

CITY OF MUSKEGON

CITY COMMISSION MEETING

JULY 8, 2014

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ☐ **CALL TO ORDER:**
- ☐ **PRAYER:**
- ☐ **PLEDGE OF ALLEGIANCE:**
- ☐ **ROLL CALL:**
- ☐ **HONORS AND AWARDS:**
- ☐ **INTRODUCTIONS/PRESENTATION:**
- ☐ **CITY MANAGER'S REPORT:**
- ☐ **CONSENT AGENDA:**
 - A. Approval of Minutes. CITY CLERK**
 - B. Farmers' Market – Second Amendment to Purchase Agreement. PLANNING & ECONOMIC DEVELOPMENT**
 - C. Special Event Request – Catamaran Racing Association of Michigan. PLANNING & ECONOMIC DEVELOPMENT**
- ☐ **PUBLIC HEARINGS:**
- ☐ **COMMUNICATIONS:**
- ☐ **UNFINISHED BUSINESS:**
- ☐ **NEW BUSINESS:**
 - A. Codification of City Ordinances. CITY CLERK**
 - B. No Parking Front/Side Yard – Ordinance Amendment. PUBLIC SAFETY**
 - C. Consideration of Bids for Merrill Avenue Reconstruction between Fifth and Third. ENGINEERING**
- ☐ **ANY OTHER BUSINESS:**
- ☐ **PUBLIC PARTICIPATION:**
 - ▶ **Reminder: Individuals who would like to address the City Commission shall do the following:**
 - ▶ **Fill out a request to speak form attached to the agenda or located in the back of the room.**
 - ▶ **Submit the form to the City Clerk.**

- ▶ Be recognized by the Chair.
- ▶ Step forward to the microphone.
- ▶ State name and address.
- ▶ Limit of 3 minutes to address the Commission.
- ▶ (Speaker representing a group may be allowed 10 minutes if previously registered with City Clerk.)

☐ **CLOSED SESSION:**

☐ **ADJOURNMENT:**

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

Date: July 8, 2014
To: Honorable Mayor and City Commissioners
From: Ann Marie Cummings, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes of the June 24th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

JUNE 24, 2014

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, June 24, 2014.

Mayor Gawron opened the meeting with prayer from Mr. George Monroe from the Evanston Avenue Baptist 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 Gawron, Vice Mayor Lawrence Spataro, Commissioners Eric Hood, Willie German, Dan Rinsema-Sybenga, Byron Turnquist, and Ken Johnson, City Manager Franklin Peterson, City Attorney John Schrier, and City Clerk Ann Marie Cummings.

2014-46 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes of the June 9th Commission Worksession Meeting, and the June 10th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Extension of the Moratorium for Establishments of Medical Marijuana Facilities. CITY CLERK

SUMMARY OF REQUEST: On March 11th the City Commission declared an emergency moratorium on the establishment of any medical marijuana facility for 120 days so staff and counsel may create an appropriate ordinance regulating medical marijuana facilities for consideration by the City Commission.

Staff is requesting a 60-day extension of the moratorium so a proposed ordinance may be presented to the City Commission at a meeting in August.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To adopt the resolution extending the moratorium.

C. Wheel Loader. PUBLIC WORKS

SUMMARY OF REQUEST: Authorize staff to purchase one Wheel Loader from Michigan CAT off of the Mi-Deal State Purchasing contract.

FINANCIAL IMPACT: A net price \$151,900; \$187,900 price of the new loader minus \$36,000 trade-in value of the loader we have.

BUDGET ACTION REQUIRED: None, amount is what was budgeted.

STAFF RECOMMENDATION: Authorize the purchase.

**E. Selection of Vinyl Siding Supplier for Fiscal Year 2014-2015.
COMMUNITY & NEIGHBORHOOD SERVICES**

SUMMARY OF REQUEST: To approve the Community & Neighborhood Services Department's selection of the Vinyl Siding Supplier for 2014-2015 fiscal year. After reviewing all bids, the department selected the bid from Keene Lumber Co., located at 346 W. Laketon Ave., Muskegon, MI, for the price of \$46.95 per building square for both white and color siding.

The Community & Neighborhood Services Department received two additional bids from:

1. Sethco Lumber, Muskegon White - \$47/sq. Color - \$49/sq.
2. Home Acres, Muskegon White - \$50/sq. Color - \$51/sq.

FINANCIAL IMPACT: Funding will be disbursed from the 2014-2015 Community Development Block Grant Vinyl Siding fund.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the request.

Motion by Commissioner Hood, second by Commissioner Johnson, to accept the Consent Agenda as read minus items D and F.

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

Nays: None

MOTION PASSES

2014-47 ITEMS REMOVED FROM THE CONSENT AGENDA:

D. Mini Excavator. PUBLIC WORKS

SUMMARY OF REQUEST: Authorize staff to purchase one Mini Excavator from Michigan CAT, the lowest qualified bidder.

