

CITY OF MUSKEGON

CITY COMMISSION MEETING

JUNE 27, 2006

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ CALL TO ORDER:
- ❑ PRAYER:
- ❑ PLEDGE OF ALLEGIANCE:
- ❑ ROLL CALL:
- ❑ HONORS AND AWARDS:
 - A. 2005 3rd Quarter, 2005 4th Quarter, and 2006 1st Quarter Suggestion Award Winners. CIVIL SERVICE
- ❑ INTRODUCTIONS/PRESENTATION:
- ❑ CONSENT AGENDA:
 - A. Approval of Minutes. CITY CLERK
 - B. Resolution for Charitable Gaming License. CITY CLERK
 - C. Liquor License Request - Brewer Enterprises II, Inc., 817 Forest. CITY CLERK
 - D. Liquor License Request - Clay Avenue Cellars, Inc., 611 Clay. CITY CLERK
 - E. Request for Final Planned Unit Development Approval for Phase V of the Park Terrace Development. PLANNING & ECONOMIC DEVELOPMENT
 - F. Vacation of the East/West Alley Between Fifth and Sixth Streets, Running Parallel to Washington and W. Grand Avenues. PLANNING & ECONOMIC DEVELOPMENT
 - G. Vacation of a Portion of "Old" Ottawa Street. PLANNING & ECONOMIC DEVELOPMENT
 - H. Budgeted Vehicle Replacement - Two F2880E Mowers. PUBLIC WORKS
 - I. Budgeted Vehicle Replacement - Two F-450 Cab and Chassis. PUBLIC WORKS
 - J. Budgeted Vehicle Replacement - One F-250 4x4 Pickup Truck. PUBLIC WORKS

K. Budgeted Vehicle Replacement - Two F-350 Cab and Chassis. PUBLIC WORKS

L. Consideration of Bids - Lakeshore Drive, McCracken to Laketon (H-1609). ENGINEERING

M. Construction Engineering Agreement with Fleis & Vandenbrink: Decorative Concrete - Street Lights - Roundabout on Western Avenue, Third to Terrace. ENGINEERING

❑ PUBLIC HEARINGS:

❑ COMMUNICATIONS:

❑ CITY MANAGER'S REPORT:

❑ UNFINISHED BUSINESS:

❑ NEW BUSINESS:

A. Construction of Clubroom Facility at LC Walker Arena. FINANCE DIRECTOR

B. Request for Final Planned Unit Development Approval for Phase I at 444 Irwin Avenue. PLANNING & ECONOMIC DEVELOPMENT

C. Concurrence with the Housing Board of Appeals Notice and Order to Demolish 1986 Continental. PUBLIC SAFETY

D. Multiple Alcohol License within the City of Muskegon Over the Period June 29 to July 7, 2006. Request Received from Tipsy Toad. ASSISTANT CITY MANAGER

ANY OTHER BUSINESS:

❑ PUBLIC PARTICIPATION:

- *Reminder: Individuals who would like to address the City Commission shall do the following:*
- Fill out a request to speak form attached to the agenda or located in the back of the room.
- Submit the form to the City Clerk.
- Be recognized by the Chair.
- Step forward to the microphone.
- State name and address.
- Limit of 3 minutes to address the Commission.
- (Speaker representing a group may be allowed 10 minutes if previously registered with City Clerk.)

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

Date: June 27, 2006
To: Honorable Mayor and City Commissioners
From: Gail A. Kunding, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes for the June 12th Commission Worksession, and the June 13th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

JUNE 27, 2006

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, June 27, 2006.

Mayor Warmington opened the meeting with a prayer from Pastor Penny Johnson from the Oak Crest Church of God 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, Commissioner Kevin Davis, Clara Shepherd, Lawrence Spataro, Sue Wierengo, and Chris Carter, City Manager Bryon Mazade, City Attorney John Schrier, and Deputy City Clerk Linda Potter.

2006-54 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the June 12th Commission Worksession, and the June 13th Regular Commission Meeting.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Resolution for Charitable Gaming License. CITY CLERK

SUMMARY OF REQUEST: United Way of the Lakeshore is requesting a resolution recognizing them as a non-profit organization operating in the City for the purpose of obtaining a gaming license. They have been recognized as a 501(c)(3) organization by the State.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval.

H. Budgeted Vehicle Replacement - Two F2880E Mowers. PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase two F2880E mowers from Grant-Rent-All.

FINANCIAL IMPACT: Cost \$25,200.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve purchase.

I. Budgeted Vehicle Replacement - Two F-450 Cab and Chassis. PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase two F-450 cab and chassis using the Statewide Purchasing Contract.

FINANCIAL IMPACT: Cost \$43,972.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve purchase.

J. Budgeted Vehicle Replacement - One F-250 4x4 Pickup Truck. PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase one F-250 4x4 pickup truck using the Statewide Purchasing Contract.

FINANCIAL IMPACT: Cost \$19,466.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve purchase.

K. Budgeted Vehicle Replacement - Two F-350 Cab and Chassis. PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase two F-350 cab and chassis using the Statewide Purchasing Contract.

FINANCIAL IMPACT: Cost \$35,080.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve purchase.

L. Consideration of Bids - Lakeshore Drive, McCracken to Laketon (H-1609). ENGINEERING

SUMMARY OF REQUEST: Award the referenced paving project (H-1609), using hot mix asphalt, to Woodland Paving out of Comstock Park. Woodland submitted the lowest bid of \$419,535.35, and they are a responsible and responsive contractor. The award, if approved, must be contingent upon approval by the State.

FINANCIAL IMPACT: The construction cost \$419,535.35 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED: None, this project is partially funded by a state grant.

STAFF RECOMMENDATION: Award the contract to Woodland Paving.

**M. Construction Engineering Agreement with Fleis & Vandenbrink:
Decorative Concrete - Street Lights - Roundabout on Western Avenue,
Third to Terrace.** ENGINEERING

SUMMARY OF REQUEST: Enter into an engineering service agreement with Fleis & Vandenbrink to perform construction engineering and design modification to meet the State's guidelines and standards to complete the construction of Western Avenue between Third and Terrace by constructing street lights, decorative concrete and sidewalks as well as the roundabout at the intersection of Third and Western. This request is necessary since the City was able to secure funding through available federal funds. The fee for the aforementioned services is a not to exceed \$32,500 for the design phase and \$83,000 for the construction engineering phase. Fleis & Vandenbrink was selected since this project is very much an extension of what has been done.

FINANCIAL IMPACT: 81% of the construction engineering phase (\$83,000) is grant eligible. The design phase and the local share of the construction engineering (19%) will be funded from the available Mall project funds.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Enter into an Engineering Services Agreement with Fleis & Vandenbrink.

Motion by Commissioner Carter, second by Commissioner Shepherd to approve the Consent Agenda as read with the exception of item C, D, E, F, and G.

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

Nays: None

MOTION PASSES

2006-55 ITEMS REMOVED FROM THE CONSENT AGENDA:

E. Request for Final Planned Unit Development Approval for Phase V of the Park Terrace Development. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request for final approval for Phase V of the Planned Unit Development and associated site, and landscape plans for the Park Terrace Development, for 46 condominium units. The request is from Ruddiman Associates.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends final Planned Unit Development approval for Phase V and approval of the associated plans provided that the conditions listed in the resolution are met.

COMMITTEE RECOMMENDATION: The Planning Commission recommended final approval of Phase V of the Planned Unit Development and associated plans, with the conditions listed on the resolution, at their regular meeting on June 15. The vote was unanimous, with T. Harryman and B. Smith absent.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the request for final Planned Unit Development for Phase V of the Park Terrace Development.

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

Nays: None

MOTION PASSES

F. Vacation of the East/West Alley Between Fifth and Sixth Streets, Running Parallel to Washington and W. Grand Avenues. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request for vacation of the East/West alley between Fifth and Sixth Streets, running parallel to Washington and W. Grand Avenues, located in Muskegon Revised Plat of 1903, Block 405.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends vacation of the East/West alley between Fifth and Sixth Streets, running parallel to Washington and W. Grand Avenues, with the condition that all utility easement rights be retained.

COMMITTEE RECOMMENDATION: The Planning Commission recommended vacation of the alley at their June 15th meeting, with the condition that all utility easement rights be retained. The vote was unanimous with T. Harryman and B. Smith absent.

Motion by Commissioner Davis, second by Commissioner Spataro to approve the vacation of the east/west alley between Fifth and Sixth Streets running parallel to Washington and W. Grand.

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

Nays: None

MOTION PASSES

G. Vacation of a Portion of "Old" Ottawa Street. PLANNING & ECONOMIC

DEVELOPMENT

SUMMARY OF REQUEST: Request for the vacation of a portion of "old" Ottawa Street located southwest of the "realigned" Ottawa Street.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends the vacation of a portion of "old" Ottawa Street as per the legal description in the resolution, with the condition that all utility easement rights be retained.

COMMITTEE RECOMMENDATION: The Planning Commission unanimously recommended approval of the vacation at their June 15th meeting, with the condition that all utility easements rights be retained, with T. Harryman and B. Smith absent.

Motion by Commissioner Shepherd, second by Commissioner Carter to approve the vacation of a portion of "old" Ottawa Street.

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

Nays: None

MOTION PASSES

C. Liquor License Request - Brewer Enterprises II, Inc., 817 Forest. CITYCLERK

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request to transfer all stock in the 2006 Class C-SDM licensed business with Dance Permit from Timothy Brewer to new stockholder Terri L. Garza.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: All departments are recommending approval.

D. Liquor License Request - Clay Avenue Cellars, Inc., 611 Clay. CITY CLERK

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Clay Avenue Cellars, Inc., for a New Small Wine Maker License to be located at 611 Clay Avenue.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: All departments are recommending approval.

Motion by Commissioner Spataro, second by Commissioner Wierengo to approve the liquor license requests for Brewer Enterprises II, Inc., 817 Forest and Clay Avenue Cellars, Inc., 611 Clay.

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

Nays: None

MOTION PASSES

2006-56 HONORS AND AWARDS:

A. 2005 3rd Quarter, 2005 4th Quarter, and 2006 1st Quarter Suggestion Award Winners. CIVIL SERVICE

SUMMARY OF REQUEST: The Employee Suggestion Award Committee requests that the 2005 3rd quarter award go to Firefighter Brian Davis for his proposal to store the Fire Department's boat on City property rather than pay a fee for off-site storage. The 2005 4th quarter award go to Cemetery Customer Service Representative Teresa Moore for her proposal to discontinue the City's practice of buying back sold but now unwanted cemetery plots and implement a fee-for-service when assisting with the resale of grave sites. The 2006 1st quarter award go to Building Maintenance Supervisor J. R. Gann for his proposal to install a forced air heating system in the Evergreen Cemetery mausoleum.

Mayor Warmington presented Brian Davis' award to Peter Hughes, and he presented Teresa Moore and J. R. Gann their awards.

2006-57 NEW BUSINESS:

A. Construction of Clubroom Facility at LC Walker Arena. FINANCE DIRECTOR

SUMMARY OF REQUEST: Bids for construction of the LC Walker Arena clubroom were opened on Friday, June 23rd. Although interest in the project was high and bidding was strong, results were disappointing, with the low bid coming in higher than the \$300,000 project estimate. The low bid of \$431,723 was received from Muskegon Quality Builders.

FINANCIAL IMPACT: If the Commission decides to proceed with the Clubroom, the following financial impacts are anticipated:

1. annual management fee paid by the City to AMG under the new operations contract decreases from \$235,000 to \$210,000;
2. a 15-year \$300,000 (3% interest) interfund loan would be made from the Equipment Fund to the LC Walker Arena fund to finance construction costs; and,
3. monthly debt service payments in the amount of \$2,071.74 (\$24,861/yr.) would be made to repay the interfund loan.

Additionally, of course, it is anticipated the project will financially strengthen the Walker Arena and complement and enhance redevelopment of the downtown.

BUDGET ACTION REQUIRED: The budget will be adjusted as described above depending on the Commission's decision.

STAFF RECOMMENDATION: Reject all bids and shelve the project for reconsideration next year.

Motion by Commissioner Spataro, second by Commissioner Shepherd to refer item back to staff for further study and have staff bring their recommendation back to the Commission.

ROLL VOTE: Ayes: Gawron, Spataro, and Warmington

Nays: Carter, Davis, Shepherd, and Wierengo

MOTION FAILS

Motion by Commissioner Davis, second by Commissioner Carter to reject all bids and shelve the project for reconsideration next year.

ROLL VOTE: Ayes: Davis, Shepherd, Spataro, Warmington, Wierengo, and Carter

Nays: Gawron

MOTION PASSES

B. Request for Final Planned Unit Development Approval for Phase I at 444 Irwin Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The request for Final Planned Unit Development (PUD) approval at 444 Irwin Avenue is for a mixed use, commercial, office, and religious development. The request is by Douglas Malear, Hope Lighthouse Church.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends final approval of the PUD provided that the conditions listed in the resolution are met.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the Preliminary PUD and Phase I of the final PUD, with the conditions listed on the resolution, at their June 15, 2006, meeting. The vote was unanimous, with T. Harryman and B. Smith absent.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the request for final approval of the Planned Unit Development for phase I at 444 Irwin Avenue.

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

and Davis

Nays: None

MOTION PASSES

C. Concurrence with the Housing Board of Appeals Notice and Order to Demolish 1986 Continental. PUBLIC SAFETY

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 1986 Continental is unsafe, substandard, a public nuisance and that it be demolished within thirty 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.

FINANCIAL IMPACT: General Funds

BUDGET ACTION REQUIRED: None

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

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 1986 Continental.

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

Nays: None

MOTION PASSES

D. Multiple Alcohol License within the City of Muskegon over the Period June 29 to July 7, 2006. Request Received from Topsy Toad. ASSISTANT CITY MANAGER

SUMMARY OF REQUEST: We received a Special Event request from Topsy Toad through the Non Profit Fruitport Lions Club for a liquor license to serve alcohol outside of their venue over the period June 29 to July 7, 2006. The Commission has already approved two liquor licenses (Summer Celebration and The Eagles) during that same period.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: No recommendation. Commission action required.

Motion by Commissioner Carter, second by Commissioner Davis to deny the request for multiple alcohol license for June 29 to July 7, 2006.

ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, and Shepherd

Nays: Spataro and Wierengo

MOTION PASSES

ANY OTHER BUSINESS: Commission discussed various items.

PUBLIC PARTICIPATION: Various comments were heard from the public.

2006-58 CLOSED SESSION: To discuss pending litigation.

Motion by Commissioner Davis, second by Commissioner Spataro to go into Closed Session at 7:18 p.m. to discuss pending litigation.

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

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Vice Mayor Gawron to come out of Closed Session at 7:33 p.m.

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

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 7:34 p.m.

Respectfully submitted,



Linda Potter, CMC
Deputy City Clerk

Date: June 27, 2006
To: Honorable Mayor and City Commissioners
From: Gail Kunding, City Clerk
RE: Resolution for Charitable Gaming License

SUMMARY OF REQUEST: United Way of the Lakeshore is requesting a resolution recognizing them as a non-profit organization operating in the City for the purpose of obtaining a gaming license. They have been recognized as a 501(c)(3) organization by the State.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval

Mailing Address:

PO Box 207

Muskegon, MI 49443-0207

Ph.: 231.722.3134 Fax: 231.722.3137

www.unitedwaylakeshore.org

United Way of the Lakeshore
serving Muskegon and Oceana Counties



MEMO

TO: City of Muskegon Leaders

FROM: Christine J. Robere, President
United Way of the Lakeshore *Christine*

DATE: June 20, 2006

RE: Charitable Gaming Raffle License

United Way of the Lakeshore (formerly United Way of Muskegon County) will be the beneficiary of a raffle to be held by our members, the employees of the Alcoa Howmet Castings Corporation, between July 1 and September 16, 2006. The employees are soliciting donations in the community to be raffled at a planned company family picnic.

Proceeds from the raffle will support our programs and services in Muskegon County that help kids succeed, strengthen families, meet basic needs, and promote health and independence.

The State of Michigan requires your confirmation that we are a recognized non-profit in the community.

Thank you for your assistance with this matter.



Charitable Gaming Division
Box 30023, Lansing, MI 48909
OVERNIGHT DELIVERY:
101 E. Milledale, Lansing, MI 48933
(517) 335-5780
www.michigan.gov/cg

LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES

(Required by MCL 432.103(9))

2006-54(b)

At a Regular REGULAR OR SPECIAL meeting of the City Commission TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD

called to order by Mayor Warmington on June 27, 2006
DATE

at 5:30 TIME A.M./P.M. the following resolution was offered:

Moved by Commissioner Carter and supported by Commissioner Shepherd

that the request from United Way of the Lakeshore of Muskegon
NAME OF ORGANIZATION CITY

county of Muskegon COUNTY NAME, asking that they be recognized as a

nonprofit organization operating in the community for the purpose of obtaining a charitable

gaming license, be considered for Approval
APPROVAL/DISAPPROVAL

APPROVAL

Yeas: 7

Nays: 0

Absent: 0

DISAPPROVAL

Yeas:

Nays:

Absent:

I hereby certify that the foregoing is a true and complete copy of a resolution offered and
adopted by the City of Muskegon TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD at a Regular REGULAR OR SPECIAL

meeting held on June 27, 2006
DATE

SIGNED: Linda Potter
TOWNSHIP, CITY, OR VILLAGE CLERK

Linda Potter, CMC, Deputy Clerk

PRINTED NAME AND TITLE

933 Terrace, Muskegon, MI 49440

ADDRESS

COMPLETION Required.
PENALTY: Possible denial of application.
BSL-CG-1153(R7/02)

Internal Revenue Service
District Director

Department of the Treasury

P. O. Box 2508
Cincinnati, OH 45201

Date: JUN 19 1996

Person to Contact:

Dee Anna Jarmon

Telephone Number:

513-684-3957

Refer Reply to:

EP/EO

Federal Identification Number:

38-1426895

United Way of Muskegon County
313 W. Webster Avenue
Muskegon, MI 49440-1232

Dear Sir or Madam:

This letter is in response to your request for a copy of your organization's determination letter. This letter will take the place of the copy you requested.

Our records indicate that your organization is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code.

Based on information subsequently submitted, we classified your organization as one that is not a private foundation within the meaning of section 509(a) of the Code because it is an organization described in sections 509(a)(1) and 170(b)(1)(A)(vi).

This classification was based on the assumption that your organization's operations would continue as stated in the application. If your organization's sources of support, or its character, method of operations, or purposes have changed, please let us know so we can consider the effect of the change on the exempt status and foundation status of your organization.

Your organization is required to file Form 990, Return of Organization Exempt from Income Tax, only if its gross receipts each year are normally more than \$25,000. If a return is required, it must be filed by the 15th day of the fifth month after the end of the organization's annual accounting period. The law imposes a penalty of \$10 a day, up to a maximum of \$5,000, when a return is filed late, unless there is reasonable cause for the delay.

All exempt organizations (unless specifically excluded) are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of \$100 or more paid to each employee during a calendar year. Your organization is not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the excise taxes under Chapter 42 of the Code. However, these organizations are not automatically exempt from other federal excise taxes.

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United Way of Muskegon County
38-1426895

Donors may deduct contributions to your organization as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to your organization or for its use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

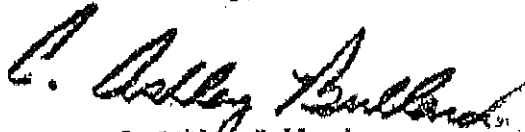
Your organization is not required to file federal income tax returns unless it is subject to the tax on unrelated business income under section 511 of the Code. If your organization is subject to this tax, it must file an income tax return on the Form 990-T, Exempt Organization Business Income Tax Return. In this letter, we are not determining whether any of your organization's present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

Because this letter could help resolve any questions about your organization's exempt status and foundation status, you should keep it with the organization's permanent records.

Please direct any questions to the person identified in the letterhead above.

This letter affirms your organization's exempt status.

Sincerely,



C. Ashley Bullard
District Director

Date: 06/27/06
To: Honorable Mayor and City Commission
From: DPW
RE: Budgeted Vehicle Replacement

SUMMARY OF REQUEST: Approval to purchase two F2880E mowers from Grant-Rent-All.

FINANCIAL IMPACT: Cost \$25,200.00

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve purchase.

Memorandum

To: Honorable Mayor and City Commissioners
From: DPW
Date: 06/27/06
Re: Budgeted Vehicle Replacement

The Equipment Division had scheduled the replacement of five 72" commercial riding lawn mowers for 2006. Due to centralization of the Parks, Cemetery and Marina equipment, we have reduced the number of mowers required by operating more efficiently.

The statewide purchasing contract is administrated through local dealers. Attached is a summary of the bids.

In accordance with established purchasing policy, I am requesting permission to purchase two F2880E commercial mowers from Grant-Rent-All.

[illegible][illegible]

Date: 06/27/06
To: Honorable Mayor and City Commission
From: DPW
RE: Budgeted Vehicle Replacement

SUMMARY OF REQUEST: Approval to purchase two F-450 cab and chassis using the Statewide Purchasing Contract.

FINANCIAL IMPACT: Cost \$43,972.00

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve purchase.

Memorandum

To: Honorable Mayor and City Commissioners
From: DPW
Date: 6/20/2006
Re: Budgeted Vehicle Replacement

The Equipment Division has scheduled the replacement of two of our small dump trucks for this year. These vehicles are used for a variety of activities including plowing alleys, many construction projects, and leaf pick up. These trucks will be replacing 1995 model year trucks.

We have requested prices from area dealers as well as the statewide purchasing contracts. Attached is a summary of the bids.

In accordance with established purchasing policy, I am requesting permission to purchase two 2007 Ford F-450 trucks using the statewide purchasing contract.

Equipment Purchase - 2006

[illegible]

Date: 06/27/06
To: Honorable Mayor and City Commission
From: DPW
RE: Budgeted Vehicle Replacement

SUMMARY OF REQUEST: Approval to purchase one F-250 4X4 pickup truck using the Statewide Purchasing Contract.

FINANCIAL IMPACT: Cost \$19,466.00

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve purchase.

