell our products in the parks of Muskegon!” and offers cheesesteak sandwiches and other handheld items. Mr. Lopez plans to locate the concession daily depending on weather and traffic in an attempt to maximize sales. Staff will work with Mr. Lopez to ensure specific locations are safe and accessible.

STAFF RECOMMENDATION: To authorize staff to enter into a Concession Agreement with Joseph Lopez of “Baby Suga’s Cheesesteak Shack” at various locations including Pere Marquette park for 2022.

**L. Amendment to the Zoning Ordinance - Critical Dunes Planning
2nd READING**

SUMMARY OF REQUEST: Staff initiated request to revoke Section 12310 (Critical Dunes) of the zoning ordinance.

The Planning Commission unanimously recommended in favor of revoking the ordinance.

STAFF RECOMMENDATION: To approve the request to revoke Section 2310 of the zoning ordinance.

Motion by Vice Mayor German, second by Commissioner Ramsey, to accept the consent agenda as presented, minus items F, G, J and K.

ROLL VOTE: Ayes: Emory, St.Clair, Johnson, Ramsey, German, and Gorman

Nays: None

MOTION PASSES

2022-71 REMOVED FROM CONSENT AGENDA:

F. MDNR Conversion Assistance RFQ DPW/Parks

SUMMARY OF REQUEST: DPW is requesting permission to solicit proposals from interested firms to provide the city assistance in working through the MDNR (Michigan Department of Natural Resources) conversion process.

The Adelaide Pointe and Hartshorn Village projects are going to impact MDNR encumbered properties in the form of Hartshorn Marina and the Lakeshore Trail. As those development projects progress into future stages the city will need to work with MDNR and the National Park Service (NPS) to ensure that the impacts to the encumbered properties are properly mitigated.

MDNR allows for multiple conversions to be resolved concurrently, as such, we are also including assistance for other potential conversions in this proposal so those can all be resolved.

MDNR manages this process on the state level and terms this as a "conversion" wherein an area that is encumbered for public outdoor recreation is converted into another use. The encumbered area that is converted into a space that is not for public outdoor recreation must be replaced by an equal or greater value area that is dedicated for public outdoor recreation.

No one on city staff has experience working through the multi-stop process so we are requesting to solicit proposals from interested firms to provide us technical assistance and experience in navigating the complex process. A draft of the RFG along with the proposed attachments have been provided for review.

A few things of note:

- A budget will need to be established for the conversion assistance as it was not included in the original 22/23 budget proposal. Significant staff time is also anticipated to be required for the effort.
- Entering into a conversion process will functionally eliminate the City from consideration for most MDNR grants until such time that the conversion is satisfactorily resolved. Being involved in an active conversion carries an automatic 50-point deduction (400-point scale) on any grant applications until it is resolved.
- The conversion process is expected to take less than one year to complete as some of the impacted properties are encumbered through the NPS (National Park Service) and require federal concurrence.

At this time staff is only asking for permission to solicit proposals with the expectation that the proposal will require future approval and consideration by this commission. As such, there is zero cost implication at this time, however the future consideration will require a cost allocation.

STAFF RECOMMENDATION: To authorize staff to solicit proposals for professional assistance in the MDNR conversion process.

Motion by Commissioner St.Clair, second by Commissioner Ramsey, to authorize staff to solicit proposals for professional assistance in the MDNR conversion process.

ROLL VOTE: Ayes: St.Clair, Johnson, Ramsey, German, Gorman, and Emory

Nays: None

MOTION PASSES

G. Parks Concession Policy DPW/Parks

SUMMARY OF REQUEST: DPW is requesting approval of the enclosed policy to guide the application and approval of concession operations within the city park system.

The policy was previously discussed at the July 11, 2022 Worksession meeting and includes a number of edits to that original document per those discussions and as follows:

- Various formatting and grammatical errors
- Revised approval path to require Commission approval of all applications
- Revised brick and mortar to allow one renewal term before reverting to RFP process
- Added 5% gross receipts requirement to concessions operating outside of westside parks
- Added earmark for revenue to General Fund for park purposes

STAFF RECOMMENDATION: To approve the Park Concession Policy.