FINANCIAL IMPACT: \$46,100.

BUDGET ACTION REQUIRED: None, this purchase was in the 2013/14 CIP for the Equipment Division.

STAFF RECOMMENDATION: Authorize staff to purchase one 4½ ton Mini Excavator from Michigan CAT.

Motion by Commissioner German, second by Commissioner Johnson to approve staff to purchase one 4½ ton Mini Excavator from Michigan CAT.

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

Nays: None

MOTION PASSES

F. "Rule of 1" Question on General Ballot. CITY MANAGER

SUMMARY OF REQUEST: To approve the resolution to place the Civil Service procedure for filling positions of employment by way of promotion to eliminate the "Rule of 1" for adoption by the voters of the City of Muskegon.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To adopt the resolution to place the elimination of the "Rule of 1" question on the General Ballot.

Motion by Vice Mayor Spataro, second by Commissioner Rinsema-Sybenga to adopt the resolution to place the elimination of the "Rule of 1" question on the General Ballot.

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

Nays: None

MOTION PASSES

2014-48 NEW BUSINESS:

A. Heritage Square Development LLC – Construction Loan Agreement and Other Document Approval. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: At the March 25, 2014, meeting, the Commission authorized staff and the City Attorney to proceed with the necessary documents to complete the loan transaction with Mr. Post for the construction of two townhouses at Heritage Square, on Clay Avenue (as well as explore the option of using HOME funds for an additional unit, which remains a possibility). An agreement has been reached to loan Mr. Post \$500,000 from the City's "economic development fund" for the construction of the two townhouses (just to the West of the existing four units). The Construction Loan Agreement, as well as the Construction Loan Note, Commercial Construction Mortgage, Commercial Guaranty (which is Mr. Post's personal Guaranty), Security Agreement, Assignment of Rents and Leases, and Assignment of Plans and

Specifications have been prepared and are ready for Commission approval.

FINANCIAL IMPACT: The City will loan \$500,000 to Mr. Post to complete two townhouses. The funds must be substantially expended by December 2014 (with the project fully completed by February 28, 2015). Both townhouses are to be sold within 24 months of the date of the Agreement (if not, "interest shall begin accruing on the Construction Note retroactively from the Effective Date of this Agreement at the rate of 5% per annum").

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Construction Loan Agreement, as well as the Commercial Construction Mortgage, Commercial Guaranty (which is Mr. Post's personal Guaranty), Security Agreement, Assignment of Rents and Leases, and Assignment of Plans and Specifications and authorize the Mayor and Clerk's signature's on the documents, as well as authorize staff to sign any and all other documents necessary for the loan closing (e.g., closing statement, escrow agreement, Transnation documents).

Motion by Vice Mayor Spataro, second by Commissioner Rinsema-Sybenga to approve the Construction Loan Agreement and the other agreements and documents, and authorize the Mayor and Clerk's signatures on the documents, as well as authorize staff to sign any and all other documents necessary for the loan closing.

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

Nays: None

MOTION PASSES

B. Farmer's Market Rentals. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: City staff would like to allow public rental of certain areas of the new Farmer's Market facility. The proposed rental rates are shown on the *2014 Farmer's Market Rental Rate Sheet*. There would be five separate areas of the Farmer's Market available for rent as shown on the Farmer's Market site map.

Staff is requesting approval of the rental rates listed.

FINANCIAL IMPACT: Facility rental would generate additional income for the market.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approval of the rental rates, and incorporation of the rates into the City's fee schedule. Staff also recommends that the Commission authorize staff to negotiate in-kind services in lieu of a portion or all of the rental fee, when appropriate.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner German to approve the rental rates and incorporate the rates into the City's fee schedule, and allow staff to negotiate in-kind services in lieu of a portion or all of the rental fee, when appropriate.

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

Nays: None

MOTION PASSES

C. Police Review Board Minority Coalition. CITY CLERK

SUMMARY OF REQUEST: A letter of understanding between the Muskegon Minority Coalition and the City of Muskegon was adopted on November 10, 1998. Some items in the original letter are now obsolete. Commissioner Rinsema-Sybenga, Commissioner Hood, staff, and members of the Minority Based Organizations met to discuss needed changes.

The two most significant changes the organizations agreed to are as follows:

Place the remark "inactive/no longer exists" next to Muskegon Urban League and Ad Hoc Committee for Equality and Justice who no longer exist.

Remove term limits.

Organizations have been asked to obtain approval from their respective boards and obtain signatures from an authorized individual(s).

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To authorize the Mayor and Clerk to sign the First Amendment to the Letter of Understanding between the Muskegon Minority Coalition and the City of Muskegon dated November 10, 1998.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga to authorize the Mayor and Clerk to sign the First Amendment to the Letter of Understanding between the Muskegon Minority Coalition and the City of Muskegon dated November 10, 1998.