Memorandum

To: Honorable Mayor and City Commissioners
From: DPW
Date: 6/20/2006
Re: Budgeted Vehicle Replacement

The Equipment Division has scheduled the replacement of the fire response vehicle. This vehicle is used to tow the fireboat and the hovercraft as well as the confined space rescue trailer and the smoke trailer. It is also used as a backup for the fire command vehicles.

We have requested prices from area dealers as well as the statewide purchasing contracts. Attached is a summary of the bids.

In accordance with established purchasing policy, I am requesting permission to purchase one 2007 Ford F-250 4X4 truck using the statewide purchasing contract.

Equipment Purchase - 2006

[illegible]

Date: 06/27/06
To: Honorable Mayor and City Commission
From: DPW
RE: Budgeted Vehicle Replacement

SUMMARY OF REQUEST: Approval to purchase two F-350 cab and chassis using the Statewide Purchasing Contract.

FINANCIAL IMPACT: Cost \$35,080.00

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve purchase.

Memorandum

To: Honorable Mayor and City Commissioners
From: DPW
Date: 6/20/2006
Re: Budgeted Vehicle Replacement

The Equipment Division has scheduled the replacement of two of our construction trucks for this year. These vehicles are used for concrete and catch basin repairs that require specialized tools and equipment. The vehicles that we are replacing are ten and sixteen year old.

We have requested prices from area dealers as well as the statewide purchasing contracts. Attached is a summary of the bids.

In accordance with established purchasing policy, I am requesting permission to purchase two 2007 Ford F-350 trucks using the statewide purchasing contract.

[illegible]

Date: June 27, 2006
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Consideration of Bids
Lakeshore Dr. McCracken to Laketon Ave. (H-1609)

SUMMARY OF REQUEST:

Award the referenced paving project (H-1609), using hot mix asphalt, to Woodland Paving out of Comstock Park. Woodland submitted the lowest bid of \$419,535.35 (see attached bid tabulation) and they are a responsible and responsive contractor.

The award, if approved, must be contingent upon approval by the state.

FINANCIAL IMPACT:

The construction cost \$419,535.35 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED:

None. This project is partially funded by a state grant.

STAFF RECOMMENDATION:

Award the contract to Woodland Paving.

COMMITTEE RECOMMENDATION:

BID TABULATION 03/07/06

		CONTRACTOR ADDRESS CITY/ST/ZIP		ENGINEER'S ESTIMATE		RIETH-RILEY CONSTRUCTION CO PO BOX 278 ADA, MI 49301		ASPHALT PAVING 1000 E SHERMAN BLVD MUSKEGON, MI 49444		WOODLAND PAVING, INC PO BOX 309 COMSTOCK PARK, MI 49321		KAMMINGA & ROODVOETS 3435 BROADMOOR SE GRAND RAPIDS, MI 49512	
	ITEM OF WORK	UNIT	QTY	UNIT COST	TOTAL PRICE	UNIT COST	TOTAL PRICE	UNIT COST	TOTAL PRICE	UNIT COST	TOTAL PRICE	UNIT COST	TOTAL PRICE
1	ACCESS MAINTENANCE	L FT	1920	\$ 2.00	\$ 3,840.00	\$ 7.81	\$ 14,995.20	\$ 3.70	\$ 7,104.00	\$ 2.00	\$ 3,840.00	\$ 7.82	\$ 15,014.40
2	ADJUST MANHOLE CASTING	EACH	30	\$ 475.00	\$ 14,250.00	\$ 700.33	\$ 21,009.90	\$ 485.00	\$ 14,550.00	\$ 560.00	\$ 16,800.00	\$ 450.00	\$ 13,500.00
3	ADJUST WATER VALVE CASTING	EACH	32	\$ 300.00	\$ 9,600.00	\$ 646.46	\$ 20,686.72	\$ 415.00	\$ 13,280.00	\$ 560.00	\$ 17,920.00	\$ 180.00	\$ 5,760.00
4	BITUMINOUS LEVELING MIX 4C @ 220#/S.Y.	TON	2385	\$ 50.00	\$ 119,250.00	\$ 49.58	\$ 118,248.30	\$ 57.13	\$ 136,255.05	\$ 52.79	\$ 125,904.15	\$ 49.60	\$ 118,296.00
5	BITUMINOUS TOP MIX 4C POLYMER @ 220#/S.Y.	TON	2385	\$ 60.00	\$ 143,100.00	\$ 51.82	\$ 123,590.70	\$ 67.47	\$ 160,915.95	\$ 54.00	\$ 128,790.00	\$ 51.84	\$ 123,638.40
6	CORP. STOP 1" MUELLER #15000 OR EQUAL	EACH	1	\$ 300.00	\$ 300.00	\$ 754.20	\$ 754.20	\$ 500.00	\$ 500.00	\$ 700.00	\$ 700.00	\$ 250.00	\$ 250.00
7	CONC. CURB 6"X 14"	L.FT.	7	\$ 15.00	\$ 105.00	\$ 48.48	\$ 339.36	\$ 31.00	\$ 217.00	\$ 45.00	\$ 315.00	\$ 45.00	\$ 315.00
8	CONC. SIDEWALK 4"	S.FT.	640	\$ 3.00	\$ 1,920.00	\$ 6.79	\$ 4,345.60	\$ 6.40	\$ 4,096.00	\$ 6.30	\$ 4,032.00	\$ 3.00	\$ 1,920.00
9	CURB STOP 1" MUELLER #15150 W/BOX OR EQUAL	EACH	1	\$ 350.00	\$ 350.00	\$ 754.20	\$ 754.20	\$ 500.00	\$ 500.00	\$ 700.00	\$ 700.00	\$ 320.00	\$ 320.00
10	CURB STOP 2" W/BOX PER DETAIL	EACH	5	\$ 500.00	\$ 2,500.00	\$ 1,670.01	\$ 8,350.05	\$ 1,000.00	\$ 5,000.00	\$ 1,550.00	\$ 7,750.00	\$ 525.00	\$ 2,625.00
11	DECORATIVE CROSSWALK PER DETAIL	S.FT.	2650	\$ 12.00	\$ 31,800.00	\$ 8.13	\$ 21,544.50	\$ 8.50	\$ 22,525.00	\$ 7.65	\$ 20,272.50	\$ 15.00	\$ 39,750.00
12	MAN HOLE CASTING, E.J. #1045 OR EQUAL	EACH	6	\$ 600.00	\$ 3,600.00	\$ 700.33	\$ 4,201.98	\$ 425.00	\$ 2,550.00	\$ 650.00	\$ 3,900.00	\$ 670.00	\$ 4,020.00
13	MEMBRANE REINFORCEMENT	S.YD.	147	\$ 6.00	\$ 882.00	\$ 11.36	\$ 1,669.92	\$ 15.00	\$ 2,205.00	\$ 10.00	\$ 1,470.00	\$ 11.36	\$ 1,669.92
14	PAVT MRKG, TYPE R, TAPE, 4" YELLOW, TEMP	L.FT.	300	\$ 1.00	\$ 300.00	\$ 0.81	\$ 243.00	\$ 1.15	\$ 345.00	\$ 1.00	\$ 300.00	\$ 1.15	\$ 345.00
15	PAVT MRKG, TYPE NR, PAINT, 4" YELLOW, TEMP	L.FT.	16000	\$ 0.20	\$ 3,200.00	\$ 0.27	\$ 4,320.00	\$ 0.29	\$ 4,640.00	\$ 0.25	\$ 4,000.00	\$ 0.29	\$ 4,640.00
16	PAVT MRKG, OVERLAY COLD PLASTIC, LT TURN ONLY	EACH	1	\$ 100.00	\$ 100.00	\$ 161.61	\$ 161.61	\$ 75.00	\$ 75.00	\$ 150.00	\$ 150.00	\$ 75.00	\$ 75.00
17	PAVT MRKG, OVERLAY COLD PLASTIC, LT TURN ARROW	EACH	37	\$ 30.00	\$ 1,110.00	\$ 86.19	\$ 3,189.03	\$ 70.00	\$ 2,590.00	\$ 80.00	\$ 2,960.00	\$ 70.00	\$ 2,590.00
18	PAVT MRKG, WATERBORN, 6" CROSSWALK	L.FT.	1860	\$ 0.20	\$ 372.00	\$ 0.54	\$ 1,004.40	\$ 0.75	\$ 1,395.00	\$ 0.50	\$ 930.00	\$ 0.75	\$ 1,395.00
19	PAVT MRKG, WATERBORN, 18" STOP BAR	L.FT.	215	\$ 1.00	\$ 215.00	\$ 1.08	\$ 232.20	\$ 2.25	\$ 483.75	\$ 1.00	\$ 215.00	\$ 2.25	\$ 483.75
20	PAVT MRKG, WATERBORN, 4" WHITE	L.FT.	425	\$ 0.50	\$ 212.50	\$ 0.27	\$ 114.75	\$ 0.29	\$ 123.25	\$ 0.25	\$ 106.25	\$ 0.29	\$ 123.25
21	PAVT MRKG, WATERBORN, 4" YELLOW	L.FT.	8100	\$ 0.25	\$ 2,025.00	\$ 0.27	\$ 2,187.00	\$ 0.29	\$ 2,349.00	\$ 0.25	\$ 2,025.00	\$ 0.29	\$ 2,349.00
22	PAVEMENT PREPARATORY WORK	STA.	38.73	\$ 300.00	\$ 11,619.00	\$ 139.09	\$ 5,386.96	\$ 225.00	\$ 8,714.25	\$ 115.00	\$ 4,453.95	\$ 100.00	\$ 3,873.00
23	REMOVING BITUMINOUS SURFACE BY COLD MILLING @ 4"	S.YD.	19530	\$ 2.00	\$ 39,060.00	\$ 2.06	\$ 40,231.80	\$ 0.80	\$ 15,624.00	\$ 0.90	\$ 17,577.00	\$ 2.20	\$ 42,966.00
24	REMOVING CONCRETE CURB	L FT	128	\$ 10.00	\$ 1,280.00	\$ 28.55	\$ 3,654.40	\$ 24.50	\$ 3,136.00	\$ 26.50	\$ 3,392.00	\$ 6.00	\$ 768.00
25	REMOVING CONCRETE DRIVE APP.	S.YD.	1	\$ 10.00	\$ 10.00	\$ 215.49	\$ 215.49	\$ 100.00	\$ 100.00	\$ 200.00	\$ 200.00	\$ 27.00	\$ 27.00
26	REMOVING CONCRETE SIDEWALK	S FT	490	\$ 5.00	\$ 2,450.00	\$ 8.62	\$ 4,223.80	\$ 5.00	\$ 2,450.00	\$ 8.00	\$ 3,920.00	\$ 1.00	\$ 490.00
27	REMOVING WATER VALVE BOX	EACH	11	\$ 300.00	\$ 3,300.00	\$ 263.97	\$ 2,903.67	\$ 175.00	\$ 1,925.00	\$ 245.00	\$ 2,695.00	\$ 75.00	\$ 825.00
28	SIDEWALK RAMP DETECTABLE WARNING, RETROFIT	S.FT.	495	\$ 5.00	\$ 2,475.00	\$ 14.55	\$ 7,202.25	\$ 7.00	\$ 3,465.00	\$ 13.50	\$ 6,682.50	\$ 15.00	\$ 7,425.00
29	TRAFFIC CONTROL	LUMP	1	\$ 40,000.00	\$ 40,000.00	\$ 18,962.71	\$ 18,962.71	\$ 23,000.00	\$ 23,000.00	\$ 24,390.00	\$ 24,390.00	\$ 82,000.00	\$ 82,000.00
30	TRENCH REPAIR MAJOR STREET TYPE IV	EACH	11	\$ 450.00	\$ 4,950.00	\$ 145.45	\$ 1,599.95	\$ 73.00	\$ 803.00	\$ 135.00	\$ 1,485.00	\$ 1,400.00	\$ 15,400.00
31	TRENCH REPAIR MAJOR STREET TYPE IV	L.FT.	19	\$ 55.00	\$ 1,045.00	\$ 123.90	\$ 2,354.10	\$ 73.00	\$ 1,387.00	\$ 115.00	\$ 2,185.00	\$ 70.00	\$ 1,330.00
32	TRENCH REPAIR SPECIAL	L.FT.	64	\$ 35.00	\$ 2,240.00	\$ 80.81	\$ 5,171.84	\$ 62.00	\$ 3,968.00	\$ 75.00	\$ 4,800.00	\$ 40.00	\$ 2,560.00
33	WATER SERVICE 1" TYPE "K" COPPER	L.FT.	24	\$ 30.00	\$ 720.00	\$ 53.87	\$ 1,292.88	\$ 30.00	\$ 720.00	\$ 50.00	\$ 1,200.00	\$ 50.00	\$ 1,200.00
34	WATER VALVE BOX 24" TOP SECTION W/COVER	EACH	7	\$ 125.00	\$ 875.00	\$ 188.55	\$ 1,319.85	\$ 125.00	\$ 875.00	\$ 175.00	\$ 1,225.00	\$ 280.00	\$ 1,960.00
35	WATER VALVE BOX & COVER COMPLETE	EACH	6	\$ 400.00	\$ 2,400.00	\$ 404.04	\$ 2,424.24	\$ 320.00	\$ 1,920.00	\$ 375.00	\$ 2,250.00	\$ 330.00	\$ 1,980.00
				TOTAL		\$ 451,455.50	\$ 448,886.56		\$ 449,786.25		\$ 419,535.35		\$ 501,883.72

**H-1609, W-686, LAKESHORE DRIVE McCRACKEN ST. to LAKETON AVE.
ALTERNATE ENGINEER'S ESTIMATE FOR COLD-IN-PLACE RECYCLING-REV 06/06/06
BID TABULATION 03/07/06**

ITEM OF WORK	UNIT	QTY	CONTRACTOR ADDRESS CITY/ST/ZIP		ENGINEER'S ESTIMATE		RIETH-RILEY CONSTRUCTION CO PO BOX 278 ADA, MI 49301		ASPHALT PAVING 1000 E SHERMAN BLVD MUSKEGON, MI 49444		WOODLAND PAVING, INC PO BOX 309 COMSTOCK PARK, MI 49321		KAMMINGA & ROODVOETS 3435 BROADMOOR SE GRAND RAPIDS, MI 49512	
					UNIT COST	TOTAL PRICE	UNIT COST	TOTAL PRICE	UNIT COST	TOTAL PRICE	UNIT COST	TOTAL PRICE	UNIT COST	TOTAL PRICE
1 ADJUST MANHOLE CASTING	EACH	30			\$ 475.00	\$ 14,250.00	\$ 700.33	\$ 21,009.90	\$ 485.00	\$ 14,550.00	\$ 580.00	\$ 16,800.00	\$ 450.00	\$ 13,500.00
2 ADJUST WATER VALVE CASTING	EACH	32			\$ 300.00	\$ 9,600.00	\$ 646.46	\$ 20,686.72	\$ 415.00	\$ 13,280.00	\$ 560.00	\$ 17,920.00	\$ 180.00	\$ 5,760.00
3 BITUMINOUS BASE COLD-IN-PLACE RECYCLING @4"	S.YD.	19530			\$ 10.25	\$ 200,182.50	\$ 10.50	\$ 205,065.00	\$ 8.30	\$ 162,099.00	\$ 8.00	\$ 156,240.00	\$ 10.00	\$ 195,300.00
4 BITUMINOUS TOP MIX 4C POLYMER @220#/S.Y.	TON	2385			\$ 60.00	\$ 143,100.00	\$ 51.82	\$ 123,590.70	\$ 67.47	\$ 160,915.95	\$ 54.00	\$ 128,790.00	\$ 51.84	\$ 123,638.40
5 CORP. STOP 1" MUELLER #15000 OR EQUAL	EACH	1			\$ 300.00	\$ 300.00	\$ 754.20	\$ 754.20	\$ 500.00	\$ 500.00	\$ 700.00	\$ 700.00	\$ 250.00	\$ 250.00
6 CONC. CURB 6"X 14"	L.FT.	7			\$ 15.00	\$ 105.00	\$ 48.48	\$ 339.36	\$ 31.00	\$ 217.00	\$ 45.00	\$ 315.00	\$ 45.00	\$ 315.00
7 CONC. SIDEWALK 4"	S.FT.	640			\$ 3.00	\$ 1,920.00	\$ 6.79	\$ 4,345.80	\$ 6.40	\$ 4,096.00	\$ 6.30	\$ 4,032.00	\$ 3.00	\$ 1,920.00
8 CURB STOP 1" MUELLER #15150 W/BOX OR EQUAL	EACH	1			\$ 350.00	\$ 350.00	\$ 754.20	\$ 754.20	\$ 500.00	\$ 500.00	\$ 700.00	\$ 700.00	\$ 320.00	\$ 320.00
9 CURB STOP 2" W/BOX PER DETAIL	EACH	5			\$ 500.00	\$ 2,500.00	\$ 1,670.01	\$ 8,350.05	\$ 1,000.00	\$ 5,000.00	\$ 1,550.00	\$ 7,750.00	\$ 525.00	\$ 2,625.00
10 DECORATIVE CROSSWALK PER DETAIL	S.FT.	2650			\$ 12.00	\$ 31,800.00	\$ 8.13	\$ 21,544.50	\$ 8.50	\$ 22,525.00	\$ 7.65	\$ 20,272.50	\$ 15.00	\$ 39,750.00
11 MAN HOLE CASTING, E.J. #1045 OR EQUAL	EACH	6			\$ 600.00	\$ 3,600.00	\$ 700.33	\$ 4,201.98	\$ 425.00	\$ 2,550.00	\$ 650.00	\$ 3,900.00	\$ 670.00	\$ 4,020.00
12 MEMBRANE REINFORCEMENT	S.YD.	147			\$ 6.00	\$ 882.00	\$ 11.36	\$ 1,669.92	\$ 15.00	\$ 2,205.00	\$ 10.00	\$ 1,470.00	\$ 12.00	\$ 1,764.00
13 PAVT MRKG, TYPE R, TAPE, 4" YELLOW, TEMP	L.FT.	300			\$ 1.00	\$ 300.00	\$ 0.81	\$ 243.00	\$ 1.15	\$ 345.00	\$ 1.00	\$ 300.00	\$ 1.15	\$ 345.00
14 PAVT MRKG, TYPE NR, PAINT, 4" YELLOW, TEMP	L.FT.	16000			\$ 0.20	\$ 3,200.00	\$ 0.27	\$ 4,320.00	\$ 0.29	\$ 4,640.00	\$ 0.25	\$ 4,000.00	\$ 0.29	\$ 4,640.00
15 PAVT MRKG, OVERLAY COLD PLASTIC, LT TURN ONLY	EACH	1			\$ 100.00	\$ 100.00	\$ 161.61	\$ 161.61	\$ 75.00	\$ 75.00	\$ 150.00	\$ 150.00	\$ 75.00	\$ 75.00
16 PAVT MRKG, OVERLAY COLD PLASTIC, LT TURN ARROW	EACH	37			\$ 30.00	\$ 1,110.00	\$ 86.19	\$ 3,189.03	\$ 70.00	\$ 2,590.00	\$ 80.00	\$ 2,960.00	\$ 70.00	\$ 2,590.00
17 PAVT MRKG, WATERBORN, 6" CROSSWALK	L.FT.	1860			\$ 0.20	\$ 372.00	\$ 0.54	\$ 1,004.40	\$ 0.75	\$ 1,395.00	\$ 0.50	\$ 930.00	\$ 0.75	\$ 1,395.00
18 PAVT MRKG, WATERBORN, 18" STOP BAR	L.FT.	215			\$ 1.00	\$ 215.00	\$ 1.08	\$ 232.20	\$ 2.25	\$ 483.75	\$ 1.00	\$ 215.00	\$ 2.25	\$ 483.75
19 PAVT MRKG, WATERBORN, 4" WHITE	L.FT.	425			\$ 0.50	\$ 212.50	\$ 0.27	\$ 114.75	\$ 0.29	\$ 123.25	\$ 0.25	\$ 106.25	\$ 0.29	\$ 123.25
20 PAVT MRKG, WATERBORN, 4" YELLOW	L.FT.	8100			\$ 0.25	\$ 2,025.00	\$ 0.27	\$ 2,187.00	\$ 0.29	\$ 2,349.00	\$ 0.25	\$ 2,025.00	\$ 0.29	\$ 2,349.00
21 REMOVING CONCRETE CURB	L.FT.	128			\$ 10.00	\$ 1,280.00	\$ 28.55	\$ 3,654.40	\$ 24.50	\$ 3,136.00	\$ 26.50	\$ 3,382.00	\$ 6.00	\$ 768.00
22 REMOVING CONCRETE DRIVE APP.	S.YD.	1			\$ 10.00	\$ 10.00	\$ 215.49	\$ 215.49	\$ 100.00	\$ 100.00	\$ 200.00	\$ 200.00	\$ 27.00	\$ 27.00
23 REMOVING CONCRETE SIDEWALK	S.FT.	490			\$ 5.00	\$ 2,450.00	\$ 8.62	\$ 4,223.80	\$ 5.00	\$ 2,450.00	\$ 8.00	\$ 3,920.00	\$ 1.00	\$ 490.00
24 REMOVING WATER VALVE BOX	EACH	11			\$ 300.00	\$ 3,300.00	\$ 263.97	\$ 2,903.67	\$ 175.00	\$ 1,925.00	\$ 245.00	\$ 2,695.00	\$ 75.00	\$ 825.00
25 SIDEWALK RAMP DETECTABLE WARNING, RETROFIT	S.FT.	495			\$ 5.00	\$ 2,475.00	\$ 14.55	\$ 7,202.25	\$ 7.00	\$ 3,465.00	\$ 13.50	\$ 6,682.50	\$ 15.00	\$ 7,425.00
26 TRAFFIC CONTROL	LUMP	1			\$ 40,000.00	\$ 40,000.00	\$ 18,962.71	\$ 18,962.71	\$ 40,000.00	\$ 40,000.00	\$ 24,390.00	\$ 24,390.00	\$ 75,900.00	\$ 75,900.00
27 TRENCH REPAIR MAJOR STREET TYPE IV	EACH	11			\$ 450.00	\$ 4,950.00	\$ 145.45	\$ 1,599.95	\$ 73.00	\$ 803.00	\$ 135.00	\$ 1,485.00	\$ 1,400.00	\$ 1,540.00
28 TRENCH REPAIR MAJOR STREET TYPE IV	L.FT.	19			\$ 55.00	\$ 1,045.00	\$ 123.90	\$ 2,354.10	\$ 73.00	\$ 1,387.00	\$ 115.00	\$ 2,185.00	\$ 70.00	\$ 1,330.00
29 TRENCH REPAIR SPECIAL	L.FT.	64			\$ 35.00	\$ 2,240.00	\$ 80.81	\$ 5,171.84	\$ 62.00	\$ 3,968.00	\$ 75.00	\$ 4,800.00	\$ 40.00	\$ 2,560.00
30 WATER SERVICE 1" TYPE "K" COPPER	L.FT.	24			\$ 30.00	\$ 720.00	\$ 53.87	\$ 1,292.88	\$ 30.00	\$ 720.00	\$ 50.00	\$ 1,200.00	\$ 50.00	\$ 1,200.00
31 WATER VALVE BOX 24" TOP SECTION W/COVER	EACH	7			\$ 125.00	\$ 875.00	\$ 188.55	\$ 1,319.85	\$ 125.00	\$ 875.00	\$ 175.00	\$ 1,225.00	\$ 280.00	\$ 1,960.00
32 WATER VALVE BOX & COVER COMPLETE	EACH	6			\$ 400.00	\$ 2,400.00	\$ 404.04	\$ 2,424.24	\$ 320.00	\$ 1,920.00	\$ 375.00	\$ 2,250.00	\$ 330.00	\$ 1,980.00
TOTAL					\$ 477,869.00		\$ 475,089.30		\$ 461,187.95		\$ 424,000.25		\$ 511,028.40	

Date: June 27, 2006
To: Honorable Mayor and City Commissioners
From: Engineering
RE: Construction Engineering Agreement with Fleis & Vandenbrink
Decorative Concrete-Street Lights-Roundabout on
Western Ave. Third to Terrace

SUMMARY OF REQUEST:

Enter into an engineering service agreement with Fleis & Vandenbrink to perform construction engineering and design modification to meet the state's guidelines and standards to complete the construction of Western Ave. between Third & Terrace by constructing street lights, decorative concrete and sidewalks as well as the roundabout at the intersection of Third & Western. This request is necessary since the City was able to secure funding through available federal funds. The fee for the aforementioned services is a *not to exceed* \$32,500 for the design phase and \$83,000 for the construction engineering phase.