Motion by Commissioner Ramsey, second by Commissioner St.Clair, to approve the Park Concession Policy.

ROLL VOTE: Ayes: St.Clair, Johnson, Ramsey, German, Gorman, and Emory

Nays: None

MOTION PASSES

J. Beachwood Park Fitness Equipment DPW

SUMMARY OF REQUEST: Staff is seeking approval to contract with Sinclair Recreation for a new fitness structure in Beachwood Park using funds donated by the Beachwood-Bluffton Neighborhood Association.

Members of the Beachwood-Bluffton Neighborhood Association (BBNA), with the support of City staff, engaged in a fundraising campaign, including a dollar-for-dollar matching Patronicity grant through the Michigan Economic

Development Corporation (MEDC), securing funds to purchase a Thrive 450 fitness structure from Sinclair Recreation in the amount of \$34,017.07 as detailed on the attached documents. The Public Works Department has worked with the group to identify a location in Beachwood Park for the equipment and has committed to various minor tasks to help with installation.

The BBNA has worked with Sinclair Recreation, DPW, and other partners to develop a "fitness trail" concept that will eventually include this structure, a similar structure at the other end of the path leading north from Beachwood Park, and additional fitness "stations" along the route. Users will be able to perform exercises at each structure and station while running or walking along the trail. This structure is Phase 1 of the overall plan.

Due to the City's competitive bidding arrangement with Sinclair Recreation and our tax-exempt status, the BBNA requested that the City purchase the Thrive 450 equipment with full reimbursement from the fundraising campaign. The campaign dollars are housed at the City, so a simple fund transfer is all that is required.

AMOUNT REQUESTED: \$34,017.07 AMOUNT BUDGETED: N/A

FUND OR ACCOUNT: Donations

STAFF RECOMMENDATION: To authorize staff to contract with Sinclair Recreation in the amount of \$34,017.07 using donated funds for the purchase of a Thrive 450 structure from Sinclair Recreation, including installation in Beachwood Park.

Motion by Commissioner Gorman, second by Commissioner Emory, to authorize staff to contract with Sinclair Recreation in the amount of \$34,017.07 using donated funds for the purchase of a Thrive 450 structure from Sinclair Recreation, including installation in Beachwood Park.

ROLL VOTE: Ayes: Ramsey, German, Gorman, Emory, St.Clair, and Johnson

Nays: None

MOTION PASSES

K. LAF Grant City Clerk

SUMMARY OF REQUEST: The City of Muskegon is in the process of pursuing a mini-grant from the Michigan Arts and Cultural Council in the amount of \$2,000 to support the 2023 Lakeshore Art Festival. Grant funds will support artists' fees (performers and artists), art supplies for the interactive art activities, and marketing efforts to attract a diverse audience. Per the grant requirements, the fund will be matched 1:1 from the Festival budget.

STAFF RECOMMENDATION: To approve the submission of the grant application to MCACA.

Motion by Commissioner Ramsey, second by Commissioner Gorman, to approve the submission of the grant application to MCACA.

ROLL VOTE: Ayes: Ramsey, German, Gorman, Emory, St.Clair, and Johnson

Nays: None

MOTION PASSES

ANY OTHER BUSINESS:

Interim City Manager, LeighAnn Mikesell provided an update on the recruitment of a new Public Safety Director, a meet & greet event open to the public will be held Thursday, July 28, 2022 at 5:30 p.m.

City Clerk, Ann Meisch, provided an update on the August 2, 2022 Primary and the Clerk's efforts to increase visibility and accessibility.

Andy Rush, Interim Public Safety Director, provided an update on the recent drowning at Pere Marquette Park and the efforts to provide information to beach goers regarding the conditions as well as the use of signal devices.

PUBLIC COMMENT ON NON-AGENDA ITEMS: Public comments received.

ADJOURNMENT: The City Commission meeting adjourned at 6:12 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC - City Clerk