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

Nays: None

MOTION PASSES

D. Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Following: PUBLIC SAFETY

254 Monroe

1245 Fleming (garage only)

30 E. Clay

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures are unsafe, substandard, a public nuisance and that they be demolished within 30 days. It is further requested that administration be directed to obtain bids for the demolition of the structures and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds for 254 Monroe and 1245 Fleming (garage only), and General Funds for 30 E. Clay.

BUDGET ACTION REQUIRED: None.

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

Motion by Vice Mayor Spataro, second by Commissioner German to concur with the Housing Board of Appeals decision to demolish 254 Monroe and 1245 Fleming (garage only).

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

Nays: None

MOTION PASSES

Motion by Vice Mayor Spataro, second by Commissioner Rinsema-Sybenga to concur with the Housing Board of Appeals notice and order to demolish 30 E. Clay.

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

Nays: None

MOTION PASSES

E. Resolution to Place Question to Increase Tax Levy on Ballot. CITY
MANAGER

SUMMARY OF REQUEST: To approve the resolution for a proposed Charter Amendment to allow the City Commission to levy up to 14 mills for municipal purposes. If adopted, this question will be placed on the General Ballot for consideration by the voters.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To adopt the resolution to place a question on the ballot to levy up to 14 mills for municipal purposes.

Motion by Vice Mayor Spataro, second by Commissioner Rinsema-Sybenga to adopt the resolution to place a question on the ballot to levy up to 14 mills for municipal purposes.

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

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Public comments were received.

2014-49 CLOSED SESSION:

A. Attorney-Client Privileged Communications.

B. City Manager's Evaluation.

Motion by Commissioner Johnson, second by Commissioner German to go into Closed Session at 6:45 p.m. to discuss Attorney-Client Privileged Communications and City Manager's Evaluation.

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

Nays: None

MOTION PASSES

Motion by Vice Mayor Spataro, second by Commissioner Rinsema-Sybenga to come out of Closed Session at 7:25 pm.

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

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 7:25 pm.

Respectfully submitted,

Ann Marie Cummings, MMC
City Clerk

Commission Meeting Date: July 8, 2014

Date: June 30, 2014
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department
RE: Farmers' Market- Second Amendment to Purchase Agreement

SUMMARY OF REQUEST: Due to the weather conditions during the winter of 2013-2014, the construction of the new downtown Farmers' Market has taken longer than anticipated. Final items are being completed by the Contractor, and final approvals and payments are required prior to transferring the property from the DMDC to the City. The City Commission approved a "First Amendment to Purchase Agreement" in May. It is necessary to extend the Closing date further. Therefore, Commission is requested to enter into a "Second Amendment to Purchase Agreement". The Amendment allows for continued operation of the Farmers' Market prior to the official closing on the property, with the City "fully responsible for any and all liability related to operating the farmers' market" during that time. The Closing is moved to August 8, 2014 or before.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the attached "Second Amendment to Purchase Agreement" and authorize the City Manager's signature (after the fact).

SECOND AMENDMENT TO PURCHASE AGREEMENT

This Amendment ("Amendment") is made effective on _____, 2014 ("Effective Date") by and between the **City of Muskegon**, a Michigan municipal corporation, with offices located at 933 Terrace Street, Muskegon, Michigan 49440 ("City"), and **Downtown Muskegon Development Corporation**, a Michigan non-profit corporation, with offices located at 425 W. Western, Muskegon, Michigan 49442 ("DMDC"). City and DMDC, may each be referred to as a "Party" or collectively as "Parties".

Background

A. City and DMDC entered into a purchase agreement on August 13, 2013 ("Purchase Agreement") for certain Premises (as defined in the Purchase Agreement). The Premises are being sold be DMDC to City for the purpose of operating a farmer's market in downtown Muskegon.

B. The intent of the Purchase Agreement was to have a Closing (as defined in the Purchase Agreement) upon the completion of construction of certain elements and structures by DMDC. The farmer's market is scheduled to open on May 3, 2014, however, the Parties will not be able to close prior to such date.

C. The Parties now desire to move the Closing to on or before August 8, 2014, or such other date mutually agreed upon by the Parties. During the time period between May 3, 2014 and the Closing, the Parties desire for the City to operate the farmer's market on the Premises.

Therefore, for good and valuable consideration, and the mutual promises contained in this Amendment, the Parties agree to amend Purchase Agreement as follows:

1. **Closing.** The Closing shall occur on or before August 8, 2014, or such other date mutually agreed upon by the Parties.

2. **Operations.** From the date the farmer's market opens on the Premises until Closing, the City shall operate the farmer's market ("Operations Period"). City shall have full use of the Premises during the Operations Period.