Fleis & Vandenbrink was selected since this project is very much an extension of what has been done.

FINANCIAL IMPACT:

81% of the construction engineering phase (\$83,000) is grant eligible. The design phase and the local share of the construction engineering (19%) will be funded from the available Mall project funds.

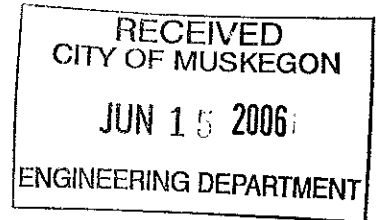
BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Enter into an Engineering Services Agreement with Fleis & Vandenbrink.

COMMITTEE RECOMMENDATION:



CITY OF MUSKEGON

WESTERN AVENUE STREETScape IMPROVEMENTS

CONSTRUCTION ENGINEERING CONTRACT

THIS CONTRACT, made and entered into as of this date of _____, 2006, by and between Fleis & VandenBrink Engineering, Inc., Consulting Engineers, of 316 Morris Avenue, Suite 230, Muskegon, Michigan 49440, hereinafter referred to as the "CONSULTANT," and the City of Muskegon, a Public Body Corporation, of 933 Terrace Street, P.O. Box 536, Muskegon, MI 49443, hereinafter referred to as the "LOCAL AGENCY."

WITNESSETH:

WHEREAS, the LOCAL AGENCY is planning to construct the Western Avenue Streetscape Improvements Project within its limits; and

WHEREAS, the LOCAL AGENCY desires to engage the professional services and assistance of the CONSULTANT to perform design, bidding and construction engineering and inspection services and other related work, said work to be hereinafter referred to as the "SERVICES," required in connection with the construction of the Western Avenue Streetscape Improvements Project, said improvements to be hereinafter referred to as the "PROJECT:"

"Western Avenue Streetscape from Third Street to Terrace Avenue, Decorative Concrete Sidewalk, Decorative Concrete Pavement, Concrete Curb & Gutter, Decorative Street Lights, and Electrical Distribution," and

WHEREAS, the LOCAL AGENCY has programmed the PROJECT with the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for construction with the use of SAFETEA-LU Funds administered by the United States Department of Transportation, Federal Highway Administration, hereinafter referred to as the "FHWA;" and

WHEREAS, the CONSULTANT is willing to render the SERVICES desired by the LOCAL AGENCY for the considerations hereinafter expressed; and

WHEREAS, the parties hereto have reached an understanding as to the scope of the work and the performance of the SERVICES on the PROJECT and desire to set forth this understanding in the form of a written contract;

NOW, THEREFORE, it is hereby agreed by and between the parties hereto that:

THE CONSULTANT SHALL:

1. Provide the following SERVICES relating to the PROJECT:
 - a. Assign a construction engineer and qualified inspection personnel who will be responsible to the Project Engineer at the PROJECT site during the construction of the PROJECT in order to perform required inspection services to assure

compliance with approved contract plans and specifications, and perform the day to day activities of the PROJECT.

- b. Field survey and construction staking services on the PROJECT site and any other field surveys as may be required for effective control of the construction of the PROJECT.
- c. Perform and/or have conducted field checks and laboratory testing of materials and equipment to assure compliance with the contract specifications and requirements of the DEPARTMENT. A portion of the on-site testing work is to be performed in accordance with a subcontractual arrangement between the CONSULTANT and Soils and Structures.
- d. Such additional engineering and inspection services as may be required by the PROJECT Engineer for satisfactory completion of the PROJECT.

2. Perform all PROJECT work under the direction of the PROJECT Engineer who will be assigned by the LOCAL AGENCY as provided in Section 15.

3. Provide such reports and maintain such records of the PROJECT as are required to document the work to the satisfaction of the PROJECT Engineer, the LOCAL AGENCY and the DEPARTMENT.

4. Govern all SERVICES by the applicable codes, laws, and standards of the LOCAL AGENCY and the DEPARTMENT.

5. During the performance of the SERVICES herein provided for, be responsible for any loss or damage to the documents, owned by the LOCAL AGENCY while they are in its possession. Restoration of lost or damaged documents shall be at the CONSULTANT'S expense.

6. Furnish qualified personnel to assist the PROJECT engineer in solving field problems, when so requested.

7. Attend conferences and make such trips as necessary to the LOCAL AGENCY'S offices and to the site of the work to confer with representatives of the LOCAL AGENCY and the DEPARTMENT as may be necessary in the carrying out of the work under this contract.

8. Follow standard accounting practices and permit representatives of the LOCAL AGENCY and the DEPARTMENT to audit and inspect its PROJECT books and records at any reasonable time. Such records are to be kept available for three (3) years from the date of the final payment for work conducted under this contract.

- a. The CONSULTANT shall establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this Contract, said records to be hereinafter referred to as the "RECORDS." Separate accounts shall be established and maintained for all costs incurred under this Contract.
- b. The CONSULTANT shall maintain the RECORDS for at least three (3) years from the date of final payment of federal aid made by the DEPARTMENT to the local agency under this Contract. In the event of a dispute with regard to the allowable expenses or any other issue under this Contract, the CONSULTANT shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

- c. The DEPARTMENT, or their representative, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.
- d. If any part of the work is subcontracted, the CONSULTANT shall assure compliance with subsections (a), (b), and (c) above for all subcontracted work.

9. Have in its employ a sufficient number of qualified employees available to complete the SERVICES in accordance with the schedule for construction and completion of the PROJECT upon the authorization to proceed with the SERVICES as outlined herein.

10. Show evidence of Workers' Compensation Insurance, said insurance to be as required by law.

11. Commence work on the PROJECT as set forth in and following execution of this contract only upon receipt of written notice from the PROJECT Engineer.

12. Furnish the LOCAL AGENCY and the DEPARTMENT a set of as built plans and records of the PROJECT upon completion thereof.

13. Submit billings to the LOCAL AGENCY as set forth in Section 16.

THE LOCAL AGENCY WILL:

14. Assign a PROJECT Engineer who shall be the Publicly Employed Professional Engineer in responsible charge of the PROJECT.

15. For and in consideration of the SERVICES rendered by the CONSULTANT as set forth in this contract, pay the CONSULTANT on an hourly rate basis plus expenses according to CONSULTANT's Standard Hourly Rates and Expense Schedule. Total fee shall not exceed Eighty-three Thousand and 00/100 dollars (\$83,000.00) for construction engineering only as shown in Exhibit "A", attached hereto and made a part hereof.

- a. Those costs incurred by the CONSULTANT in the utilization of the subcontracted services of Soils and Structures will be reimbursed by the LOCAL AGENCY. Payment by the LOCAL AGENCY will be made directly to the CONSULTANT.

The maximum amount, including the profit, hereinbefore set forth in this Section, shall not be exceeded except by the execution of an amendment to this contract by and between the parties hereto and with approval by the DEPARTMENT. Payment shall be made as hereinafter set forth.

16. Make payments to the CONSULTANT in accordance with the following procedures:

- a. Progress payments may be made for reimbursement of amounts earned to date based on CONSULTANT's standard hourly rates plus expenses.
- b. Partial payments will be made upon the submission by the CONSULTANT of a billing, accompanied by properly completed reporting forms and such other evidence of progress as may be required by the LOCAL AGENCY. Partial payments shall be made only once a month.
- c. Final billing under this contract shall be submitted in a timely manner but not later than three (3) months after completion of the SERVICES. Billings for work

submitted later than three (3) months after completion of SERVICES will not be paid.

17. If SERVICES, or any part thereof, are terminated before completed, pay the CONSULTANT as follows:

- a. Pay the CONSULTANT for services incurred for the work completed up to the time of termination, plus an amount determined at the time of termination to compensate the CONSULTANT in full for a normal profit on work completed.
- b. In no case, shall the compensation paid to the CONSULTANT for SERVICES, or any part thereof, exceed the amount the CONSULTANT would receive had the SERVICES, or the terminated portion thereof, been completed.

IT IS FURTHER AGREED THAT:

18. Upon completion or termination of this contract, all documents prepared by the CONSULTANT, including tracings, drawings, estimates, specifications, field notes, investigations, studies, etc., as instruments of SERVICE, shall become the property of the LOCAL AGENCY.

19. No portion of the PROJECT work, hereto before defined, shall be sublet, assigned, or otherwise disposed of except as herein provided or with the prior written consent of the LOCAL AGENCY and approval by the DEPARTMENT. Consent to sublet, assign or otherwise dispose of any portion of the SERVICES shall not be construed to relieve the CONSULTANT of any responsibility for the fulfillment of this contract.

20. All questions which may arise as to the quality and acceptability of work, the manner of performance and rate of progress of the work, and the interpretation of plans and specifications shall be decided by the LOCAL AGENCY'S PROJECT Engineer. All questions as to the satisfactory and acceptable fulfillment of the terms of this contract shall be decided by the LOCAL AGENCY.

21. Any change in SERVICES to be performed by the CONSULTANT involving extra compensation must be authorized in writing by the LOCAL AGENCY and approved by the DEPARTMENT prior to the performance thereof by the CONSULTANT and requires an amendment to this Contract.

The CONSULTANT and the LOCAL AGENCY specifically agree that in the event problems arise that may be the result of errors and / or omissions by the CONSULTANT or due to a failure of CONSULTANT to otherwise perform in accordance with this contract, the CONSULTANT will be held responsible with no cost to the LOCAL AGENCY or in accordance with the LOCAL AGENCY'S dispute resolution process if applicable.

22. In addition, the CONSULTANT shall comply with, and shall require any contractor or subcontractor to comply with, the following:

- a. In connection with the performance of the PROJECT under this contract, the CONSULTANT (hereinafter in Appendix "A" referred to as the "contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in Appendix "A," attached hereto and made a part hereof and will require a similar covenant on the part of any contractor or subcontractor employed in the performance of this contract.
- b. During the performance of this contract, the CONSULTANT for itself, its assignees, and successors in interest (hereinafter in Appendix "B" referred to as the "contractor") agrees to comply with the Civil Rights Act of 1964, being

P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6, and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B," attached hereto and made a part hereof and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this contract.

- c. The parties hereto further agree that they accept the DEPARTMENT'S Minority Business Enterprises/Women's Business Enterprises (MBE/WBE) Program with respect to the PROJECT and will abide by the provisions set forth in Appendix "C," attached hereto and made a part hereof, being an excerpt from Title 42 C.F.R. Part 23, more specifically 23.43(a)(1) and (2) thereof.

23. The CONSULTANT warrants that it has not employed or retained any company or person other than bona fide employees working solely for the CONSULTANT, to solicit or secure this contract, and that he has not paid or agreed to pay any company or person, other than bona fide employees working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the LOCAL AGENCY shall have the right to annul this contract without liability or, at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gifts or contingent fee.

24. The CONSULTANT specifically agrees that in the performance of SERVICES herein enumerated by it, or by an approved subcontractor, or anyone acting in its behalf, they will, to the best of their professional knowledge and ability, comply with any and all applicable state, federal, and local statutes, ordinances, and regulations.

25. No charges or claims for damages shall be made by the CONSULTANT for delays or hindrances from any cause whatsoever during the progress of any portions of the SERVICES specified in this contract, except as hereinafter provided.

In case of a substantial delay on the part of the LOCAL AGENCY in providing to the CONSULTANT either the necessary information or approval to proceed with the work, resulting, through no fault of the CONSULTANT, in delays of such extent as to require the CONSULTANT to perform its work under changed conditions not contemplated by the parties, the LOCAL AGENCY will consider supplemental compensation limited to increased costs incurred as a direct result of such delays. Any claim for supplemental compensation must be in writing and accompanied by substantiating data. Authorization of such supplemental compensation shall be by an amendment to this contract subject to prior approval by the DEPARTMENT.

When delays are caused by circumstances or conditions beyond the control of the CONSULTANT, as determined by the LOCAL AGENCY, the CONSULTANT shall be granted an extension of time for such reasonable period as may be mutually agreed upon between the parties, it being understood, however, that the permitting of the CONSULTANT to proceed to complete the SERVICES, or any part of them, after the date to which the time of completion may have been extended, shall in no way operate as a waiver on the part of the LOCAL AGENCY of any of its rights herein set forth.

26. In case the CONSULTANT deems extra compensation will be due it for work or materials not clearly covered in this contract, or not ordered by the LOCAL AGENCY as a change, or due to changed conditions, the CONSULTANT shall notify the LOCAL AGENCY in writing of its intention to make claim for such extra compensation before beginning such work. Failure on the part of the CONSULTANT to give such notification will constitute a waiver of the claim for such extra compensation. The filing of such notice by the CONSULTANT shall not in any way be construed to

establish the validity of the claim. Such extra compensation shall be provided only by amendment to this contract with approval of the DEPARTMENT.

27. The CONSULTANT agrees to obtain the necessary liability insurance, acceptable to the LOCAL AGENCY, naming the City of Muskegon, the Michigan State Transportation Commission, and the Michigan Department of Transportation as insured, and to provide the LOCAL AGENCY with evidence of said insurance, and to indemnify and save harmless the LOCAL AGENCY, the Michigan State Transportation Commission, and the DEPARTMENT, their officers agents and employees from any and all claims and losses occurring or resulting to any person, firm or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged by the CONSULTANT in the performance of this contract.

The CONSULTANT agrees to comply with the following insurance and CONSULTANT agrees to pay in behalf of, indemnify, and hold indemnity requirements:

- a. Hold Harmless Agreements: To the fullest extent permitted by law, CONSULTANT agrees to pay on behalf of, indemnify, and hold harmless the LOCAL AGENCY, its elected and appointed officials, employees, volunteers, and others working on behalf of the LOCAL AGENCY against any and all claims, demands, suits, or loss, including any costs connected therewith, including reasonable attorney fees and for any damages which may be asserted, claimed or recovered against or from the LOCAL AGENCY, its elected and appointed officials, employees, volunteers, or others acting on behalf of the LOCAL AGENCY, by reason of personal injury, including bodily injury and death, property damage, including loss of use thereof, and/or the effects of or release or toxic and/or hazardous material which arises out of the negligent acts and/or omission of the CONSULTANT. The obligations in this paragraph extend to CONSULTANT'S employees, agents, subcontractors, assigns and successors.
- b. Consultant Insurance Requirements: CONSULTANT shall not commence work under this contract until obtaining the insurance required under this paragraph. All coverages shall be with insurance companies licensed and admitted to do business in the State of Michigan and Best Rated A VIII. All coverage shall be with insurance carriers acceptable to the LOCAL AGENCY.
- c. Workers' Compensation Insurance: The CONSULTANT shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including Employer's Liability coverage, in accordance with all applicable Statutes of the State of Michigan.
- d. General Liability Insurance: The CONSULTANT shall procure and maintain during the life of this contract, commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **\$2,000,000** per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury and Property Damage. Coverage shall include the following extensions: (a) Contractual Liability; (b) Products and Completed Operations; (c) Independent Contractor's Coverage; (d) Broad Form General Liability Extensions or equivalent.
- e. Motor Vehicle Liability: The CONSULTANT shall procure and maintain during the life of this contract Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, with limits of liability of not less than **\$500,000** per occurrence

or combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles.

- f. Professional Liability Insurance: The CONSULTANT shall procure and maintain during the life of this contract and during the performance of all services, Professional Liability Insurance covering all performances from the beginning of the CONSULTANT'S service on a "claims made basis" and shall maintain coverage from commencement of this contract until six (6) months following completion for the CONSULTANT'S work with limits of liability not less than **\$2,000,000** per occurrence.
- g. Additional Insured: Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be "Additional Insured": The CITY OF MUSKEGON, all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board member, including employees and volunteers thereof, the Michigan State Transportation Commission, and the Michigan Department of Transportation.
- h. Cancellation Notice: Workers' Compensation Insurance, General Liability Insurance, Motor Vehicle Liability Insurance, and Professional Liability Insurance, as described above, shall include an endorsement stating the following: It is understood and agreed that Thirty (30) Days Advance Written Notice of Cancellation, Non-Renewal, Reduction and/or Material Change shall be sent to: CITY OF MUSKEGON ENGINEERING DEPARTMENT.
- i. Proof of Insurance Coverage: The CONSULTANT shall provide the LOCAL AGENCY at the time of the contracts are returned by it for execution, certificates and policies as listed below.
 - (1) Two (2) copies of Certificate of Insurance for Workers' Compensation Insurance.
 - (2) Two (2) copies of Certificate of Insurance for Commercial General Liability Insurance.
 - (3) Two (2) copies of Certificate of Insurance for Vehicle Liability Insurance.
 - (4) Two (2) copies of Certificate of Insurance for Professional Liability Insurance.
 - (5) If so requested, certified copies of all policies mentioned above will be furnished.

If any of the above coverages expire during the term of this contract, the CONSULTANT shall deliver renewal certificates and/or policies to the LOCAL AGENCY at least ten (10) days prior to the expiration date.

28. This contract shall be terminated upon advisement to the CONSULTANT by the LOCAL AGENCY that its SERVICES are completed and accepted.

29. The CONSULTANT'S signature on this Contract constitutes the CONSULTANT'S certification of "status" under penalty of perjury under the laws of the United States in respect to 49 CFR, Part 29 pursuant to Executive Order 12549.

The certification, which is included as a part of this Contract as Attachment "A," is Appendix A of 49 CFR Part 29, and applies to the CONSULTANT (referred to in Appendix A of 49 CFR Part 29 as "the prospective primary participant").

The CONSULTANT is responsible for obtaining the same certification from all subcontractors under this contract by inserting the following paragraph in all subcontracts:

"The subcontractor's signature on this Contract constitutes the subcontractor's certification of 'status' under penalty of perjury under the laws of the United States in respect to 49 CFR, Part 29 pursuant to Executive Order 12549. The certification, which is included as a part of this Contract as Attachment "B," is Appendix B of 49 CFR, Part 29."

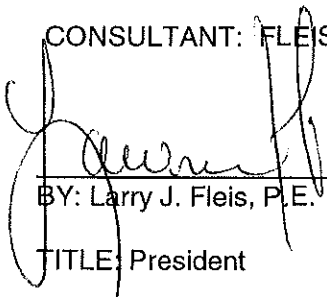
This certification is required of all subcontractors, testing laboratories, and other lower tier participants with which the CONSULTANT enters into a written arrangement for the procurement of goods or services provided for in this Contract.

30. The CONSULTANT hereby agrees that the costs reported to the LOCAL AGENCY for this Contract shall represent only those items which are properly chargeable in accordance with this Contract. The CONSULTANT also hereby certifies that it has read the Contract terms and has made itself aware of the applicable laws, regulations, and terms of this Contract that apply to the reporting of costs incurred under the terms of this Contract.

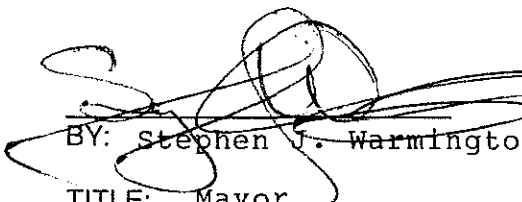
31. Upon execution of this contract by the parties hereto, the same shall become binding on the parties hereto and their successors and assigns, until such time as all work contemplated hereunder is complete, or until such time as this contract is terminated by mutual consent of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals by their duly authorized agents and representatives the day and year first above written.

CONSULTANT: FLEIS & VANDENBRINK ENGINEERING, INC.