3. **Liability.** During the Operations Period, City shall be fully responsible for any and all liability on the Premises related to operating the farmer's market. In addition, City shall include operating the farmer's market on its general liability insurance coverage. Notwithstanding the preceding, DMDC shall be responsible for any liability on the Premises related to its actions, and the actions of its employees or agents.

4. **No Other Modification.** Except as expressly modified by the terms of this Amendment, the Purchase Agreement shall remain in full force and effect. In the event of any inconsistency or conflict between the Purchase Agreement and this Amendment, the provisions of this Amendment shall govern and control.

The Parties have executed this Amendment as of the Effective Date.

[Signatures to appear on the following page]

CITY: **City of Muskegon,**
 a Michigan municipal corporation

By: _____
Name: Frank Peterson
Title: City Manager
Date: _____, 2014

DMDC: **Downtown Muskegon Development Company,**
 a Michigan non-profit corporation

By: _____
Name: _____
Title: _____
Date: _____, 2014

CITY COMMISSION MEETING DATE

July 8, 2014

Date: June 24, 2014

To: Honorable Mayor and City Commissioners

From: Cathy Brubaker-Clarke, Director of Community & Economic Development

**Re: Special Event Request – Catamaran Racing Association of Michigan (CRAM)
Request to hold a Catamaran sailing regatta with overnight camping at Pere Marquette Park (7th-year event)**

SUMMARY OF REQUEST: C.R.A.M. is holding their annual Catamaran sailing regatta at Pere Marquette Park, July 25 - 27, 2014. They are again requesting permission for their participants to camp overnight at the park, as they have done in previous years. They would like to use the City-owned parking lot across from the former Captain Jack's restaurant for overnight camping, provided that the new owners (Harris Hospitality) approve. If they are unable to use that lot, they request to use the parking lot at Harbour Towne beach.

They expect around 10 RVs in the lot overnight. This is the event's seventh year of operation and there have been no problems in the past with this group. They will provide proof of liability insurance.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve overnight camping at Pere Marquette Park for this event on July 25, 26, and 27, 2013.

COMMITTEE RECOMMENDATION: N/A

Date: July 8, 2014
To: Honorable Mayor and City Commissioners
From: City Clerk
RE: Codification of City Ordinances

SUMMARY OF REQUEST: Approximately every ten years, the City's ordinances are reviewed for errors, omissions, additions, deletions, changes to sections affected by previous modifications, and to be sure they comply with State law. Staff, the City Attorney, and the Attorney from MuniCode reviewed all ordinances and have compiled a list of recommended changes that have been forward to Commissioners.

To simplify changes to any fees, we have removed the amount of fees in the ordinances and will add them into our user fee resolution to save future publication costs.

FINANCIAL IMPACT: This is a budgeted item and has been paid over a period of two fiscal years for a total price of \$18,675.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To adopt the attached ordinance to enact a new code of ordinances for the City of Muskegon and authorize the user fees to be added to the user fees resolution.

ORDINANCE NO.

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF MUSKEGON, MICHIGAN; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

THE CITY OF MUSKEGON ORDAINS:

Section 1. Short title. This ordinance shall be known as the "Code of Ordinances adopting ordinance" and may be so cited.

Section 2. Adoption of Code of Ordinances. The Code entitled "Code of Ordinances, City of Muskegon, Michigan," published by Municipal Code Corporation, consisting of chapters 1 through 106, each inclusive, is adopted.

Section 3. Repealer. All ordinances of a general and permanent nature enacted on or before April 22, 2014, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 4. Prior ordinances not revived. The repeal provided for in section 3 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 5. Penalty. Whenever in this code or any ordinance of the city an act is prohibited or is made or declared to be a misdemeanor or a municipal civil infraction, or whenever in this code or any ordinance the doing of any act is required or the failure to do any act is declared to be a misdemeanor or municipal civil infraction, the violation of any such provision by any person shall, upon conviction of a misdemeanor, be punished by a fine not exceeding \$500.00 or imprisonment for a term not exceeding 90 days, or both,

except whenever a specific is otherwise provided. Whenever any such violation shall constitute a municipal civil infraction, a finding of responsibility shall be punished by a civil fine not exceeding \$500.00, except whenever a specific penalty is otherwise provided.

Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

Section 6. Code additions or amendments. Additions or amendments to the Code when passed in such form as to indicate the intention of the City Commission to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 7. Later ordinances. Ordinances adopted after April 22, 2014, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

Section 8. Effective date. This ordinance shall become effective _____.

PASSED AND ADOPTED by the City Commission this _____ day of _____,
_____.