BY: Larry J. Fleis, P.E. Date 6/12/06 Witness Sammes A. Scott
TITLE: President

LOCAL AGENCY: CITY OF MUSKEGON


BY: Stephen J. Warmington Date 7-5-06 Witness Jo Ann Krukowski
TITLE: Mayor

Linda Potter
BY: Linda Potter Date 7-6-06 Witness Irene Dempsey
TITLE: Deputy Clerk

APPROVED AS TO FORM

MICHIGAN DEPARTMENT OF TRANSPORTATION

EXHIBIT A

Proposal Letter Dated March 23, 2006

Hourly Billing Rate Schedule (2006)

Equipment Charge Rates

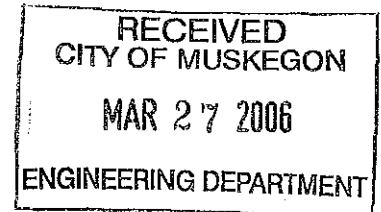


FLEIS & VANDENBRINK ENGINEERING, INC.

Offices in Grand Rapids, Traverse City, and Muskegon

file in the
Enhancement of
the Mall Project
1/24/06

March 23, 2006



Mr. Mohammed Al-Shatel, City Engineer
City of Muskegon
933 Terrace Street
Muskegon, Michigan 49440

RE: Western Avenue Streetscape Decorative Lighting & Concrete Paving Final Design & Construction Engineering

Dear Mohammed:

We are pleased to submit our proposal for the Western Avenue Streetscape Final Design & Construction Engineering. We understand from our meeting with Chris Youngs, MDOT Urban Programs Manager, that they will do everything possible to streamline their review process in order to allow the City to begin this decorative enhancement as soon as possible.

Project Area Defined

The project area is defined as the 4 blocks (approximately 1,400 feet) of the Streetscape/Pedestrian Zones on each side of Western Avenue from 3rd Street to Terrace Street that is currently under construction. It also includes the proposed roundabout at the intersection of 3rd Street and Western Avenue.

We recognize the following issues as being of specific concern to the City for successful completion of the streetscape project:

- Modify the existing design plans as necessary to fulfill the intent of the proposed development as defined under the Michigan Department of Transportation Guidelines for the Local Agency Program.
- Provide Construction Engineering services required to meet City and funding agency requirements and Site Construction Observation.
- Develop special provisions to meet MDOT requirements that are unique to streetscape projects as required.

Scope of Work

We have prepared a work plan (scope of services), to complete the design and construction engineering services, that identifies the project outlined above.

A. Final Design

1. Final construction plans- Format existing plans to MDOT guidelines that include demolition, site layout, construction details, cross sections and landscape for the project area.

2. Final construction plans – Develop new electrical plans for lighting system for the project area.
3. Special Provisions - Prepare contract documents including specifications, list of bid items per City of Muskegon and MDOT standard practices.
4. Cost Estimates - Prepare final quantities and an estimate of probable construction costs.
5. Coordinate and attend Grade Inspection meeting with MDOT. Revise plans, specifications and estimates to reflect GI comments.
6. Printing costs for complete Bid Documents (assume 20-sets for bidding). Print and distribute copies of plans and specifications to trade organizations, suppliers and contractors.
7. Advertising - Assist City in placing an advertisement(s) per City requirements (the cost of advertisement will be billed directly to the City). Maintain a record of plan holders.
8. Bidding - Assist during the bidding period by answering questions from bidders and providing supplemental drawings and specifications, if required. Prepare any required addendum, attend bid openings, review and tabulate bids and make recommendation of award to City.

B. Construction Engineering

1. Construction Survey & Staking. Included is a line item for one-time construction staking for contractor's placement of the proposed improvements.
2. Construction Administration - Prepare MDOT report documents for reimbursement and related grant documents other than those required to be completed by City. Assemble and maintain complete project file per MDOT standards and attend audit at project conclusion. Attend bi-weekly progress meeting with contractor and City.
3. Grant administration including:
 - a. On-site wage rate interviews.
 - b. Collection of contractor certified payrolls.
 - c. Comparison of interviews and the payrolls with the minimum wages.
 - d. Assemble project files to MDOT standards.
 - e. Prepare MDOT reporting documents for reimbursement to City
 - f. Attend MDOT project closeout/audit at project conclusion, if desired.
4. Project Inspection (50-hrs per week for an estimated 10-weeks). Provide daily record keeping of construction activities in accordance with City & MDOT agency requirements including prevailing wage rate interviews, product certifications, quantities verification and conformance of work to plans and specifications.

5. Material and Soil Testing - Coordinate off-site materials testing such as proctors on clay, sieve analyses on sand and gravel, extractions on bituminous material, asphalt penetration and cylinder break on concrete per MDOT standards.
6. Prepare As-Built Drawings - Prepare record drawings showing as-constructed dimensions and details.
 - a) Reproducible Drawings
 - b) Electronic Version for all drawings (CAD Files) and specification documents (MS Word).

Based on our understanding of the project, we have estimated our services to be provided for the following fees that will be invoiced at our standard hourly rates:

Design Services	\$20,000 to \$30,000 estimated
Bid Phase Services	\$2,500
Construction Engineering	
Field Observation	\$34,500
Electrical Field Observation / Shop Drawings	\$3,300
Construction Staking	\$19,000
As-Builts	\$2,000
Construction Administration / Shop Drawings	\$16,000
MDOT Record Keeping	<u>\$8,200</u>
	\$83,000
Total Estimated Fees	\$115,500

Our design fees are an estimate and may need to be adjusted depending on final level of effort. Our proposed fee for on-site observation and contract administration is based on a construction period of 10 weeks and on-site inspection of 40 hours per week average. If the construction period and level of inspection effort differs, we agree to adjust our fees for on-site observation and contract administration proportionately, higher or lower, based on the exact schedules and level of effort needed.

TENTATIVE SCHEDULE:

We understand that it is the desire of the City to have the project start as soon as possible. Based on our understanding of the project and assuming a streamlined MDOT review process, we propose to provide the services outlined at the following schedule:

<u>TASK/PHASE</u>	<u>Start By</u>	<u>Complete by</u>
Final Design Engineering Phase**	03/24/06	03/31/06
Submittal of GI Package and GI meeting	04/03/06	04/07/06
Advertising Date	04/15/06	05/08/06
Project Construction and Construction Engineering/Inspection**	05/15/06	07/28/06**

APPENDIX A

PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract, the contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No.478, Public Acts of 1980, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.
6. The contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.
7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, programs, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain

compliance with his contract and relevance with rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.
9. The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

March, 1998

APPENDIX B

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as following:

1. Compliance with Regulations: The contractor shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 27, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or natural origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities, as may be determined by the Michigan Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Michigan Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
 - b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions: The contractor shall include the provisions of paragraphs 1 through 6 of every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Michigan Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Michigan Department of Transportation to enter into such litigation to protect the interests of the state, and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

APPENDIX C

TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

General Requirements for Recipients

Excerpts from USDOT Regulation 49 CFR, Part 23, Section 23.43

1. Policy: It is the policy of the Department that MBE as defined in 49 CFR, Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Consequently, the MBE requirements of 49 CFR, Part 23, apply to this contract.
2. MBE Obligation: The recipient or its contractor agrees to ensure that MBE as defined in 49 CFR, Part 23, has the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR, Part 23, to ensure that MBE has the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of departmentally-assisted contracts.
3. If, as a condition of assistance, the recipient has submitted and the department has approved a minority business enterprise affirmative action program which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to this recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR, Part 23, Subpart E, which sanctions may include termination of the agreement or other measures that may affect the ability of the recipient to obtain future departmental, financial assistance.
4. The Department hereby advises each recipient, contractor, or subcontractor that failure to carry out the requirements set forth in Section 23.43(a) 49 CFR, Part 23, shall constitute a breach of contract, and after the notification of the USDOT, may result in termination of the agreement or contract by the Department or such remedy as the Department deems appropriate.

SUBCONTRACT NO. _____
CONTROL SECTION NO. _____
JOB NO. _____
FED. PROJECT NO. _____
FED. ITEM NO. _____

CERTIFICATION

I hereby certify that I am President and a duly authorized representative of the firm of Fleis & VandenBrink Engineering, Inc., whose address is 2960 Lucerne Drive SE, Grand rapids, Michigan, 49546 and that neither I nor the above firm I here represent has:

(a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, or any firm or person (other than a bona fide employee working solely for me or the above Fleis & VandenBrink Engineering, Inc.) to solicit or secure this contract.

(b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or

(c) paid, or agreed to pay, to any firm organization or person (other than a bona fide employee working solely for me or the above Fleis & VandenBrink Engineering, Inc.) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract:

except as here expressly stated (if any):

I acknowledge that this certification is to be furnished to the Michigan Department of Transportation in connection with this contract involving participation of state and/or federal funds, and is subject to applicable state and federal laws, both criminal and civil.

6/12/06

Date

[Signature]
Signature

ATTACHMENT A
(This is a reproduction of Appendix A of 49 CFR Part 29)
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY
MATTERS -
PRIMARY COVERED TRANSACTIONS

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification in addition to other remedies available to the federal government, the department or agency may terminate this transaction for cause of default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposed," and "voluntarily excluded" as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules impending Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally processed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency may terminate this transaction for cause or default Certification regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions.
1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - (3) Are not presently indicated for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (federal, state, or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

March 9, 1989

ATTACHMENT B
(This is a reproduction of Appendix B of 49 C.F.R. Part 29)
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY
AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transaction," without notification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (Telephone No. (517) 335-2513 or (517) 335-2514).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

(Federal Register Doc. 88-11561 Filed 5-25-88; 8:45 a.m.)

March 9, 1989

Commission Meeting Date: June 27, 2004

Date: June 16, 2006
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development CBC
RE: Request for final Planned Unit Development approval for Phase V of the Park Terrace Development

SUMMARY OF REQUEST:

Request for final approval for Phase V of the Planned Unit Development and associated site, and landscape plans for the Park Terrace Development, for 46 condominium units. The request is from Ruddiman Associates.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends final PUD approval for Phase V and approval of the associated plans provided that the conditions listed in the attached resolution are met.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended final approval of Phase V of the PUD and associated plans, with the conditions listed on the attached resolution, at their regular meeting on 6/15. The vote was unanimous, with T. Harryman and B. Smith absent.

CITY OF MUSKEGON

RESOLUTION #2006- 55 (e)

RESOLUTION FOR FINAL PLANNED UNIT DEVELOPMENT APPROVAL FOR PHASE V OF THE PARK TERRACE DEVELOPMENT

WHEREAS, a petition for a planned unit development was received from Ruddiman Associates and,

WHEREAS, a planned unit development will allow a mixed-use residential development; and,

WHEREAS, the planned unit development received preliminary approval from this City Commission on August 15, 2002, and Phases I, II, and IV have since been approved and constructed; and,

WHEREAS, proper notice was given by mail and publication and a public hearing was held by the City Planning Commission to consider said petition, during which all interested persons were given an opportunity to be heard in accordance with provisions of the Zoning Ordinance and State Law; and

WHEREAS, the Planning Commission and staff have recommended approval of the final Planned Unit Development and associated site, landscaping and utility plans for Phase IV, with conditions as follows:

1. All requirements listed by the Fire Department in the Staff Report (#10), shall be met.

NOW, THEREFORE, BE IT RESOLVED that the recommendation by staff and the City Planning Commission be accepted and the final planned unit development is hereby approved with conditions for Phase IV of the development.

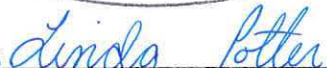
Adopted this 27th day of June, 2006

Ayes: Shepherd, Spataro, Warmington, Wierengo, Carter,
Davis, and Gawron

Nays: None

Absent: None

By: 
Stephen J. Warmington, Mayor

Attest: 
Linda Potter, CMC, Deputy City Clerk

CERTIFICATE (Final PUD for Park Terrace, Phase V)

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 a resolution adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 27th day of June, 2006, 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: July 7, 2006.

Linda Potter

Linda Potter, CMC
Deputy City Clerk
City of Muskegon

Staff Report [EXCERPT]
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
June 15, 2006

Hearing; Case 2006-17: Request for final Planned Unit Development approval for Phase V (condominiums) of the Park Terrace Development north of Woodcreek Avenue off the intersection with Rosewood Street, by Ruddiman Associates.

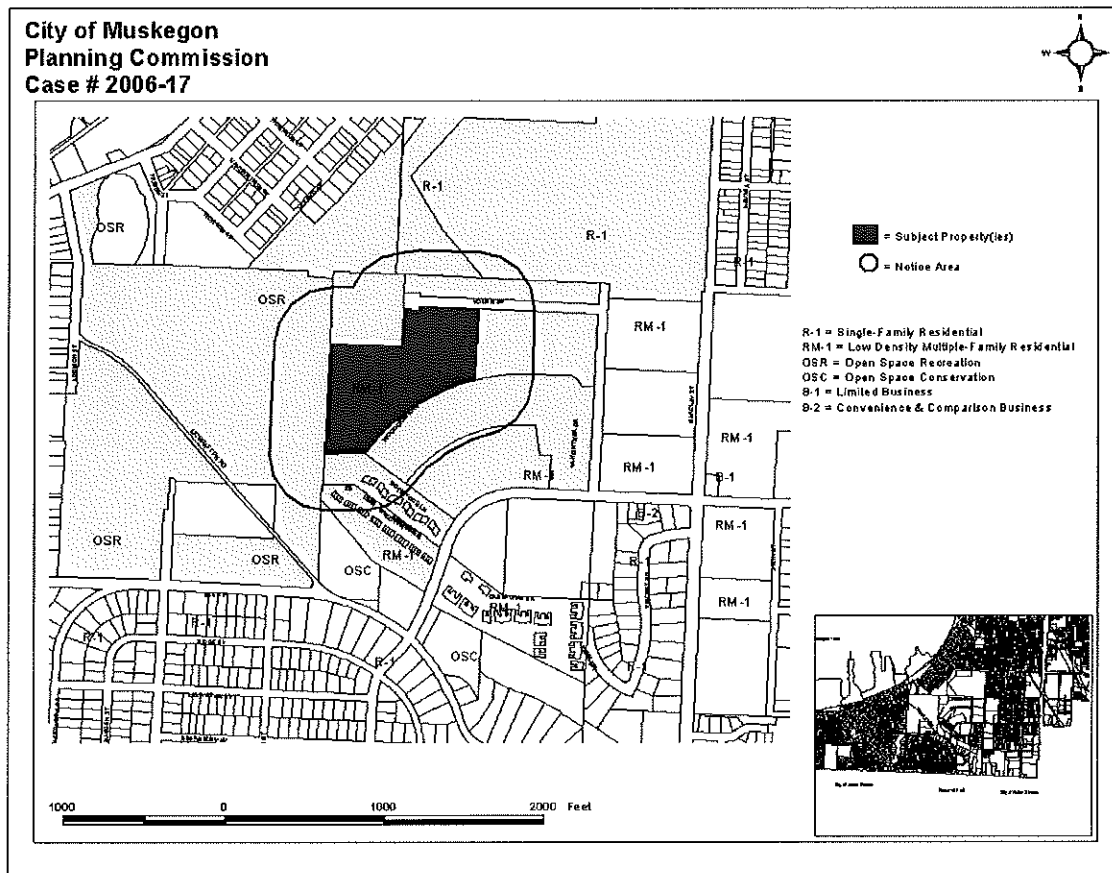
BACKGROUND

<u>Applicant:</u>	Ruddiman Associates
<u>Property Address/Location:</u>	North of Woodcreek Avenue off of the intersection with Rosewood Street
<u>Request:</u>	Phase V Final Planned Unit Development (PUD)
<u>Present Land Use:</u>	Vacant
<u>Zoning:</u>	RM-1, Low Density Multiple-Family Residential

STAFF OBSERVATIONS

1. The subject property is part of the Park Terrace Development (former Hackley Glen site, on Hackley Avenue, west of Barclay Street), which has an approved preliminary PUD for the entire former Hackley Glen property. Phases I, II and IV of the project have already received final PUD and site plan approval and have been constructed. Phase III is not being developed at this time. This request is for final PUD and site plan approval for Phase V.
2. The property is located north of Woodcreek Avenue off the intersection with Rosewood Street.
3. There will be 46 condominium units, to be constructed as duplexes. Each unit will have an attached 2-stall garage and driveway, providing the minimum of 2 parking spaces required.
4. There will be a 5 ft. sidewalk constructed on the inside of the Rosewood Street loop.
5. No additional signage is proposed for the site.
6. The site plan appears to be very detailed and Staff is not aware of anything missing from the plans.
7. The landscaping plan is also extensive, and appears to preserve most of the existing trees wherever practical. Many new trees and shrubs will also be planted as part of the plan.
8. All setbacks are well within the requirements for RM-1 zoning.
9. Engineering had no comments regarding the site plan.
10. The Fire Department had the following comments:
 - a. Fire flow test shall be conducted prior to approval. International Fire Code – Section 508.

- b. Project shall comply with NFPA 1141 fire protection for planned building groups.
 - c. Designated fire lanes shall be established through the area. Signage shall be posted and comply with IFC appendix C 103.6.
11. DPW comments were as follows:
- a. Contact Kelly DeFrench regarding looping water main between Woodcreek Drive and Rosewood.
12. Staff has received no comments regarding this request.





Looking west at Rosewood and Woodcreek.



Looking north at Rosewood and Woodcreek.



View looking north off Woodcreek.



Existing duplex built in Phase IV.

RECOMMENDATION

Staff recommends approval of the Final PUD for Phase V request based upon the above staff review of the "Standards for Approval of PUD Plans", subject to the conditions offered below.

DELIBERATION

Standards for discretionary uses: (emphasis provided)

1. Give due regard to the nature of all adjacent uses and structures and the consistency with the adjacent use and development.
2. Find that the proposed use or activity would not be offensive, or a nuisance, by reason of increased traffic, noise, vibration, or light.

3. Adequate water and sewer infrastructure exists or will be constructed to service the activity.
4. The proposed site plan complies with section 2330 of the ordinance and has:
 - a. proper ingress and egress
 - b. sufficient parking areas, streets, roads and alleys
 - c. screening walls and/or fences
 - d. adequate fire and police protection
 - e. provisions for disposal of surface water run-off, sanitary sewage
 - f. adequate traffic control and maintenance services
 - g. preserves property values to related or adjoining properties.

MOTION FOR CONSIDERATION

I move that the final PUD and associated site plan for Phase V (condominiums) of the Park Terrace development north of Woodcreek Avenue off the intersection with Rosewood Street be (approved/denied) pursuant to the determination of (compliance/lack of compliance) with the intent of the City Zoning Ordinance and City Master Land Use Plan based on the following conditions (only if approved):

1. All requirements listed by the Fire Department in number 10 shall be met.

Commission Meeting Date: June 27, 2006

Date: June 16, 2006
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development *CBC*
RE: Vacation of the East/West alley between Fifth and Sixth Streets, running parallel to Washington and W. Grand Avenues

SUMMARY OF REQUEST:

Request for vacation of the East/West alley between Fifth and Sixth Streets, running parallel to Washington and W. Grand Avenues, located in Muskegon Revised Plat of 1903, Block 405.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends vacation of the East/West alley between Fifth and Sixth Streets, running parallel to Washington and W. Grand Avenues, with the condition that all utility easement rights be retained.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended vacation of the alley at their 6/15/06 meeting, with the condition that all utility easement rights be retained. The vote was unanimous with T. Harryman and B. Smith absent.

RESOLUTION #2006- 55(f)

RESOLUTION TO VACATE A PUBLIC ALLEY

WHEREAS, a petition has been received to vacate the East/West portion of the alley in Block 405 of the City of Muskegon Revised Plat of 1903, between Fifth and Sixth Streets, running parallel with Washington and W. Grand Avenues; and,

WHEREAS, the Planning Commission held a public hearing on June 15, 2006, to consider the petition and, subsequently, recommended the vacation; and,

WHEREAS, due notice had been given of said hearing as well as the June 27, 2006, City Commission meeting to consider the recommendation of the Planning Commission;

NOW, THEREFORE, BE IT RESOLVED that the City Commission deems it advisable for the public interest to vacate and discontinue the East/West portion of the alley in Block 405 of the City of Muskegon Revised Plat of 1903, between Fifth and Sixth Streets, running parallel with Washington and W. Grand Avenues, County of Muskegon, State of Michigan.

BE IT FURTHER RESOLVED that the City Commission does hereby declare the said alley vacated and discontinued, provided, however, that this action on the part of the City Commission shall not operate so as to conflict with fire access or the utility rights heretofore acquired by the City or by any public service utility in the City of Muskegon operating in, over and upon said portion of alley hereby vacated, and it is hereby expressly declared that such rights shall remain in full force and effect.

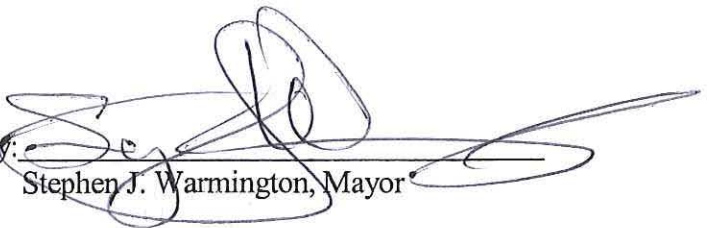
BE IT FURTHER RESOLVED that after any maintenance and repair by the City, the City shall restore the disturbed area to the grade and paving in existence at the time of vacation. The City shall not be responsible to replace special planting, landscaping, fences or any structure. No structure shall be placed in the easement which, in the sole judgment of the City, will interfere with the repair or maintenance of utilities in the easement, public or private.

Adopted this 27th day of June, 2006.

Ayes: Spataro, Warmington, Wierengo, Carter, Davis,
Gawron, and Shepherd

Nays: None

Absent: None

By: 
Stephen J. Warmington, Mayor

Attest: Linda Potter
Linda Potter, CMC, Deputy City Clerk

CERTIFICATION

(Alley Vacation of the East/West alley in Block 405 of the City of Muskegon Revised Plan of 1903)

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan, at a regular meeting held on June 27, 2006.



Linda Potter, CMC
Deputy City Clerk
City of Muskegon

Staff Report [EXCERPT]
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
June 15, 2006

Hearing; Case 2006-16: Request to vacate the East/West alley between Fifth and Sixth Streets, running parallel to Washington and W. Grand Avenues, by Jana Martinez.