By: _____

Mayor

ATTEST:

Clerk

Date: July 8th, 2014

To: Honorable Mayor and City Commissioners

From: Director of Public Safety Jeffrey Lewis

RE: No Parking Front/side yard – Ordinance Amendment

SUMMARY OF REQUEST:

The Director of Public Safety requests that the City Commission review and authorize the proposed amendment to Section 8.10 (1) of the City Ordinance as it relates to parking violators that do not parking in designated areas in residential sections.

The amendment would add subsection (y) “***No Parking unimproved Front/side yards of a residential lot***”, resulting in the issuance of a Municipal Civil Infraction.

The police department receives numerous complaints that vehicles park in these unimproved areas adding to property blight and generate unnecessary calls for service in which cannot be mitigated by the police department at this time.

FINANCIAL IMPACT:

Positive financial impact as fines may be received by violators not in compliance

BUDGET ACTION REQUIRED:

N/A

STAFF RECOMMENDATION:

Staff recommends approving this ordinance amendment as written.

**City of Muskegon
Muskegon County, Michigan
Ordinance Amendment No. _____**

THE CITY OF MUSKEGON HEREBY ORDAINS:

Chapter 92 "Traffic and Vehicles," Article II "Uniform Traffic Code," Section 92-33 "Changes in code," Section 8.10 "Stopping, standing or parking vehicles; violations as civil infraction" of the Code of Ordinances of the City of Muskegon is amended as follows:

- (1) A person shall not stop, stand, or park a vehicle in any of the following places, except when necessary to avoid conflict with other traffic or to comply with the law or the directions of a police officer or traffic control device:
 - (a) On a sidewalk
 - (b) In front of a public or private driveway
 - (c) Within an intersection.
 - (d) Within 15 feet of a fire hydrant.
 - (e) On a crosswalk.
 - (f) Within 20 feet of a crosswalk or, if none, then within 15 feet of the intersection of property lines at an intersection of streets.
 - (g) Within 30 feet of any flashing beacon, stop sign, yield sign, or traffic control signal located at the side of a street.
 - (h) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings.
 - (i) Within 50 feet of the nearest rail of a railroad crossing.
 - (j) Within 20 feet of the driveway entrance to any fire station and, on the side of a street opposite the entrance to any fire station, within 75 feet of the entrance when property signposted.
 - (k) Alongside or opposite any street excavation or obstruction when such stopping, standing, parking would obstruct traffic.
 - (l) On the street side of any vehicle stopped or parked at the edge or curb of a street.
 - (m) On any bridge or other elevated structure on a street or within a street tunnel.
 - (n) Within 200 feet of an accident at which police officers are in attendance.
 - (o) In front of a theater.
 - (p) In any place or in any manner so as to block immediate egress from any emergency exit or exits which are conspicuously marked as building emergency exits.
 - (q) In any place or in a manner so as to block or hamper the immediate use of an immediate egress from any fire escape which is conspicuously marked as a fire escape and which provides an emergency means of egress from any building.
 - (r) At any place where official signs prohibit stopping, standing, or parking.
 - (s) In a parking space which is clearly identified by an official sign as being reserved for use by handicappers and which is on public property or private property that is

available for public use, unless the person is a handicapper as described in the act or unless the person is parking the vehicle for the benefit of a handicapper. A certificate of identification issued under section 675(5) of the Act (MCL 257.675(5)) to a handicapper shall be displayed on the lower left corner of the front windshield. A special registration plate issued under section 803d of the Act (MCL 257.803d) to a handicapper shall be displayed on the vehicle.

- (t) Within 500 feet of a fire at which fire apparatus are in attendance when the scene of the fire lies outside of a city or village. However, volunteer firefighters responding to the fire may park within 500 feet in a manner that does not interfere with fire apparatus at the scene. Vehicles legally parked before the fire shall be exempt from this subsection.
- (u) Along or on any unpaved parkway, except where the same is used for a driveway to enter private or public property.
- (v) In any public park, beach or other public area between the hours of 11:00 p.m. and 7:00 a.m.
- (w) In any public or municipal parking areas between the hours of 2:00 a.m. and 7:00 a.m.
- (x) Other than between painted lines in designated parking areas.
- (y) On unimproved side or front yards of residential lots.

This ordinance adopted:

Ayes: _____
Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By _____
Ann Cummings, MMC
City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the _____ day of _____, 2014, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted, and public notice was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2014

Ann Cummings, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

TO: ALL PERSONS INTERESTED

Please take notice that on _____, 2014, the City Commission of the City of Muskegon adopted an amendment to Chapter 92 "Traffic and Vehicles," Article II "Uniform Traffic Code," Section 92-33 "Changes in code," Section 8.10 "Stopping, standing or parking vehicles; violations as civil infraction" of the Code of Ordinances of the City of Muskegon, whereby the following change was made:

Section (y) was added, to prohibit parking vehicles on unimproved areas of the side or front yards of residential lots.

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten (10) days from the date of this publication.