BACKGROUND

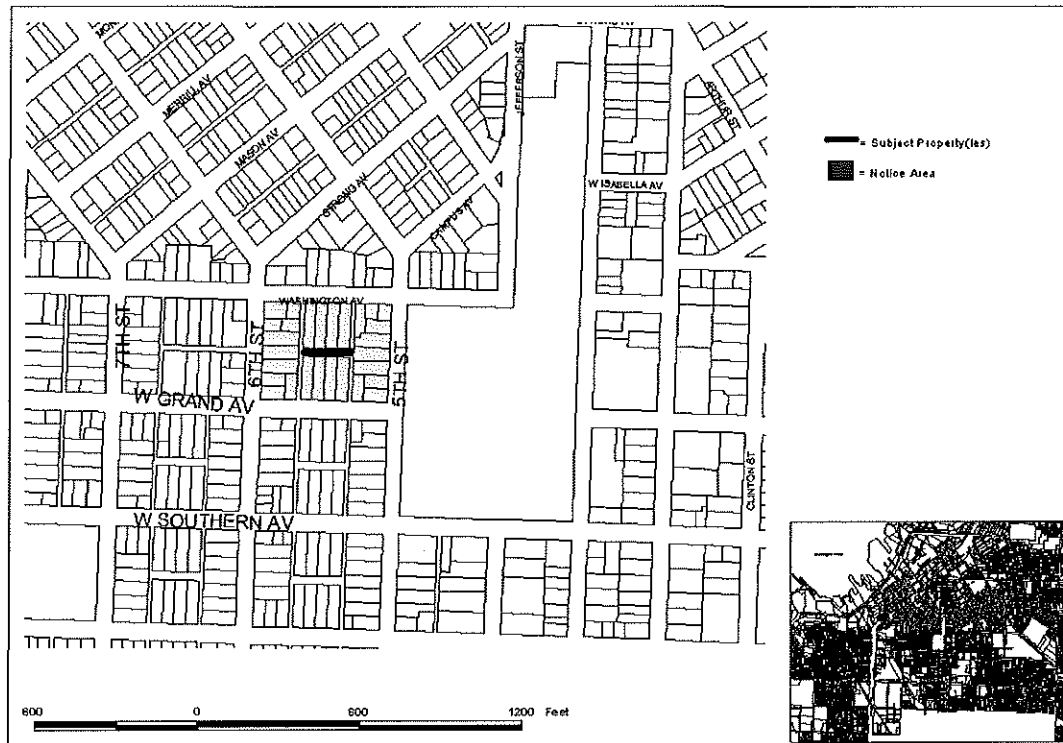
The alley in question is part of an "H" alley located between Fifth and Sixth Streets running parallel to Washington and W. Grand Avenues. All homes abutting this alley have driveway access to their homes or access one of the cross alleys running between Washington and W. Grand. The applicant states that there has been a problem with people parking in this portion of the alley and illegal dumping has been taking place.

Fire, and DPW have no issues with vacating this alley. As always, Staff recommends that utility rights be retained.



Alley looking west from the North/South alley intersection.

**City of Muskegon
Planning Commission
Case #2006-16**



STAFF RECOMMENDATION

Staff recommends approval of the request.

DELIBERATION

I move that the vacation of the East/West alley between Fifth and Sixth Streets, running parallel to Washington and W. Grand Avenues, be recommended to City Commission for (approval/denial), based on (compliance/lack of compliance), with the City's 1997 Master Land Use Plan, with the following conditions:

1. All utility easements will be retained.

Commission Meeting Date: June 27, 2006

Date: June 19, 2006
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development CBC
RE: Vacation of a portion of "Old" Ottawa Street

SUMMARY OF REQUEST:

Request for the vacation of a portion of "old" Ottawa Street located Southwest of the "realigned" Ottawa Street.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends the vacation of a portion of "old" Ottawa Street as per the legal description in the attached resolution, with the condition that all utility easement rights be retained.

COMMITTEE RECOMMENDATION:

The Planning Commission unanimously recommended approval of the vacation at their 6/15/06 meeting, with the condition that all utility easements rights be retained, with T. Harryman and B. Smith absent.

CITY OF MUSKEGON

RESOLUTION #2006- 55 (g)

RESOLUTION TO VACATE A PORTION OF A PUBLIC STREET

WHEREAS, a petition has been received to vacate a portion of "old" Ottawa Street located Southwest of the "realigned" Ottawa Street, as described below:

Legal Description

City of Muskegon, Section 20 T10N R16W, Muskegon County, Michigan, revised plat of 1903 beginning at the southwest corner of lot 4 of block 169 of said plat; thence N65°44'29"W 66.00 feet to a point on the East line of block 170 of said plat (westerly line of Ottawa Street); thence S24°15'31"W 291.62 feet along said East line; thence northeasterly 117.80 feet on a 669.29 foot radius (8°33'38" deg of curve) curve to the left, $\Delta=10^{\circ}05'04''$, the long chord bearing N58°23'01"E 117.65 feet to the westerly line of block 169 (easterly line of Ottawa Street) of said block 169; thence N24°16'31"E 194.24 feet along the westerly line of said block 169 to the point of beginning.

And

WHEREAS, the Planning Commission held a public hearing on June 15, 2006 to consider the petition and subsequently recommended the vacation; and

WHEREAS, due notice had been given of said hearing as well as the June 27, 2006 City Commission meeting to consider the recommendation of the Planning Commission;

NOW, THEREFORE, BE IT RESOLVED that the City Commission deems it advisable for the public interest to vacate and discontinue a portion of "old" Ottawa Street located Southwest of the "realigned" Ottawa Street, as herein described; and

BE IT FURTHER RESOLVED that the City Commission does hereby declare the said portion of street vacated and discontinued provided, however, that this action on the part of the City Commission shall not operate so as to conflict with any fire access or the utility rights heretofore acquired by the City or by any public service utility in the City of Muskegon, operating in, over and upon said portion of street hereby vacated, and it is hereby expressly declared that any such rights shall remain in full force and effect;

BE IT FURTHER RESOLVED that after any maintenance and repair by the City, the city shall restore the disturbed area to the grade and paving in existence at the time of vacation. The City shall not be responsible to replace special planting, landscaping, fences or any structure. No

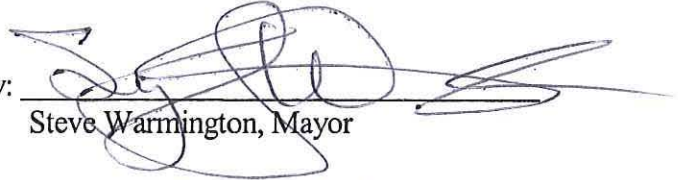
structure shall be placed in the easement which, in the sole judgment of the City, will interfere with the repair or maintenance of utilities in the easement, public or private.

Adopted this 27th day of June, 2006.

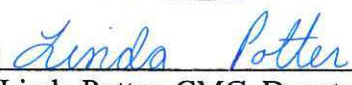
Ayes: Warmington, Wierengo, Carter, Davis, Gawron, Shepherd,
and Spataro

Nays: None

Absent: None

By: 

Steve Warmington, Mayor

Attest: 

Linda Potter, CMC, Deputy City Clerk

CERTIFICATE

(Vacation of a portion of "old" Ottawa Street)

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, County of Muskegon, Michigan, at a regular meeting held on June 27, 2006.



Linda Potter, CMC
Deputy City Clerk
City of Muskegon

**City of Muskegon
Planning Commission
Case # 2006-22**



Staff Report [EXCERPT]
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

June 15, 2006

Hearing; Case 2006-22: Request to vacate a portion of “old” Ottawa Street located Southwest of the “realigned” Ottawa Street, by Mike Fuller, Prein & Newhof.

BACKGROUND

When the eastern leg of Shoreline Drive was developed, a portion of Ottawa Street was cut off and realigned. Currently a portion of Ottawa Avenue that is no longer needed is located adjacent to the Muskegon County Wastewater Management site. This property is needed as part of the replacement project for the wastewater pump station. In addition, the City is selling Muskegon County the additional property required for the project.

Included in the packet is a drawing of the area in question, which shows Parcel D as the section of “old” Ottawa Street to be vacated. Parcels A, B and C are being sold by the City to the County for their project.

The City Engineer had the following comment, with DPW concurring: “As long as this section of the road is maintained as a surface parking area as shown on their site plans, and the City’s right to retain an easement and an unlimited access to maintain, repair, replace existing utilities and/or necessary future ones without the responsibility of replacing the surface with other than standard trench repair elements, I have no objection.”

Staff has received no comments regarding this case.

STAFF RECOMMENDATION

Since there is no further need for this section of Ottawa Street, staff recommends approval of the request, with conditions listed below.

MOTION FOR CONSIDERATION

I move that the vacation of the “old” Ottawa Street located Southwest of the “realigned” Ottawa Street, be recommended to the City Commission for (approval/denial), based on (compliance/lack of compliance), with the City’s Master Land Use Plan, (based on the following conditions – only if approved):

1. All utility easements be retained.

Date: June 27, 2006
To: Honorable Mayor and City Commissioners
From: Gail A. Kunding, City Clerk
RE: Liquor License Request
Brewer Enterprises II, Inc., 817 Forest

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request to transfer all stock in the 2006 Class C-SDM licensed business with Dance Permit from Timothy Brewer to new stockholder Terri L. Garza.

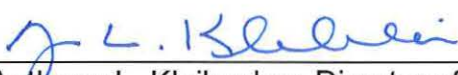
FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.

June 9, 2004

To: City Commission through the City Manager

From: 
Anthony L. Kleibecker, Director of Public Safety

Re: Liquor License Request – 817 Forest Street
Transfer of 2006 Class C-SDM Licensed Business with Dance Permit

The Muskegon Police Department has received a request from the Michigan Liquor Control Commission for an investigation of applicant Brewer Enterprises II, Inc., comprised of Terri Garza of 1386 Frost Street, Muskegon Mi.

Brewer Enterprises II, Inc. requests to transfer ownership of 2006 Class C-SDM licensed business with Dance Permit located at 817 Forest Street from Tim Brewer. Terri Garza does not have experience in the alcohol service industry but is aware of the Muskegon Police Department's position on enforcing local alcohol laws and ordinances.

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

ALK/kd

MMJ 5-24-06

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LIQUOR CONTROL COMMISSION
7150 Harris Drive
P.O. Box 30005
Lansing, MI 48909-7505

LOCAL APPROVAL NOTICE

(Authorized by MCL 436.1501(2) and MAC 1105(2)(d))

Req ID: 356223

Date: May 19, 2006

To: MUSKEGON CITY COMMISSION
933 TERRACE STREET
PO BOX 536
MUSKEGON, MI 49443-0536

Applicant: BREWER ENTERPRISES II, INC.

Home Address And Phone No:
TERRI L. GARZA, 1386 FROST, MUSKEGON, MI 49442 H(231)777-2612/B(231)206-4295

Local Legislative approval is required for new and transferring On-Premises licenses by MCL 436. 1501 of the Michigan Liquor Control Code of 1998. Local approval is also required for DANCE, ENTERTAINMENT, DANCE-ENTERTAINMENT OR TOPLESS ACTIVITY permits by authority of MCL 436.1916.

For your convenience a resolution form is enclosed that includes a description of the licensing transaction requiring approval. The clerk should complete the resolution certifying that your decision of approval or disapproval of the application was made at an official meeting. **Please return the completed resolution to the Liquor Control Commission as soon as possible.**

If you have any questions, please contact the On-Premise Section of the Licensing Division as (517) -322-1400.

**PLEASE COMPLETE ENCLOSED RESOLUTION AND RETURN
TO THE LIQUOR CONTROL COMMISSION AT ABOVE ADDRESS**

sfs



Muskegon Police Department

Anthony L. Kleibecker
Director of Public Safety

980 Jefferson
Muskegon, Michigan
49443-0536

www.muskegonpolice.com

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

RECEIVED

JUN 12 2006

MUSKEGON POLICE DEPT.
CHIEF of POLICE

To: Tony Kleibecker, Director of Public Safety

From: Det. Kurt Dykman

Date: 06-9-06

Re: Liquor License Transfer

Chief Kleibecker,

The Muskegon Police Department has received a request from the Michigan Liquor Control Commission for an investigation from applicant Terri Garza of 817 Forest Street, Muskegon, MI. 49442 who is representing Brewer Enterprises II, Inc.

Terri Garza is requesting to transfer ownership of 2006 Class C-SDM licensed business with Dance from Timothy Brewer. Ms. Garza has had no experience in the alcohol service industry but has been made aware of the Muskegon Police Departments position on enforcing local alcohol laws and ordinances.

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

Respectfully submitted,

Det. Kurt Dykman

MM 3-24-06



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

POLICE INVESTIGATION REQUEST

[Authorized by MCL 436.1201(4)]

May 19, 2006

MUSKEGON POLICE DEPARTMENT
CHIEF OF POLICE
980 JEFFERSON STREET, PO BOX 536
MUSKEGON, MI 49443-0536

Request ID #: 356223

RECEIVED

MAY 30 2006

MUSKEGON POLICE DEPT.
CHIEF of POLICE

Applicant:

BREWER ENTERPRISES II, INC. REQUESTS TO TRANSFER ALL STOCK IN 2006 CLASS C-SDM LICENSED BUSINESS WITH DANCE PERMIT, LOCATED AT 817 FOREST, MUSKEGON, MI 49442, MUSKEGON COUNTY, WHEREIN TIMOTHY BREWER TRANSFERS 100 SHARES OF STOCK TO NEW STOCKHOLDER, TERRI L. GARZA.

Please make an investigation of the application. If you do not believe that the applicants are qualified for licensing, give your reasons in detail. Complete the Police Inspection Report on Liquor License Request, LC-1800, or for Detroit police, the Detroit Police Investigation of License Request, LC-1802. If there is not enough room on the front of the form, you may use the back.

Forward your report, along with fingerprint cards (if requested) and \$30.00 for each card to the Michigan Liquor Control Commission.

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

sfs

TERRIL GARZA 06-05
DANIEL L. GARZA
1386 FROST ST.
MUSKEGON, MI 49442

7A-6/724
7163925766

2854

DATE

6-5-06

PAY TO
the order of

City of Muskegon \$ 250.00
Two hundred fifty and 00/100 DOLLARS



Fifth Third Bank
(WESTERN MICHIGAN)
GRAND RAPIDS, MICHIGAN

MEMO

transfer fee

[Signature]

⑆072400052⑆ 7163925766⑈ 2854

FOREVER FREE

LIQUOR LICENSE REVIEW FORM

Business Name: Brewer Enterprises II, Inc.

AKA Business Name (if applicable): Brews + Cues

Operator/Manager's Name: _____

Business Address: 817 E Forest

Muskegon

Reason for Review:

New License ☐

Transfer of Ownership ☒

Dance Permit ☐

Drop/Add Name on License ☐

Transfer Location ☐

Drop/Add Stockholder Name ☐

New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety

Approved ☐

Denied ☐

No Action Needed ☐

Income Tax

Approved ☒

Owing ☐

Amount: _____

Treasurer

Approved ☐

Owing ☐

Amount: _____

Zoning

Approved ☐

Denied ☐

Pending ZBA ☐

Clerk's

Approved ☐

Owing ☐

Amount: _____

Fire/Inspections

Approved ☐

Denied ☐

Remaining Defects ☐

Department Signature

Clennett

Please return to the City Clerk's Office
Gail A. Kunding,
Liquor License Coordinator

LIQUOR LICENSE REVIEW FORM

Business Name: Brewer Enterprises II, Inc.

AKA Business Name (if applicable): Brews + Cues

Operator/Manager's Name: _____

Business Address: 817 E Forest

Muskegon

Reason for Review:

New License ☐

Transfer of Ownership ☒

Dance Permit ☐

Drop/Add Name on License ☐

Transfer Location ☐

Drop/Add Stockholder Name ☐

New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety

Approved ☐

Denied ☐

No Action Needed ☐

Income Tax

Approved ☐

Owing ☐

Amount: _____

Treasurer

Approved ☒

Owing ☐

Amount: _____

Zoning

Approved ☐

Denied ☐

Pending ZBA ☐

Clerk's

Approved ☐

Owing ☐

Amount: _____

Fire/Inspections

Approved ☐

Denied ☐

Remaining Defects ☐

Department Signature 

Please return to the City Clerk's Office
Gail A. Kunder, Coordinator
Liquor License Coordinator

LIQUOR LICENSE REVIEW FORM

Business Name: Brewer Enterprises II, Inc.

AKA Business Name (if applicable): Brews + Cues

Operator/Manager's Name: _____

Business Address: 817 E Forest

Muskegon

Reason for Review:

New License ☐

Transfer of Ownership ☒

Dance Permit ☐

Drop/Add Name on License ☐

Transfer Location ☐

Drop/Add Stockholder Name ☐

New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety

Approved ☐

Denied ☐

No Action Needed ☐

Income Tax

Approved ☐

Owing ☐

Amount: _____

Treasurer

Approved ☐

Owing ☐

Amount: _____

Zoning

Approved ☒

Denied ☐

Pending ZBA ☐

Clerk's

Approved ☐

Owing ☐

Amount: _____

Fire/Inspections

Approved ☐

Denied ☐

Remaining Defects ☐

Department Signature



Please return to the City Clerk's Office

Gail A. Kunding,

Liquor License Coordinator

LIQUOR LICENSE REVIEW FORM

Business Name: Brewer Enterprises II, Inc.

AKA Business Name (if applicable): Brews + Cues

Operator/Manager's Name: _____

Business Address: 817 E Forest

Muskegon

Reason for Review:

New License ☐

Transfer of Ownership ☒

Dance Permit ☐

Drop/Add Name on License ☐

Transfer Location ☐

Drop/Add Stockholder Name ☐

New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety

Approved ☐

Denied ☐

No Action Needed ☐

Income Tax

Approved ☐

Owing ☐

Amount: _____

Treasurer

Approved ☐

Owing ☐

Amount: _____

Zoning

Approved ☐

Denied ☐

Pending ZBA ☐

Clerk's

Approved ☒

Owing ☐

Amount: _____

Fire/Inspections

Approved ☐

Denied ☐

Remaining Defects ☐

Department Signature [Signature]

Please return to the City Clerk's Office
Gail A. Kunding,
Liquor License Coordinator

LIQUOR LICENSE REVIEW FORM

Business Name: Brewer Enterprises II, Inc.

AKA Business Name (if applicable): Brews + Cues

Operator/Manager's Name: _____

Business Address: 817 E Forest

Muskegon

Reason for Review:

New License ☐

Transfer of Ownership ☒

Dance Permit ☐

Drop/Add Name on License ☐

Transfer Location ☐

Drop/Add Stockholder Name ☐

New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety

Approved ☐

Denied ☐

No Action Needed ☐

Income Tax

Approved ☐

Owing ☐

Amount: _____

Treasurer

Approved ☐

Owing ☐

Amount: _____

Zoning

Approved ☐

Denied ☐

Pending ZBA ☐

Clerk's

Approved ☐

Owing ☐

Amount: _____

Fire/Inspections

Approved ☒

Denied ☐

Remaining Defects ☐

Facility subject to random inspection

for the purpose of Capacity Check
by fire officials.

Department Signature

Mary Michael

Please return to the City Clerk's Office
Gail A. Kunder,
Liquor License Coordinator

LIQUOR LICENSE REVIEW FORM

Business Name: Brewer Enterprises II, Inc.

AKA Business Name (if applicable): Brews + Cues

Operator/Manager's Name: _____

Business Address: 817 E Forest

Muskegon

Reason for Review:

New License ☐

Transfer of Ownership ☒

Dance Permit ☐

Drop/Add Name on License ☐

Transfer Location ☐

Drop/Add Stockholder Name ☐

New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety

Approved ☐

Denied ☐

No Action Needed ☐

Income Tax

Approved ☐

Owing ☐

Amount: _____

Treasurer

Approved ☐

Owing ☐

Amount: _____

Zoning

Approved ☐

Denied ☐

Pending ZBA ☐

Clerk's

Approved ☐

Owing ☐

Amount: _____

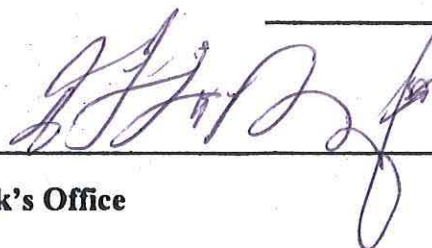
Fire/Inspections

Approved ☒

Denied ☐

Remaining Defects ☐

Department Signature



Please return to the City Clerk's Office
Gail A. Kunder,
Liquor License Coordinator

Affirmative Action
(231)724-6703
FAX: (231)722-1214

Assessor/Equalization
(231)724-6708
FAX: (231)726-5181

Cemetery Department
(231)724-6783
FAX: (231)726-5617

City Manager
(231)724-6724
FAX: (231)722-1214

Civil Service
(231)724-6716
FAX: (231)724-4405

Clerk
(231)724-6705
FAX: (231)724-4178

Community and
Neigh. Services
(231)724-6717
FAX: (231)726-2501

Computer Info.
Systems
(231)724-6744
FAX: (231)722-4301

Engineering Dept.
(231)724-6707
FAX: (231)727-6904

Finance Dept.
(231)724-6713
FAX: (231)724-6768

Fire Department
(231)724-6792
FAX: (231)724-6985

Income Tax
(231)724-6770
FAX: (231)724-6768

Inspection Services
(231)724-6715
FAX: (231)728-4371

Leisure Services
(231)724-6704
FAX: (231)724-1196

Mayor's Office
(231)724-6701
FAX: (231)722-1214

Planning/Zoning
(231)724-6702
FAX: (231)724-6790

Police Department
(231)724-6750
FAX: (231)722-5140

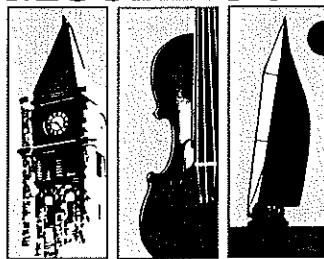
Public Works Dept.
(231)724-4100
FAX: (231)722-4188

Treasurer's Office
(231)724-6720
FAX: (231)724-6768

Water Billing Dept.
(231)724-6718
FAX: (231)724-6768

Water Filtration
(231)724-4106
FAX: (231)755-5290

MUSKEGON



West Michigan's Shoreline City

June 21, 2006

Mr. Steve Borstler, President
Oakview Neighborhood Assoc.
1255 Fleming
Muskegon, MI 49442

Dear Mr. Borstler:

We have received a letter from the Liquor Control Commission reference a request to transfer all stock in the 2006 Class C-SDM licensed business with dance permit at 817 E Forest (Brews & Cues) from Timothy Brewer to new stockholder Terri L. Garza. A SDM license permits the sale of beer and wine for consumption off the premises only; and a Class C license permits the sale of beer, wine, or liquor for consumption on the licensed premises. On Tuesday, June 27, 2006, the City Commission will review this request and determine whether or not it should be recommended for approval.