CITY OF MUSKEGON

Published: _____, 2014 By: _____
Ann Cummings, MMC, Its Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

Date: July 8, 2014
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Consideration of Bids for:
Merrill Ave., Reconstruction between Fifth & Third
(H-1694; S-668; W-741)

SUMMARY OF REQUEST:

Award the reconstruction of Merrill from Fifth to Third contract to Accurate Excavators, LLC since they were the lowest responsible bidder with a total bid price of \$295,197.95 (see attached bid tabulation).

FINANCIAL IMPACT:

The construction cost of \$295,197.95

BUDGET ACTION REQUIRED:

None at this time, however, if the mileage proposal does not pass then funds will need to be transferred from major street funds to Local Street.

STAFF RECOMMENDATION:

Award the contract to Accurate Excavators LLC.

COMMITTEE RECOMMENDATION:

H-1694, S-668, W-740
MERRILL AVE., FIFTH ST. TO THIRD ST.
BID TABULATIONS

CONTRACTOR ADDRESS				ENGINEER'S ESTIMATE				Accurate Excavators, LLC 2821 Central Rd. Muskegon, MI 49445				McCormick Sand Inc. 5430 Russell Rd. Twin Lake, MI 49457				Jackson-Merkey Contractors, Inc. 3430 Lund Ave. Muskegon, MI 49442			
LINE	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE				
1	Mobilization, Max.	LS	1	\$10,000.00	\$ 10,000.00	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00	\$ 36,506.80	\$ 36,506.80	\$ 36,506.80		\$		\$				
2	Sewer, Rem. Less than 24 inch	Ft	380	\$7.00	\$ 2,660.00	\$ 2.75	\$ 1,045.00	\$ 10.00	\$ 3,800.00	\$ 11.00	\$ 4,180.00		\$		\$				
3	Dr Structure, Rem. Modified	Ea	7	\$400.00	\$ 2,800.00	\$ 150.00	\$ 1,050.00	\$ 650.00	\$ 4,550.00	\$ 225.00	\$ 1,575.00		\$		\$				
4	Sidewalk, Rem	Syd	331	\$5.00	\$ 1,655.00	\$ 8.25	\$ 2,730.75	\$ 8.00	\$ 2,648.00	\$ 5.00	\$ 1,655.00		\$		\$				
5	Pavl, Rem. Modified	Syd	3590	\$5.00	\$ 17,950.00	\$ 2.75	\$ 9,872.50	\$ 3.00	\$ 10,770.00	\$ 5.80	\$ 20,822.00		\$		\$				
6	Machine Grading, Modified	Sta	9	\$1,100.00	\$ 9,900.00	\$ 1,050.00	\$ 9,450.00	\$ 760.00	\$ 6,840.00	\$ 1,600.00	\$ 14,400.00		\$		\$				
7	Erosion Control, Inlet Protection, Fabric Drop	Ea	5	\$100.00	\$ 500.00	\$ 125.00	\$ 625.00	\$ 40.00	\$ 300.00	\$ 110.00	\$ 550.00		\$		\$				
8	Aggregate Base, 8 inch	Syd	2825	\$6.00	\$ 16,950.00	\$ 7.80	\$ 22,035.00	\$ 5.00	\$ 14,125.00	\$ 7.00	\$ 19,775.00		\$		\$				
9	Maintenance Gravel, LM	Cyd	250	\$20.00	\$ 5,000.00	\$ 25.50	\$ 6,375.00	\$ 20.00	\$ 5,000.00	\$ 22.00	\$ 5,500.00		\$		\$				
10	Sewer, CI E, 12 inch, Tr Del B	Ft	315	\$36.00	\$ 11,340.00	\$ 30.00	\$ 9,450.00	\$ 35.00	\$ 11,025.00	\$ 31.60	\$ 9,954.00		\$		\$				
11	Sewer Tap, 15 inch	Ea	1	\$350.00	\$ 350.00	\$ 575.00	\$ 250.00	\$ 575.00	\$ 450.00	\$ 190.00	\$ 190.00		\$		\$				