You are being sent this notice because the City Commission would like to know how the Neighborhood Association feels and would appreciate any comments that they may have. You may send these comments to 933 Terrace, Muskegon, MI 49440 or attend the City Commission Meeting on June 27, 2006, at 5:30 p.m. in the Commission Chambers.

If you have any questions, please feel free to contact me at 724-6705.

Sincerely,

A handwritten signature in cursive script that reads 'Linda Potter'.

Linda Potter
Deputy Clerk

Affirmative Action
(231)724-6703
FAX: (231)722-1214

Assessor/Equalization
(231)724-6708
FAX: (231)726-5181

Cemetery Department
(231)724-6783
FAX: (231)726-5617

City Manager
(231)724-6724
FAX: (231)722-1214

Civil Service
(231)724-6716
FAX: (231)724-4405

Clerk
(231)724-6705
FAX: (231)724-4178

Community and
Neigh. Services
(231)724-6717
FAX: (231)726-2501

Computer Info.
Systems
(231)724-6744
FAX: (231)722-4301

Engineering Dept.
(231)724-6707
FAX: (231)727-6904

Finance Dept.
(231)724-6713
FAX: (231)724-6768

Fire Department
(231)724-6792
FAX: (231)724-6985

Income Tax
(231)724-6770
FAX: (231)724-6768

Inspection Services
(231)724-6715
FAX: (231)728-4371

Leisure Services
(231)724-6704
FAX: (231)724-1196

Mayor's Office
(231)724-6701
FAX: (231)722-1214

Planning/Zoning
(231)724-6702
FAX: (231)724-6790

Police Department
(231)724-6750
FAX: (231)722-5140

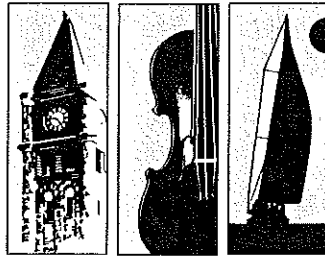
Public Works Dept.
(231)724-4100
FAX: (231)722-4188

Treasurer's Office
(231)724-6720
FAX: (231)724-6768

Water Billing Dept.
(231)724-6718
FAX: (231)724-6768

Water Filtration
(231)724-4106
FAX: (231)755-5290

MUSKEGON



West Michigan's Shoreline City

June 22, 2006

Ms. Terri L. Garza
1386 Frost
Muskegon, MI 49442

Dear Ms. Garza:

This letter is to inform you that your request to transfer all stock in the 2006 Class C-SDM Licensed Business with Dance Permit located at 817 Forest will be presented to the City Commission on June 27, 2006. This meeting begins at 5:30 p.m. and is located in the City Commission Chambers, 933 Terrace, Muskegon, MI.

This request has also been sent to the Oakview Neighborhood Association for their comments. It is Commission practice to let the Neighborhood Association know of any liquor license requests that are located within their boundaries. This allows for comments from the people who live there and not just from the owners of the business' who are located there.

Sincerely,

Linda Potter

Linda Potter
Deputy Clerk

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LIQUOR CONTROL COMMISSION

RESOLUTION
2006-55(c)

At a Regular meeting of the City Commission
(Regular or Special) (Township Board, City or Village Council)

called to order by Mayor Warmington on June 27, 2006 at 5:30 P.M.

The following resolution was offered:

Moved by Commissioner Spataro and supported by Commissioner Wierengo

That the request from BREWER ENTERPRISES II, INC. TO TRANSFER ALL STOCK IN 2006 CLASS C LICENSED BUSINESS WITH DANCE PERMIT, LOCATED AT 817 FOREST, MUSKEGON, MI 49442, MUSKEGON COUNTY, WHEREIN TIMOTHY BREWER TRANSFERS 100 SHARES OF STOCK TO NEW STOCKHOLDER, TERRI L. GARZA.

be considered for Approval
(Approval or Disapproval)

APPROVAL	DISAPPROVAL
Yeas: <u>7</u>	Yeas: _____
Nays: <u>0</u>	Nays: _____
Absent: <u>0</u>	Absent: _____

It is the consensus of this legislative body that the application be:

Recommended for issuance
(Recommended or not Recommended)

State of Michigan _____)
County of Muskegon _____)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the City Commission at a Regular
(Township Board, City or Village Council) (Regular or Special)

meeting held on June 27, 2006.
(Date)

SEAL

(Signed) Linda Potter
(Township, City or Village Clerk)
Linda Potter, CMC, Deputy Clerk
933 Terrace, Muskegon, MI 49440
(Mailing address of Township, City or Village)

Affirmative Action
616/724-6703

Assessor
616/724-6708

Cemetery
616/724-6783

Civil Service
616/724-6716

Clerk
616/724-6705

C. N. Services
616/724-6717

Engineering
616/724-6707

Finance
616/724-6713

Fire Dept.
616/724-6792

Income Tax
616/724-6770

Inspections
616/724-6715

Leisure Service
616/724-6704

Manager's Office
616/724-6724

Mayor's Office
616/724-6701

Planning/Zoning
616/724-6702

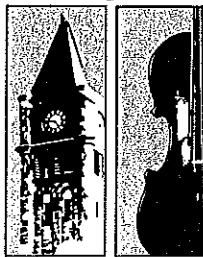
Police Dept.
616/724-6750

Public Works
616/726-4786

Treasurer
616/724-6720

Water Dept.
616/724-6718

MUSKEGON



West Michigan's Sh

June 30, 2006

Liquor Control Commission
7150 Harris
PO Box 30005
Lansing, MI 48909-7505

REF: Req ID #356223
Brewer Enterprises II, Inc.
817 Forest
Muskegon, MI 49442

To Whom It May Concern:

Enclosed is the Resolution, Form LC-1800, Local Law Enforcement Agency Report, print card and check for Brewer Enterprises II, Inc. This was recommended for approval at the June 27, 2006, City Commission Meeting.

Please do not hesitate to call me at (231) 724-6705 if you have any questions.

Sincerely,

Linda Potter

Linda Potter
Deputy Clerk

enc.

PS Form 3800, June 2002		See Reverse for Instructions	
Sent To LCC		Street, Apt. No., or PO Box No.	
City, State, Zip+4			
Postage		Certified Fee	
Return Receipt Fee (Endorsement Required)		Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees		\$ 4.58	
Postmark Here		JUN 30 2006	
Printed Name		C. Date of Delivery	
Delivery address below:		No	
Delivery different from item 1? ☐ Yes ☐ No			
Delivery address below:		No	
Delivery? (Extra Fee)		Yes	
154		102595-02-M-1540	

Date: June 27, 2006
To: Honorable Mayor and City Commissioners
From: Gail A. Kunding, City Clerk
RE: Liquor License Request
Clay Avenue Cellars, Inc., 611 Clay

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Clay Avenue Cellars, Inc., for a new Small Wine Maker License to be located at 611 Clay Avenue.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.



Muskegon Police Department

Anthony L. Kleibecker
Director of Public Safety

980 Jefferson
Muskegon, Michigan
49443-0536

www.muskegonpolice.com

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

June 9, 2004

To: City Commission through the City Manager

From: 
Anthony L. Kleibecker, Director of Public Safety

Re: Liquor License Request – 611 Clay Avenue Inc.
New Small Wine Makers License

The Muskegon Police Department has received a request from the Michigan Liquor Control Commission for an investigation of applicant Clay Avenue Inc., comprised of Robert Rajewski of 1873 Harrison Ave. and Garrett Anguilm of 2835 Beach Street; both residence of the City of Muskegon.

Clay Avenue Inc. requests a New Small Wine Makers License to be located at 611 Clay Avenue, Muskegon MI 49440. Neither applicants have experience in the alcohol industry but are aware of the Muskegon Police Department's position on enforcing local alcohol laws and ordinances.

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

ALK/kd

STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
LIQUOR CONTROL COMMISSION
7150 Harris Drive
P.O. Box 30005
Lansing, MI 48909-7505

LAR
6-1-06

LOCAL APPROVAL NOTICE

(Authorized by MCL 436.1501(2) and MAC 1105(2) (d))

Request ID: 362046

Date: May 3, 2006

To: Muskegon City Council
P.O. Box 536
Muskegon, MI 49443-0536

Applicant: Clay Avenue Cellars, Inc.

Stockholders: Robert R. Rajewski & Garrett D. Anguilm, Jr.

Local Legislative approval is required for new and transferring On-Premises licenses by MCL 436. 1501 of the Michigan Liquor Control Code of 1998. Local approval is also required for DANCE, ENTERTAINMENT, DANCE-ENTERTAINMENT OR TOPLESS ACTIVITY permits by authority of MCL 436.1916.

For your convenience a resolution form is enclosed that includes a description of the licensing transaction requiring approval. The clerk should complete the resolution certifying that your decision of approval or disapproval of the application was made at an official meeting. **Please return the completed resolution to the Liquor Control Commission as soon as possible.**

If you have any questions, please contact Teresa Whitehead of the Licensing Division at (517) 322-1415.

**PLEASE COMPLETE ENCLOSED RESOLUTION AND RETURN
TO THE LIQUOR CONTROL COMMISSION AT ABOVE ADDRESS**

STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
LIQUOR CONTROL COMMISSION

12 AR
6-1-06

RESOLUTION

At a Regular meeting of the City Commission
(Regular or Special) (Township Board, City or Village Council)

called to order by Mayor Warmington on June 27, 2006 at 5:30 P.M.

The following resolution was offered:

Moved by Commissioner Spataro and supported by Commissioner Wierengo

That the request from CLAY AVENUE CELLARS, INC. for a new Small Wine Maker License to be located at 611 W Clay Ave, Muskegon, Muskegon County

be considered for Approval
(Approval or Disapproval)

APPROVAL

DISAPPROVAL

Yeas: 7

Yeas: _____

Nays: 0

Nays: _____

Absent: 0

Absent: _____

It is the consensus of this legislative body that the application be:

Recommended for issuance
(Recommended or not Recommended)

State of Michigan _____)

County of Muskegon _____)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the City Commission at a Regular
(Township Board, City or Village Council) (Regular or Special)

meeting held on June 27, 2006.
(Date)

SEAL

(Signed) Linda Potter
(Township, City or Village Clerk)
Linda Potter, CMC
Deputy Clerk
933 Terrace, Muskegon, MI 49440
(Mailing address of Township, City or Village)

POLICE INSPECTION REPORT ON LIQUOR LICENSE REQUEST
(Authorized by MCL 436.1217)

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

LAR
6-1-06

Important: Please conduct your investigation as soon as possible and complete all four sections of this report.
Return the completed report and fingerprint cards to the Commission.

BUSINESS NAME AND ADDRESS: (include zip code)

Clay Avenue Cellars, Inc.
611 W Clay Ave, Muskegon, MI 49440

Request ID: 362046

REQUEST FOR:

New Small Wine Maker License to be located at the above address in Muskegon County *& Direct Connection Permit*

Section 1.

APPLICANT INFORMATION

APPLICANT #1:

Robert R. Rajewski

APPLICANT #2:

Garrett D. Anguilm, Jr.

HOME ADDRESS AND AREA CODE/PHONE NUMBER:

1873 Harrison Ave, Muskegon, MI 49441
(231) 730-3886

2835 Beach St., Muskegon, MI 49441
(231) 755-3799

DATE OF BIRTH: February 14, 1964

If the applicant is not a U.S. Citizen:

☐ Does the applicant have permanent Resident Alien status?
☐ Yes ☐ No

☐ Does the applicant have a Visa? Enter status:

Date fingerprinted: *6-5-06*

DATE OF BIRTH: September 10, 1949

If the applicant is not a U.S. Citizen:

☐ Does the applicant have permanent Resident Alien status?
☐ Yes ☐ No

☐ Does the applicant have a Visa? Enter status:

Date fingerprinted: *6-6-06*

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 & convictions (attach a signed and dated report if more space is needed)

ARREST RECORD: ☐ Felony ☐ Misdemeanor

Enter record of all arrests & convictions (attach a signed and dated report if more space is needed)

Section 2.

Investigation of Business and Address to be Licensed

Does applicant intend to have dancing or entertainment?

☒ No ☐ Yes, complete LC-693N, Police Investigation Report: Dance/Entertainment Permit

Are gas pumps on the premises or directly adjacent? ☒ 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 you are recommending approval subject to certain conditions, list the conditions: (attach a signed and dated report if more space is needed)

Section 4.

Recommendation

From your investigation:

1. Is this applicant qualified to conduct this business if licensed? ☒ Yes ☐ No

2. Is the proposed location satisfactory for this business? ☒ Yes ☐ No

3. Should the Commission grant this request? ☒ Yes ☐ No

4. If any of the above 3 questions were answered no, state your reasons: (Attach a signed and dated report if more space is needed)

[Signature]
Signature (Sheriff or Chief of Police)

6-12-06
Date

Muskegon City Police



Muskegon Police Department

Anthony L. Kleibecker
Director of Public Safety

980 Jefferson
Muskegon, Michigan
49443-0536

www.muskegonpolice.com

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

RECEIVED

JUN 12 2006

MUSKEGON POLICE DEPT.
CHIEF of POLICE

To: Tony Kleibecker, Director of Public Safety

From: Det. Kurt Dykman

Date: 06-9-06

Re: Liquor License Transfer

Chief Kleibecker,

The Muskegon Police Department has received a request from the Michigan Liquor Control Commission for an investigation from Clay Avenue Cellars, Inc. of 611 Clay Avenue, Muskegon, MI. 49440 who is represented by applicants Robert Rajewski and Garrett Anguilm Jr.

The representatives of Clay Avenue Cellars Inc. are requesting a New Small Wine Makers License and one (1) Direct Connect to be located at 611 Clay Avenue. The wine making process will be located in the basement of the above mentioned location and will not be open to the public. The wine will be sold to the public on the main level of 611 Clay Avenue. Neither applicant has experience in the alcohol industry but has been made aware of the Muskegon Police Departments position on enforcing local alcohol laws and ordinances.

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

Respectfully submitted,

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 REQUEST
[Authorized by MCL 436.1201(4)]

LAR
6-1-06

May 3, 2006

To: Muskegon City Police
P.O. Box 536
Muskegon, MI 49443-0536

Request ID #: 362046

Applicant: Clay Avenue Cellars, Inc.
611 W Clay Ave
Muskegon, MI 49440

Please make an investigation of the application. If you do not believe that the applicants are qualified for licensing, give your reasons in detail. Complete the Police Inspection Report on Liquor License Request, LC-1800, or for Detroit police, the Detroit Police Investigation of License Request, LC-1802. If there is not enough room on the front of the form, you may use the back.

Forward your report, along with fingerprint cards (if requested) and \$30.00 for each card to the Michigan Liquor Control Commission.

If you have any questions, contact the Manufacturers & Wholesalers at (517) 322-1415

CLAY AVENUE CELLARS, INC.

611 W CLAY AVE
MUSKEGON, MI 49440

9-91 740
720
984208276

1004

DATE 6-6-06

PAY TO THE
ORDER OF

City of Muskegon

\$250.00

Two Hundred Fifty Dollars ⁰⁰/₁₀₀ DOLLARS

Security Features
Include
Optical Scan

National City.

National City Bank of the Midwest
Kalamazoo, Michigan

MEMO

License Fee

Harold D. Anguino Jr. RP

⑆072000915⑆ 984208276⑈ 1004

LIQUOR LICENSE REVIEW FORM

Business Name: Clay Avenue Cellars, Inc.

AKA Business Name (if applicable): _____

Operator/Manager's Name: Robert R. Rajewski & Garrett D. Anguilm, Jr.

Business Address: 611 W. Clay Ave.
Muskegon, MI

Reason for Review:

New License ☒ Transfer of Ownership ☐ Dance Permit ☐

Drop/Add Name on License ☐ Transfer Location ☐

Drop/Add Stockholder Name ☐ New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety Approved ☒ Denied ☐ No Action Needed ☐

Income Tax Approved ☐ Owing ☐ Amount: _____

Treasurer Approved ☐ Owing ☐ Amount: _____

Zoning Approved ☐ Denied ☐ Pending ZBA ☐

Clerk's Approved ☐ Owing ☐ Amount: _____

Fire/Inspections Approved ☐ Denied ☐ Remaining Defects ☐

Department Signature J. L. Klebl

Please return to the City Clerk's Office
Gail A. Kundinger,
Liquor License Coordinator

LIQUOR LICENSE REVIEW FORM

Business Name: Clay Avenue Cellars, Inc.

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Treasurer Approved ☐ Owing ☐ Amount: _____

Zoning Approved ☐ Denied ☐ Pending ZBA ☐

Clerk's Approved ☐ Owing ☐ Amount: _____

Fire/Inspections Approved ☐ Denied ☐ Remaining Defects ☐

Department Signature _____

Please return to the City Clerk's Office
Gail A. Kunding,
Liquor License Coordinator

LIQUOR LICENSE REVIEW FORM

Business Name: Clay Avenue Cellars, Inc.

AKA Business Name (if applicable): _____

Operator/Manager's Name: Robert R. Rajewski & Garrett D. Appelm, Jr.

Business Address: 611 W. Clay Ave.
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Drop/Add Name on License ☐ Transfer Location ☐

Drop/Add Stockholder Name ☐ New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety Approved ☐ Denied ☐ No Action Needed ☐

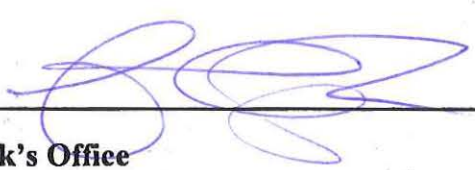
Income Tax Approved ☐ Owing ☐ Amount: _____

Treasurer Approved ☒ Owing ☐ Amount: _____

Zoning Approved ☐ Denied ☐ Pending ZBA ☐

Clerk's Approved ☐ Owing ☐ Amount: _____

Fire/Inspections Approved ☐ Denied ☐ Remaining Defects ☐

Department Signature 

Please return to the City Clerk's Office
Gail A. Kunding,
Liquor License Coordinator

RECEIVED

JUN 0 2006

CITY OF MUSKEGON
PLANNING DEPARTMENT

LIQUOR LICENSE REVIEW FORM

Business Name: Clay Avenue Cellars, Inc.

AKA Business Name (if applicable): _____

Operator/Manager's Name: Robert R. Rajewski & Garrett D. Anguilm, Jr.Business Address: 611 W. Clay Ave.
Muskegon, MI

Reason for Review:

New License ☒ Transfer of Ownership ☐ Dance Permit ☐Drop/Add Name on License ☐ Transfer Location ☐Drop/Add Stockholder Name ☐ New Entertainment Permit ☐

Other _____

Deadline for receipt of all information: _____

Public Safety Approved ☐ Denied ☐ No Action Needed ☐Income Tax Approved ☐ Owing ☐ Amount: _____Treasurer Approved ☐ Owing ☐ Amount: _____Zoning Approved ☒ Denied ☐ Pending ZBA ☐Clerk's Approved ☐ Owing ☐ Amount: _____Fire/Inspections Approved ☐ Denied ☐ Remaining Defects ☐

Department Signature

[Signature]

Please return to the City Clerk's Office

Gail A. Kundinger,

Liquor License Coordinator

LIQUOR LICENSE REVIEW FORM

Business Name: Clay Avenue Cellars, Inc.

AKA Business Name (if applicable): _____

Operator/Manager's Name: Robert R. Rajewski & Garrett D. Anguilm, Jr.

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Zoning Approved ☐ Denied ☐ Pending ZBA ☐

Clerk's Approved ☒ Owing ☐ Amount: _____

Fire/Inspections Approved ☐ Denied ☐ Remaining Defects ☐

Department Signature _____

Please return to the City Clerk's Office
Gail A. Kunding,
Liquor License Coordinator

LIQUOR LICENSE REVIEW FORM

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Zoning Approved ☐ Denied ☐ Pending ZBA ☐

Clerk's Approved ☐ Owing ☐ Amount: _____

Fire/Inspections Approved ☒ Denied ☐ Remaining Defects ☐

Site and Facility

Inspection required.

Department Signature Megan M. [Signature]

Please return to the City Clerk's Office
Gail A. Kundinger,
Liquor License Coordinator

LIQUOR LICENSE REVIEW FORM

Business Name: Clay Avenue Cellars, Inc.

AKA Business Name (if applicable): _____

Operator/Manager's Name: Robert R. Rajewski & Garrett D. Appelm, Jr.

Business Address: 611 W. Clay Ave.
Muskegon, MI

Reason for Review:

New License ☒

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Drop/Add Name on License ☐

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Drop/Add Stockholder Name ☐

New Entertainment Permit ☐

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Zoning Approved ☐ Denied ☐ Pending ZBA ☐

Clerk's Approved ☐ Owing ☐ Amount: _____

Fire/Inspections Approved ☒ Denied ☐ Remaining Defects ☐

Department Signature 

Please return to the City Clerk's Office
Gail A. Kunder,
Liquor License Coordinator

Affirmative Action
(231)724-6703
FAX: (231)722-1214

Assessor/Equalization
(231)724-6708
FAX: (231)726-5181

Cemetery Department
(231)724-6783
FAX: (231)726-5617

City Manager
(231)724-6724
FAX: (231)722-1214

Civil Service
(231)724-6716
FAX: (231)724-4405

Clerk
(231)724-6705
FAX: (231)724-4178

Community and
Neigh. Services
(231)724-6717
FAX: (231)726-2501

Computer Info.
Systems
(231)724-6744
FAX: (231)722-4301

Engineering Dept.
(231)724-6707
FAX: (231)727-6904

Finance Dept.
(231)724-6713
FAX: (231)724-6768

Fire Department
(231)724-6792
FAX: (231)724-6985

Income Tax
(231)724-6770
FAX: (231)724-6768

Inspection Services
(231)724-6715
FAX: (231)728-4371

Leisure Services
(231)724-6704
FAX: (231)724-1196

Mayor's Office
(231)724-6701
FAX: (231)722-1214

Planning/Zoning
(231)724-6702
FAX: (231)724-6790

Police Department
(231)724-6750
FAX: (231)722-5140

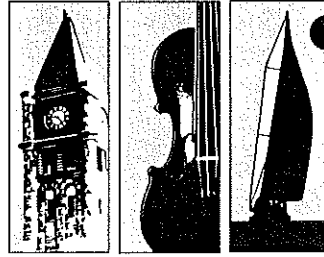
Public Works Dept.
(231)724-4100
FAX: (231)722-4188

Treasurer's Office
(231)724-6720
FAX: (231)724-6768

Water Billing Dept.
(231)724-6718
FAX: (231)724-6768

Water Filtration
(231)724-4106
FAX: (231)755-5290

MUSKEGON



West Michigan's Shoreline City

June 21, 2006

Mr. Larry Spataro, President
Nelson Neighborhood Assoc.
1567 Sixth
Muskegon, MI 49441

Dear Mr. Spataro:

We have received a letter from the Liquor Control Commission reference a request from Clay Avenue Cellars, Inc., for a new Small Wine Maker License to be located at 611 Clay Avenue. On Tuesday, June 27, 2006, the City Commission will review this request and determine whether or not it should be recommended for approval.

You are being sent this notice because the City Commission would like to know how the Neighborhood Association feels and would appreciate any comments that they may have.

If you have any questions, please feel free to contact me at 724-6705.

Sincerely,

Linda Potter

Linda Potter
Deputy Clerk

Affirmative Action
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FAX: (231)722-1214

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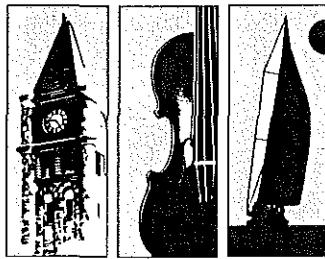
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FAX: (231)724-6768

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(231)724-6718
FAX: (231)724-6768

Water Filtration
(231)724-4106
FAX: (231)755-5290

MUSKEGON



West Michigan's Shoreline City

June 22, 2006

Mr. Garrett Anguilm, Jr.
2835 Beach Street
Muskegon, MI 49441

Dear Garrett:

This letter is to inform you that your request for a New Small Wine Maker License to be located at 611 W. Clay Avenue will be presented to the City Commission on June 27, 2006. This meeting begins at 5:30 p.m. and is located in the City Commission Chambers, 933 Terrace, Muskegon, MI.

This request has also been sent to the Nelson Neighborhood Association for their comments. It is Commission practice to let the Neighborhood Association know of any liquor license requests that are located within their boundaries. This allows for comments from the people who live there and not just from the owners of the business' who are located there.

Sincerely,

Linda Potter

Linda Potter
Deputy Clerk

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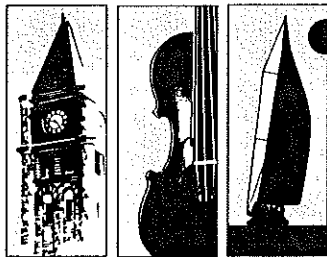
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Water Billing Dept.
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FAX: (231)724-6768

Water Filtration
(231)724-4106
FAX: (231)755-5290

MUSKEGON



West Michigan's Shoreline City

June 22, 2006

Mr. Robert R. Rajewski
1873 Harrison Avenue
Muskegon, MI 49441

Dear Mr. Rajewski:

This letter is to inform you that your request for a New Small Wine Maker License to be located at 611 W. Clay Avenue will be presented to the City Commission on June 27, 2006. This meeting begins at 5:30 p.m. and is located in the City Commission Chambers, 933 Terrace, Muskegon, MI.

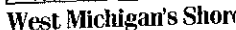
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Sincerely,

Linda Potter

Linda Potter
Deputy Clerk

Water Filtration
(231)724-4106
FAX: (231)755-5290



Domestic Return Receipt

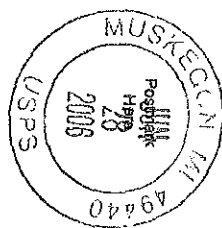
☐ Return Receipt for Merchandise
☐ C.O.D.

my? (Extra Fee) ☐ Yes

148

7006 0100 0004 8340 7848

Postage	7
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 4.88



U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only. No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com.
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SECTION ON DELIVERY

☐ Agent
☐ Addressee

Printed Name) C. Date of Delivery

Is different from items in the DMKSCAN
every address below: ☐ No

JUN 29 2006

ST. LOUIS, MISSOURI 63101
 DRUGS, MICHIGAN 48909

☐ Express Mail
☐ Return Receipt for Merchandise
☐ C.O.D.

☐ Yes

二五

enc.

City of Muskegon, 933 Terrace Street, P.O. Box 536, Muskegon, MI 49443-0536
www.shorelinecity.com

CITY COMMISSION MEETING

June 27, 2006

TO: Honorable Mayor and City Commissioners
FROM: Karen Scholle, Civil Service Personnel Director
DATE: June 15, 2006
RE: 2005 3rd Quarter Suggestion Award Winner

SUMMARY OF REQUEST:

The Employee Suggestion Award Committee requests that the 2005 3rd quarter award go to Firefighter Brian Davis for his proposal to store the Fire Department's boat on City property rather than pay a fee for off-site storage.

FINANCIAL IMPACT:

Estimated savings are \$450 annually. (This suggestion already has been implemented.)

BUDGET ACTION REQUIRED:

None.

COMMITTEE RECOMMENDATION:

The committee recommends honoring Firefighter Davis with the 2005 3rd quarter Employee Suggestion Award.

STAFF RECOMMENDATION:

Staff supports the committee recommendation and requests approval of this award.

CITY COMMISSION MEETING

June 27, 2006

TO: Honorable Mayor and City Commissioners
FROM: Karen Scholle, Civil Service Personnel Director
DATE: June 6, 2006
RE: 2005 4th Quarter Suggestion Award Winner

SUMMARY OF REQUEST:

The Employee Suggestion Award Committee requests that the 2005 4th quarter award go to Cemetery Customer Service Representative Teresa Moore for her proposal to discontinue the City's practice of buying back sold but now unwanted cemetery plots and implement a fee-for-service when assisting with the resale of grave sites.

Based on the 2005 grave buy-back expenditures of \$7,000, this will result in a like savings during 2006. Additionally, based on the \$7,000 grave value, the City will realize a gain of the 20% commission fee for service when assisting plot owners resell their grave sites, for income on approximately \$1,400.

FINANCIAL IMPACT:

This amounts to approximately \$8,400 annually in savings and revenue for the City. (This suggestion already has been implemented.)

BUDGET ACTION REQUIRED:

None.

COMMITTEE RECOMMENDATION:

The committee recommends honoring Cemetery Customer Service Representative Teresa Moore with the 2005 4th quarter Employee Suggestion Award.

STAFF RECOMMENDATION:

Staff supports the committee recommendation and requests approval of this award.

CITY COMMISSION MEETING

June 27, 2006

TO: Honorable Mayor and City Commissioners
FROM: Karen Scholle, Civil Service Personnel Director
DATE: June 15, 2006
RE: 2006 1st Quarter Suggestion Award Winner

SUMMARY OF REQUEST:

The Employee Suggestion Award Committee requests that the 2006 1st quarter award go to Building Maintenance Supervisor J. R. Gann for his proposal to install a forced air heating system in the Evergreen Cemetery mausoleum.

FINANCIAL IMPACT:

Estimated savings are \$400-700 per month, depending on seasonal heating needs, for a total annual savings of \$4,800 to \$8,400. (This suggestion already has been implemented.)

BUDGET ACTION REQUIRED:

None.

COMMITTEE RECOMMENDATION:

The committee recommends honoring Building Maintenance Supervisor J. R. Gann with the 2006 1st quarter Employee Suggestion Award.

STAFF RECOMMENDATION:

Staff supports the committee recommendation and requests approval of this award.

Memo

To: City Commission

From: Finance Director

Date: June 27, 2006

Re: Construction of Clubroom Facility at LC Walker Arena - Update

Bids for construction of the LC Walker Arena clubroom were opened on Friday, June 23rd. Although interest in the project was high and bidding was strong, results were disappointing, with the low bid coming in much higher than the \$300,000 project estimate:

Bidder	Location	Base Bid	Equipment	Total
Muskegon Quality Builders	Muskegon	\$403,600	\$28,123	\$431,723
Clifford Buck	Muskegon	418,000	27,898	445,898
Tridonn	Muskegon	454,305	33,695	488,000
Winberg	Whitehall	457,400	Included	457,400
Triangle	GR	462,000	Included	462,000
Muskegon Construction	Muskegon	478,200	Included	478,200
For Total Project Cost Add: A & D (previously approved) =>				18,750

The primary sources for the cost discrepancy are higher than anticipated costs for: 1) electrical to bring service to the required elevator, 2) HVAC costs, and 3) outfitting the food preparation area.

Date: June 27, 2006

To: Honorable Mayor and City Commissioners

From: Finance Director

RE: LC Walker Clubroom Facility

SUMMARY OF REQUEST: Bids will be opened on Friday, June 23rd for construction of a clubroom facility at the LC Walker Arena. It should be noted that the window to construct the facility before the start of next season is very tight so it is important that a decision not be delayed.

FINANCIAL IMPACT: If the Commission decides to proceed with the Clubroom, the following financial impacts are anticipated:

1. annual management fee paid by the city to AMG under the new operations contract decreases from \$235,000 to \$210,000;
2. a 15-year \$300,000 (3% interest) interfund loan would be made from the Equipment Fund to the LC Walker Arena fund to finance construction costs; and,
3. monthly debt service payments in the amount of \$2,071.74 (\$24,861/yr) would be made to repay the interfund loan.

Additionally, of course, it is anticipated the project will financially strengthen the Walker Arena and complement and enhance redevelopment of the downtown.

BUDGET ACTION REQUIRED: The budget will be adjusted as described above depending on the Commission's decision.

STAFF RECOMMENDATION: Provided construction bids are reasonably close to estimates and allow the project to be completed within budget (\$300,000), staff recommends approval.

COMMITTEE RECOMMENDATION: None.

Memo

To: City Commission

From: Finance Director

Date: June 20, 2006

Re: Construction of Clubroom Facility at LC Walker Arena

The City Commission previously authorized staff to engage an architect and solicit bids for construction of a clubroom facility at the Western Avenue end of the LC Walker Arena. The clubroom will seat 80-90 patrons and will be situated above the Western Avenue entrance where the large windows are. On the interior, the clubroom will have large windows providing overhead views of events on the Arena floor. Also, TVs will be utilized to help attract arena patrons who might otherwise stay at home to watch a competing sports event.

Construction bids will be opened on Friday, June 23rd and brought to the Commission on Tuesday, June 27th.

Project Rationale

For many years the city has subsidized the LC Walker Arena. The subsidy (totaling more than \$3.0 million over the last 10 years) has not resulted in any revenue-generating investment in the building; rather the money has simply gone to pay routine operating costs.

One of the challenges I have asked the arena manager to focus on is to come up with capital investment ideas that stood a good chance of generating positive cashflow. The thinking is to have some of the City's operating subsidy dollars shifted to capital investment that could generate new, long-term operating revenues.

A second ice sheet was the first project seriously explored but this was determined to be too costly (>\$2.0 million) and risky with too many hurdles to overcome (property acquisition, etc.). The "clubroom" idea was next explored and this concept appeared much more promising based on successful ventures in other arenas and on the much lower estimated project cost (\$300,000). The idea was eventually incorporated into the new arena management agreement.

Project Budget & Financing

The new management agreement provides for a fixed annual management fee of \$235,000; however, if the city constructs the clubroom facility, the annual fee is lowered to \$210,000. The \$25,000 difference approximates the annual debt service required to finance the \$300,000 clubroom over 15 years. In essence, if the city decides to construct the facility, \$25,000 of the city's subsidy is shifted to a capital investment.

Originally it was anticipated that the \$300,000 cost would be financed as part of the bond issue for a new fire station. However, it was soon determined that doing so would severely tie our hands with IRS regulations. (These are the same IRS rules we have worked hard to extract ourselves from in negotiating a new incentive-based management agreement.)

Accordingly, we are proposing to finance the clubroom via an interfund loan from the city's equipment fund (similar to the loan previously made for energy improvements at the arena). Annual debt service is estimated to be \$24,861 with monthly payments of \$2,071.74.

Risk and Other Issues

Proceeding with this project clearly is not without risk to the city. The chief risk is that the city will need to continue making debt payments regardless of what happens to the facility or tenants. This risk is reduced over time and we have included a provision in the management agreement that requires the arena manager to pay four years debt service if they do not maintain a professional hockey franchise at the arena. Also, it is believed that sponsorship/naming rights for the clubroom can be monetized to help defray debt service costs.

Provided bids come in near our estimate, staff believes the risk entailed in this project is reasonable. The clubroom will make the arena a more attractive and competitive venue which will help both in retention of current tenants and in marketing to new tenants.

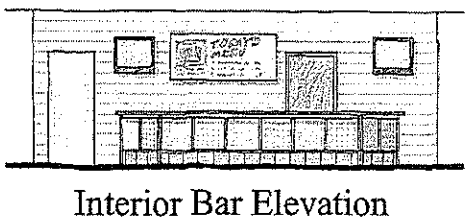
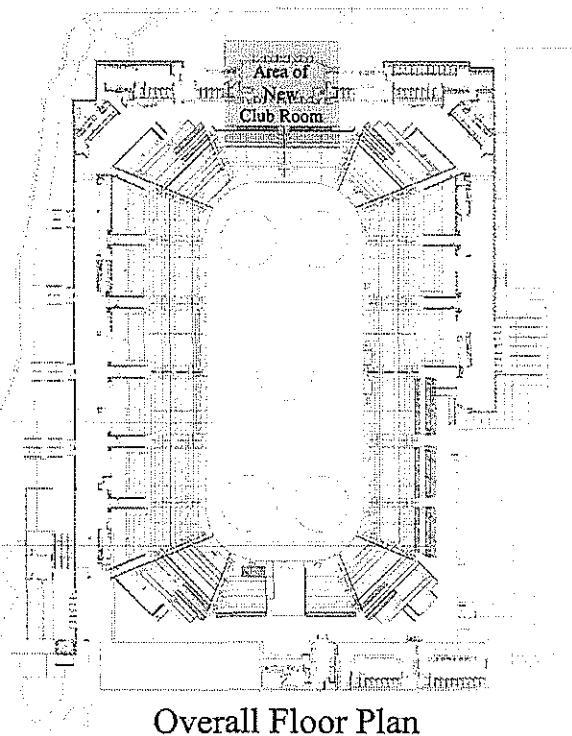
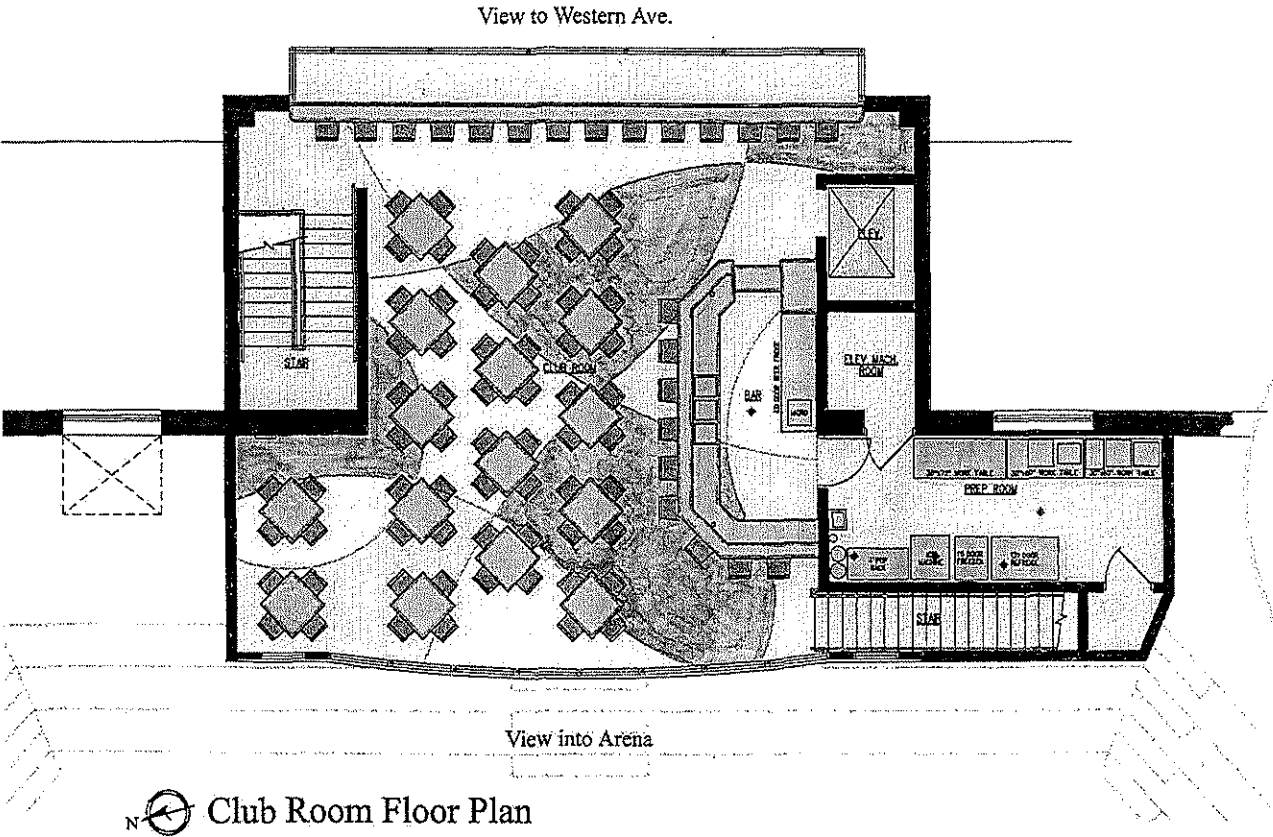
Another issue that has been raised is competition with private establishments in the area. While this is a legitimate concern, staff believes the clubroom will generate new business for the entire area, not just take traffic away from other establishments. Moreover, a healthy arena is vital to the health of all the area establishments. Staff from AMG has met with owners of the surrounding establishments to address their concerns.

Please let me know if you have any questions regarding this matter.

Thank you.

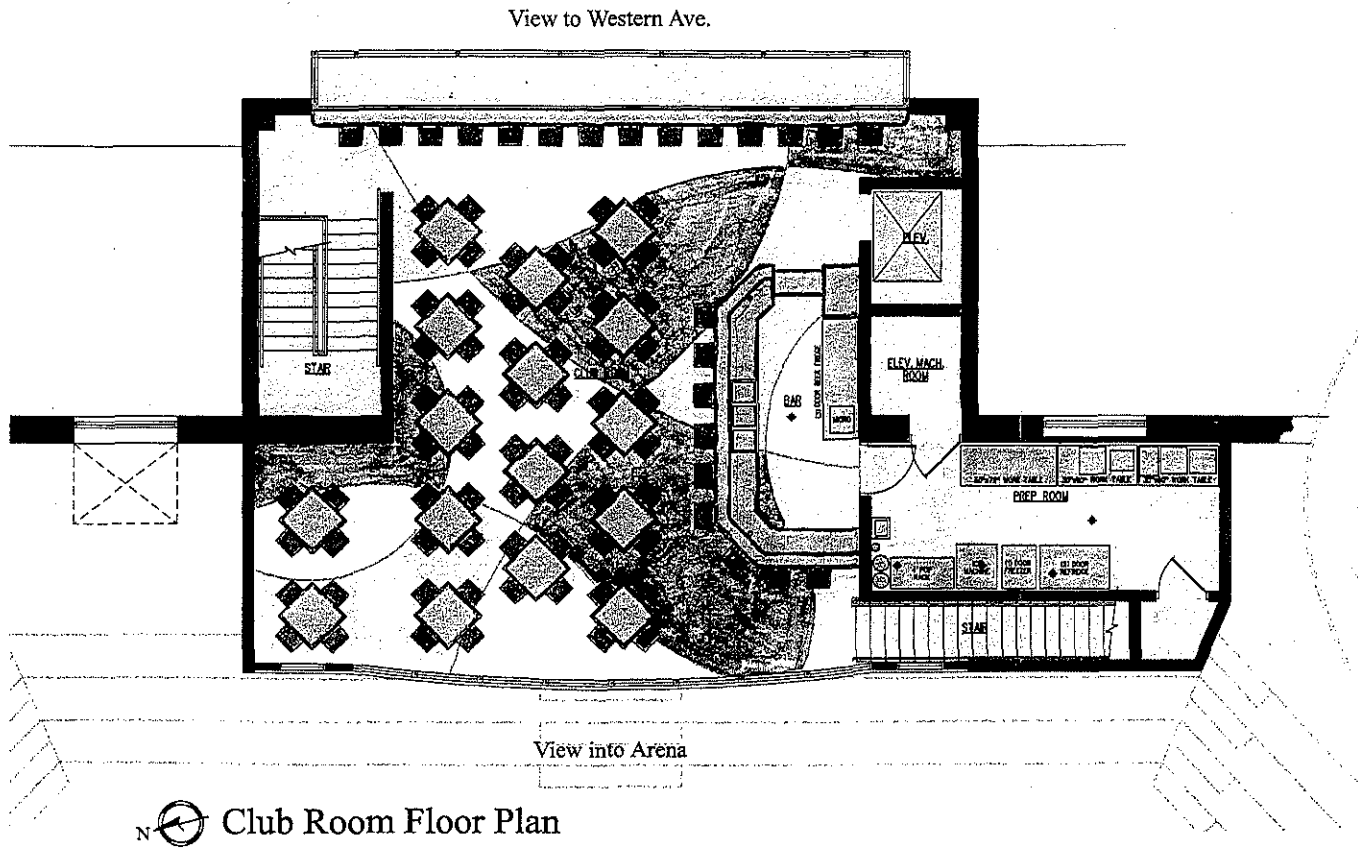
LC Walker Arena Club Room

HOOKER | DEJONG architects & engineers

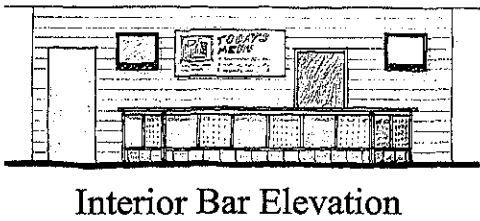
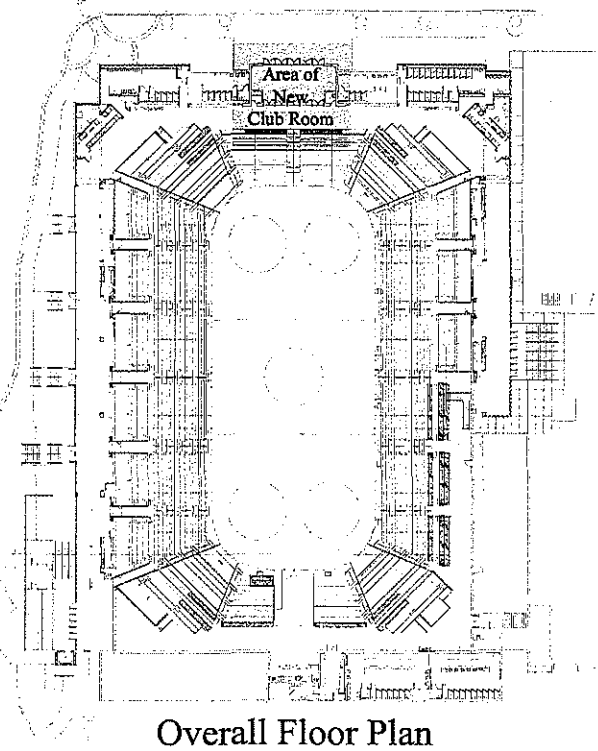


LC Walker Arena Club Room

HOOKER | DEJONG architects & engineers



LC Walker arena



Commission Meeting Date: June 27, 2006

Date: June 16, 2006
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development *CB*
RE: Request for Final Planned Unit Development approval for Phase I at 444 Irwin Avenue.