12	Dr Structure, Tap, 12 inch	Ea	3	\$350.00	\$ 1,050.00	\$ 650.00	\$ 1,950.00	\$ 150.00	\$ 450.00	\$ 290.00	\$ 870.00		\$		\$				
13	Dr Structure, Tap, 15 inch	Ea	1	\$350.00	\$ 350.00	\$ 650.00	\$ 650.00	\$ 1,850.00	\$ 1,850.00	\$ 290.00	\$ 290.00		\$		\$				
14	Dr Structure Cover, Modified	Lb	5090	\$1.25	\$ 6,362.50	\$ 1.60	\$ 8,144.00	\$ 1.50	\$ 7,635.00	\$ 1.00	\$ 5,090.00		\$		\$				
15	Dr Structure Cover, Adj, Case 1, Modified	Ea	6	\$400.00	\$ 2,400.00	\$ 200.00	\$ 1,200.00	\$ 300.00	\$ 1,800.00	\$ 390.00	\$ 2,340.00		\$		\$				
16	Catch Basin Special Detail	Ea	5	\$1,350.00	\$ 6,750.00	\$ 975.00	\$ 4,875.00	\$ 1,500.00	\$ 7,500.00	\$ 1,230.00	\$ 6,150.00		\$		\$				
17	HMA, 3C	Ton	235	\$60.00	\$ 14,100.00	\$ 75.50	\$ 17,742.50	\$ 68.64	\$ 16,130.40	\$ 69.00	\$ 16,215.00		\$		\$				
18	HMA, 4C	Ton	235	\$65.00	\$ 15,275.00	\$ 84.70	\$ 19,904.50	\$ 76.98	\$ 18,090.30	\$ 77.00	\$ 18,095.00		\$		\$				
19	Driveway, Nonreinl Conc, 6 Inch, Modified	Syd	375	\$35.00	\$ 13,125.00	\$ 32.75	\$ 12,281.25	\$ 30.00	\$ 11,250.00	\$ 25.00	\$ 9,375.00		\$		\$				
20	Curb and Gutter, Conc, Del F4, Modified	Ft	1766	\$12.25	\$ 21,433.50	\$ 10.25	\$ 18,101.50	\$ 10.00	\$ 17,660.00	\$ 9.00	\$ 15,894.00		\$		\$				
21	Detactable Warning Surface	Ft	60	\$40.00	\$ 2,400.00	\$ 36.00	\$ 2,160.00	\$ 30.00	\$ 1,800.00	\$ 30.00	\$ 1,800.00		\$		\$				
22	Sidewalk Ramp, Conc, 4 inch	Sft	860	\$5.00	\$ 4,300.00	\$ 5.50	\$ 4,730.00	\$ 5.50	\$ 4,730.00	\$ 4.50	\$ 3,870.00		\$		\$				
23	Sidewalk, Conc, 4 inch	Sft	1875	\$3.00	\$ 5,625.00	\$ 3.35	\$ 6,281.25	\$ 3.50	\$ 6,562.50	\$ 2.40	\$ 4,500.00		\$		\$				
24	Sidewalk, Conc, 6 inch	Sft	300	\$4.00	\$ 1,200.00	\$ 3.75	\$ 1,125.00	\$ 4.00	\$ 1,200.00	\$ 3.00	\$ 900.00		\$		\$				
25	Baricade, Type III, High Intensity, Lighted, Furn	Ea	6	\$46.00	\$ 276.00	\$ 82.50	\$ 495.00	\$ 60.00	\$ 360.00	\$ 80.00	\$ 480.00		\$		\$				
26	Plastic Drum, High Intensity, Furn	Ea	20	\$20.00	\$ 400.00	\$ 20.00	\$ 400.00	\$ 16.00	\$ 320.00	\$ 15.00	\$ 300.00		\$		\$				
27	Sign, Type B, Temp, Prismatic, Furn	Sft	318	\$5.50	\$ 1,749.00	\$ 4.40	\$ 1,399.20	\$ 3.50	\$ 1,113.00	\$ 4.50	\$ 1,431.00		\$		\$				
28	Topsoil Surface, Furn, 4 inch	Syd	1600	\$3.50	\$ 5,600.00	\$ 2.50	\$ 4,000.00	\$ 3.00	\$ 4,800.00	\$ 3.50	\$ 5,600.00		\$		\$				
29	Hydroseeding	Syd	1600	\$1.00	\$ 1,600.00	\$ 0.65	\$ 1,040.00	\$ 0.50	\$ 800.00	\$ 1.00	\$ 1,600.00		\$		\$				
30	Water Service, 1 inch, Copper Type K	Ft	737	\$20.00	\$ 14,740.00	\$ 11.00	\$ 8,107.00	\$ 15.00	\$ 11,055.00	\$ 18.00	\$ 13,266.00		\$		\$				
31	Watermain, DI, 6 inch, Tr Del G, Modified	Ft	71	\$45.00	\$ 3,195.00	\$ 36.50	\$ 2,591.50	\$ 46.00	\$ 3,266.00	\$ 42.00	\$ 2,982.00		\$		\$				
32	Watermain, DI, 8 inch, Tr Del G, Modified	Ft	940	\$35.00	\$ 32,900.00	\$ 33.50	\$ 31,490.00	\$ 47.00	\$ 44,180.00	\$ 40.00	\$ 37,400.00		\$		\$				
33	Water Service, 2 inch, Copper Type K	Ft	31	\$35.00	\$ 1,085.00	\$ 27.00	\$ 837.00	\$ 20.00	\$ 620.00	\$ 29.00	\$ 899.00		\$		\$				
34	Corporation Stop, 1 inch	Ea	20	\$350.00	\$ 7,000.00	\$ 103.00	\$ 2,060.00	\$ 325.00	\$ 6,500.00	\$ 380.00	\$ 7,600.00		\$		\$				
35	Curb Stop and Box, 1 inch	Ea	15	\$350.00	\$ 5,250.00	\$ 375.00	\$ 5,625.00	\$ 545.00	\$ 8,175.00	\$ 400.00	\$ 6,000.00		\$		\$				
36	Meter Pit Complete	Ea	5	\$450.00	\$ 2,250.00	\$ 925.00	\$ 4,625.00	\$ 1,100.00	\$ 5,500.00	\$ 915.00	\$ 4,575.00		\$		\$				
37	Valve, 6 inch, Gate, With Box	Ea	3	\$800.00	\$ 2,400.00	\$ 1,000.00	\$ 3,000.00	\$ 1,350.00	\$ 4,050.00	\$ 1,060.00	\$ 3,180.00		\$		\$				
38	Hydrant, 6 inch, Standard	Ea	3	\$2,200.00	\$ 6,600.00	\$ 2,550.00	\$ 7,650.00	\$ 2,750.00	\$ 8,250.00	\$ 2,400.00	\$ 7,200.00		\$		\$				
39	Sleeve, 6 inch, Long, DI MJ	Ea	3	\$350.00	\$ 1,050.00	\$ 450.00	\$ 1,350.00	\$ 2,000.00	\$ 6,000.00	\$ 965.00	\$ 2,895.00		\$		\$				
40	Tee, 8 inch X 6 inch, DI MJ	Ea	3	\$450.00	\$ 1,350.00	\$ 580.00	\$ 1,740.00	\$ 2,000.00	\$ 6,000.00	\$ 525.00	\$ 1,575.00		\$		\$				
41	Sleeve, 8 inch, Long, DI MJ	Ea	2	\$450.00	\$ 900.00	\$ 560.00	\$ 1,120.00	\$ 1,850.00	\$ 3,700.00	\$ 760.00	\$ 1,520.00		\$		\$				
42	Curb Stop and Box, 2 inch	Ea	1	\$450.00	\$ 450.00	\$ 525.00	\$ 525.00	\$ 750.00	\$ 750.00	\$ 900.00	\$ 900.00		\$		\$				
43	Corporation Stop, 2 inch	Ea	1	\$450.00	\$ 450.00	\$ 480.00	\$ 480.00	\$ 650.00	\$ 650.00	\$ 780.00	\$ 780.00		\$		\$				
44	Bend, 8 inch, 45 Degree, DI MJ	Ea	6	\$350.00	\$ 2,100.00	\$ 560.00	\$ 3,360.00	\$ 550.00	\$ 3,300.00	\$ 370.00	\$ 2,220.00		\$		\$				
45	Reducer, 8 inch X 6 inch, DI MJ	Ea	3	\$350.00	\$ 1,050.00	\$ 530.00	\$ 1,590.00	\$ 350.00	\$ 1,050.00	\$ 725.00	\$ 2,175.00		\$		\$				
46	Valve, 8 inch, Gate, With Box	Ea	3	\$1,000.00	\$ 3,000.00	\$ 1,475.00	\$ 4,425.00	\$ 2,050.00	\$ 6,150.00	\$ 1,410.00	\$ 4,230.00		\$		\$				
47	Cross, 8 inch x 8 inch, DI MJ	Ea	1	\$1,200.00	\$ 1,200.00	\$ 1,075.00	\$ 1,600.00	\$ 1,600.00	\$ 1,600.00	\$ 840.00	\$ 840.00		\$		\$				
48	Sanitary Sewer, PVC SDR 35, 15 inch, Tr Del B	Ft	866	\$35.00	\$ 30,310.00	\$ 35.00	\$ 30,310.00	\$ 43.00	\$ 37,238.00	\$ 41.00	\$ 35,506.00		\$		\$				
49	Manhole Special Detail, Storm	Ea	1	\$1,500.00	\$ 1,500.00	\$ 850.00	\$ 850.00	\$ 1,200.00	\$ 1,200.00	\$ 1,000.00	\$ 1,000.00		\$		\$				
50	Manhole Special Detail, Sanitary	Ea	2	\$1,500.00	\$ 3,000.00	\$ 1,850.00	\$ 3,700.00	\$ 3,150.00	\$ 6,300.00	\$ 1,900.00	\$ 3,800.00		\$		\$				
TOTAL				\$ 306,081.00		\$ 295,197.95		\$ 365,400.00		\$ 314,144.00		Submitted Bid Amount \$ 328,854.00							
Apparent Low Bidder												Difference \$ 14,710.00							
Calculation Error- Line Item #1- No price listed																			