SUMMARY OF REQUEST:

The request for Final Planned Unit Development (PUD) approval at 444 Irwin Avenue is for a mixed use, commercial, office, and religious development. The request is by Douglas Malear, Hope Lighthouse Church.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends final approval of the PUD provided that the conditions listed in the attached resolution are met.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the Preliminary PUD and Phase I of the final PUD, with the conditions listed on the attached resolution, at their June 15, 2006 meeting. The vote was unanimous, with T. Harryman and B. Smith absent.

CITY OF MUSKEGON

RESOLUTION #2006- 57(b)

RESOLUTION FOR FINAL PLANNED UNIT DEVELOPMENT APPROVAL FOR 444 IRWIN AVENUE.

WHEREAS, a petition for a planned unit development was received from Douglas Malear, Hope Lighthouse Church; and,

WHEREAS, a planned unit development will allow a mixed use commercial, office and religious development; and,

WHEREAS, proper notice was given by mail and publication and public hearings were held by the City Planning Commission and by the City Commission to consider said petition, during which all interested persons were given an opportunity to be heard in accordance with provisions of the Zoning Ordinance and State Law; and

WHEREAS, the Planning Commission and staff have recommended approval of the Phase I of the Final Planned Unit Development and associated conceptual site plan, with conditions as follows:

1. An amended site plan addressing the staff concerns listed in #5 of the staff report be submitted and approved by the Planning Department.
2. No other uses be allowed on the site until further phases of the PUD are approved.

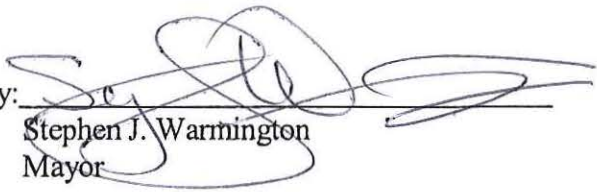
NOW, THEREFORE, BE IT RESOLVED that the recommendation by staff and the City Planning Commission be accepted and Phase I of the final planned unit development is hereby approved.

Adopted this 27th day of June, 2006

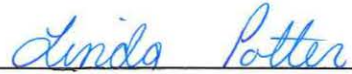
Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Carter, Davis

Nays: None

Absent: None

By: 

Stephen J. Warmington
Mayor

Attest: 

Linda Potter, CMC
Deputy City Clerk

CERTIFICATE (Final PUD Phase I for 444 Irwin Avenue.)

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 a resolution adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 27th day of June, 2006, 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: July 7, 2006.

Linda Potter

Linda Potter, CMC
Deputy City Clerk

Staff Report [EXERPT]
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

June 15, 2006

Hearing; Case 2006-19: Request for final Planned Unit Development approval for Phase I (commercial, office and church) for 444 Irwin Avenue, by Douglas Malear, Hope Lighthouse Church.

BACKGROUND

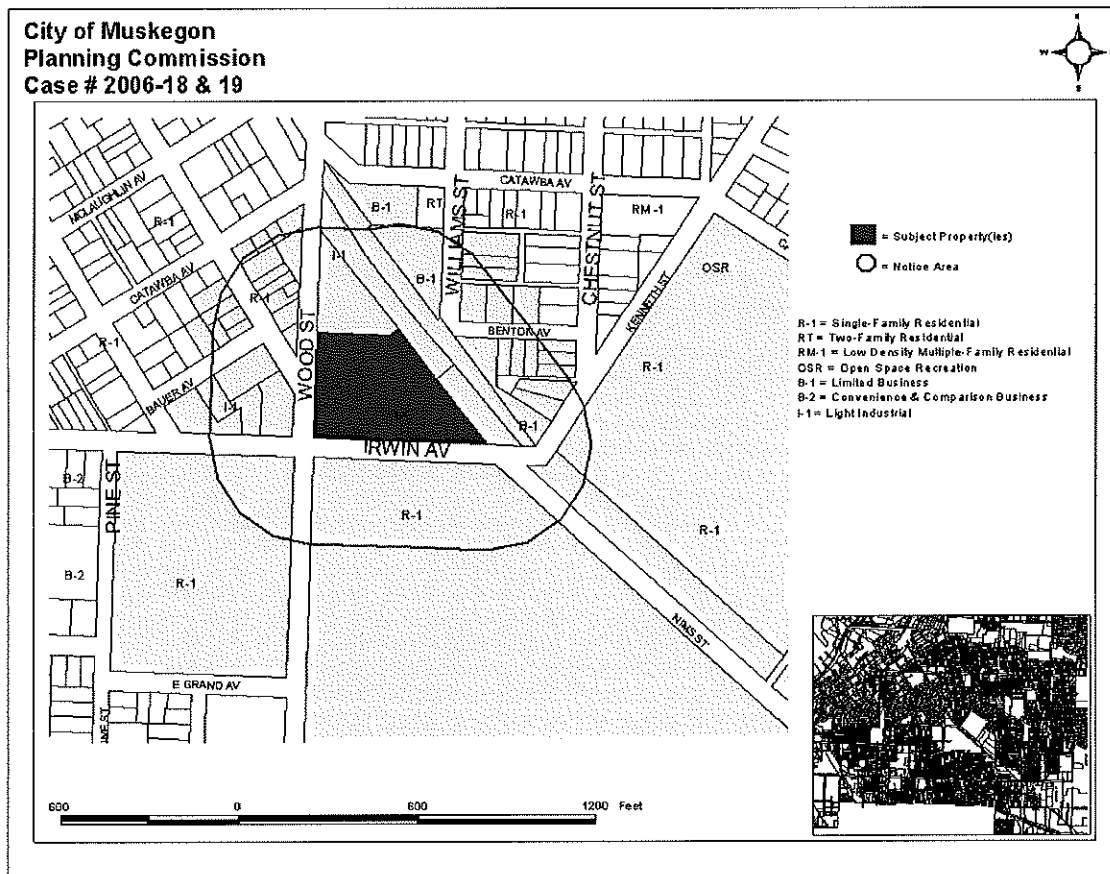
<u>Applicant:</u>	Douglas Malear, Hope Lighthouse Church
<u>Property Address/Location:</u>	444 Irwin Avenue
<u>Request:</u>	Final Planned Unit Development (PUD), Phase I
<u>Present Land Use:</u>	Vacant former Fitzpatrick Electric
<u>Zoning:</u>	I-1, Light Industrial

STAFF OBSERVATIONS

1. The properties in question at 444 Irwin has received approval for a Preliminary PUD, (see former case) from the Planning Commission. The applicant would like final approval on certain portions of the building at this time, and will move forward in the future with other additional phases as funding becomes available.
2. This phase of the development is for the church sanctuary, fellowship hall and classroom space for Hope Lighthouse Church, as well as a retail space for a used merchandise sales outlet.
3. The sanctuary is approximately 3,000 sq. ft, the fellowship hall is 3,015 sq. ft, and there are 3 classrooms to be used for Sunday school. In addition there is a room for a nursery, reception area, hallway and restrooms. The retail space is 2,536 sq. ft. This totals approximately 11,150 sq. ft. on the first floor.
4. The second floor is already developed for and used by the previous owner for offices. There is 12, 812 sq. ft. of usable office space, including 7 offices and a classroom that will be utilized by the Church and the remaining office and meeting rooms will be leased, probably to other non-profit organizations.
5. Staff has the following comments regarding the site plan
 - a. A landscaping plan is included on this site plan. There are challenges because of the existing building and paved areas, and it is almost impossible to meet the landscape ordinance requirements, however by using the existing landscaping and adding trees and shrubs wherever possible the site should be much more attractive. It appears that some additional trees and shrubs or bushes could be added to the green spaces along Irwin presently marked for top soil and seed or with grass. The

applicant can work with staff on this issue and submit a revised landscaping plan if Planning Commission agrees.

- b. Parking spaces need to be defined with curb stops or rolled curbing.
 - c. All parking spaces must be striped. Minimum size for parking spaces is 8 x 18 ft., and must be indicated on the site plan. There are 105 parking spaces shown on the site plan. Approximately 80 spaces would be needed, considering the fellowship hall and church would be sharing approximately 30 spaces. This is adequate for the present uses in the building, however, the applicant needs to be aware that additional uses of the building may require additional parking or shared parking agreements with other properties in the area.
 - d. Any additional lighting installed must be 100% cut-off.
 - e. Show snow storage areas, or indicate if snow will be removed from the site.
 - f. Show location of any dumpster, along with screening that will be provided.
 - g. Indicate fire lanes and location of fire lock box.
 - h. If any additional signage will be requested, indicate location. Sign permits are required and must be approved prior to installation.
6. Staff has received no comments regarding this request.





View from Irwin Avenue



View from the rear of the building.



Views from Wood Street looking East at the building.

ORDINANCE EXCERPTS

SECTION 2101: DEVELOPMENT OPTIONS

1. Planned Unit Development (PUD) Purpose

The purpose of this option is to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources and utilities; encourage provision of useful open space; provide adequate housing, employment, and shopping opportunities particularly suited to the needs of the residents of the City of Muskegon and encourage the use, reuse, and improvement of existing sites and buildings when the uniform regulations contained in zoning districts do not provide adequate protection and safeguards for the site or surrounding area.

This option is intended to accommodate developments with mixed or varied uses, to allow some degree of flexibility in the application of standards and regulations in this Ordinance

to achieve innovation to development on sites with unusual topography or unique settings within the community, or on land which exhibits difficult or costly development problems, and shall not be allowed where this option is sought primarily to avoid the imposition of standards and requirements of zoning classifications rather than to achieve the stated purposes above.

a. Planned Unit Development Regulations, Standards and Requirements

- 1) The entire parcel for which application is made must be under one ownership or the application must be made with the written authorization of all property owners.
- 2) The application shall meet the criteria established in each specified zoning district.

b. PUD Review Procedures

- 1) A petition for a PUD approval shall be submitted in accordance with Section 2332 of this ordinance.
- 2) The review shall be in two phases:
- 3) The preliminary phase shall involve a review of a conceptual PUD plan to determine its suitability.
- 4) The final phase shall require a detailed development plan for any part of the approved conceptual PUD plan.

c. Standards for Approval of PUD Plans

The Planning Commission shall approve, deny or modify preliminary PUD plans, based upon the following standards. Likewise, the City Commission shall approve, deny, or modify final PUD plans (after review and recommendation by the Planning Commission) based upon the following standards.

- 1) The uses proposed will have a beneficial effect, in terms of public health, safety, welfare, or convenience of any combination thereof, on present and potential surrounding land uses. The uses proposed will not adversely affect the public utility and circulation systems, surrounding properties, or the environment.
- 2) The uses proposed should be consistent with the land use plans adopted by the City.
- 3) The amount of open space provided, which the Planning Commission or City Commission may modify even though such modifications do not conform to that required in other sections of this ordinance.

- 4) The amount of off-street parking areas, which the Planning Commission or City Commission may modify even though such modifications do not conform to that required in other sections of this ordinance.
- 5) The amount of landscaping and buffering areas, which the Planning Commission or City Commission may modify even though such modifications do not conform to that required in other sections of this ordinance.
- 6) The protection or enhancement of significant natural, historical, or architectural features within the proposed development area.
- 7) The uses proposed will result in safe, convenient, uncongested and well defined vehicular and pedestrian circulation systems.

2. Preliminary PUD Plan Submission

The applicant shall submit together with the application for PUD preliminary phase approval:

- a. A general development plan depicting the proposed locations of streets, parking areas, open spaces, buildings and structures, and their spatial relationships, the relationship to off-site improvements and infrastructure and any unusual topographic features.
 - 1) Approval by the Planning Commission of the PUD Preliminary Plan shall remain in effect for a period not to exceed three (3) years from the date of approval.

3. Final PUD Plan Submission

The applicant shall submit together with the application for PUD final phase approval, development plans in sufficient detail and in so far as possible the specific locations and dimensions of:

- a. all streets, sidewalks, public and private utilities, parking areas, truck docks and service drives;
- b. all buildings and structures, elevations and spacial relationships;
- c. landscaping, buffers, fences, and protective walls;
- d. open space areas and other significant environmental features;
- e. existing and final topographic changes;

- f. identification and directional signage:
- g. a property survey prepared and certified by a licensed land surveyor;

4. Amendments to an Approved Final PUD Plan

- a. Incidental or minor changes may be approved by the Planning Commission if the proposed modifications do not alter the basic design or land uses of the plan.
- a. If the Planning Commission determines that the proposed modifications are significant or major, a public notice and public hearing in accordance with Section 2332 must be conducted prior to approval or denial.

5. PUD Development Time Limits

- a. Construction of the improvements shown on the approved final PUD plan with all proposed buildings, parking areas, landscaping and infrastructure must commence within one year of approval by the City Commission.
- b. Construction must be continued in a reasonable, diligent manner and be completed within five (5) years.
- c. Said five (5) year period may be extended if applied for in writing by the petitioner and granted by the City Commission following public notice and public hearing in accordance with Section 2332 of this ordinance. Failure to secure an extension shall result in a stoppage of all construction.

RECOMMENDATION

Staff recommends approval of the Final PUD for Phase I request based upon the above staff review of the "Standards for Approval of PUD Plans", subject to the conditions offered below.

DELIBERATION

Standards for discretionary uses: (emphasis provided)

- 2. Give due regard to the nature of all adjacent uses and structures and the consistency with the adjacent use and development.
- 3. Find that the proposed use or activity would not be offensive, or a nuisance, by reason of increased traffic, noise, vibration, or light.
- 4. Adequate water and sewer infrastructure exists or will be constructed to service the activity.
- 5. The proposed site plan complies with section 2330 of the ordinance and has:
 - a. proper ingress and egress
 - b. sufficient parking areas, streets, roads and alleys

- c. screening walls and/or fences
- d. adequate fire and police protection
- e. provisions for disposal of surface water run-off, sanitary sewage
- f. adequate traffic control and maintenance services
- g. preserves property values to related or adjoining properties.

MOTION FOR CONSIDERATION

I move that the Preliminary PUD and associated site plan for mixed-use commercial, office and religious uses for 444 Irwin Avenue be (approved/denied) pursuant to the determination of (compliance/lack of compliance) with the intent of the City Zoning Ordinance and City Master Land Use Plan based on the following conditions (only if approved):

1. An amended site plan addressing the staff concerns listed above in #5 be submitted and approved by the Planning Department.
2. No other uses be allowed on the site until further phases of the PUD are approved.

DATE: June 20, 2006
TO: Honorable Mayor and Commissioners
FROM: Mark Kincaid, Deputy Director of Public Safety
RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN-060004

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 **1986 Continental** 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: # EN-060004 – 1986 Continental

Location and ownership: This structure is located on Continental between E. Keating and Holbrook and is owned by Calvin Lee, 1986 Continental, Muskegon, MI 49442

Staff Correspondence: A dangerous building inspection was conducted on 01/10/2006. The Notice and Order to Repair was issued on 01/20/2006. On 03/02/2006 the HBA declared the structure substandard and dangerous.

Owner Contact: No one was present to represent property at the HBA meeting dated 03/02/06. The Inspection Department has gotten several complaints from neighbors regarding the property and the structure had to be secured twice. No permits have been issued, no inspections scheduled and no owner contact.

Financial Impact: General Funds

Budget action required: None

State Equalized value: 13,800

Estimated cost to repair: \$6,000 Exterior Only

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

**CITY OF MUSKEGON
DANGEROUS BUILDING INSPECTION
REPORT**

Friday, January 13, 2006

Enforcement # EN060004 **Property Address** 1986 CONTINENTAL ST
Parcel #24-215-008-0014-00 **Owner** LEE CALVIN A

Inspector: Henry Faltinowski

Date completed: 01/10/2006

DEFICIENCIES:

Uncorrected

1. Repair damaged foundation wall, exposed rim joist, floor joists, and stucco falling of home.
2. Replace roof covering on home. Reshingle, replace damaged sheathing and any damaged rafters.
3. Rebuild back deck to code.
4. Large amounts debris in back yard. Remove.
5. Replace all damaged siding exterior wall coverings.
6. All windows and doors must be installed to code.

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



1486 CONTINENTAL, D.C.
1/11/2006

AGENDA ITEM
CITY COMMISSION MEETING DATED June 27, 2006

To: Honorable Mayor and City Commissioners
From: Lee J. Slaughter, Assistant City Manager
Date: June 20, 2006
Re: Multiple Alcohol License within the City of Muskegon over the period
June 29 to July 7, 2006. Request received from Topsy Toad.

SUMMARY OF REQUEST:

We received a Special Event request from Topsy Toad through the Non Profit Fruitport Lions Club for a liquor license to serve alcohol outside of their venue over the period July 14 to 16, 2006. The Commission has already approved two liquor licenses (Summer Celebration and The Eagles) during that same period.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

No recommendation. Commission action required.



City of Muskegon Request for Special Event/Special Alcohol License

Fee Schedule: \$50.00 administrative fee must accompany each request submitted prior to 60 days before the event

\$150.00 fee for applications submitted 59-45 days prior to the event

\$250.00 fee for applications submitted 44-30 days prior to the event

\$450.00 fee for applications submitted 29 days or less prior to the event

**First time events will pay only the \$50 fee.

Failure to apply sixty days prior to event is cause to deny the request.

Please fill out this form and return to the Department of Leisure Services, P.O. Box 0536, 933

Terrace St., Muskegon, MI 49443-0536. Telephone: (231) 724-6704 (Fax) (231) 724-1196

Applicant Organization FRUITFUL HILLS CHURCH

Contact Person MILE JORDAN

Address 141 W PONTIAC AVE City MUSKEGON State MI Zip 49441

Daytime Phone 231 865 6117 Alt. Contact # 231 557 3262

Special Event Title BEER TENT

Description of Event BEER & FOOD

Location of Event 609 WEST WESTERN

Reason for Event RAISE MONEY FOR NEW BATHROOMS

Date(s) of Event JUNE 29 TO JULY 7th Hours of the Event 5 - 11:50

Anticipated crowd size 150

Will Alcohol be served ☒ Yes ☐ No

*For all alcohol related events, the applicant will provide a system of checking I.D to prohibit underage drinking. (item b, Special event policy) Hours of operation shall be posted in the beverage serving area. For alcohol events, the applicant shall agree to stop selling drink tickets at 10:30 p.m. and stop pouring beverages at 11:00 p.m., and have the area cleared by 11:30 p.m. (Special Event policy, e, f)

How will I.D. check be handled?

GATED AREA WITH CIVIL PEOPLE

The applicant shall provide evidence and certification that the organization shall at all times have person's pouring beer or selling beverages that have received alcohol awareness training at every serving station. (The applicant shall provide evidence and certification to the City that all persons pouring beer or selling beverages have received alcohol awareness training.) Checking for underage drinking and over consumption of patrons is the responsibility of the sponsoring group, not the police. (Special event policy, item g, h)

Will City Streets or Sidewalks be used? ☐ Yes ☒ No
If yes-Do they need to be closed? ☐ Yes ☐ No

Name of Insurance Company _____

Policy number _____

** Where the event is being held on City-owned or controlled property the applicant shall provide an amount of insurance as set by the City for liquor liability and general liability insurance, naming the City as an additional insured. An acceptable certificate of insurance must be submitted prior to approval.

Regulations of the license/permit:

1. All rules and regulations of the City of Muskegon Special Events/Special Alcohol Policy Shall be complied with. The final authority for signing the special liquor licenses, however, remains with the Police Chief.
2. All City of Muskegon Ordinances shall be complied with.
3. The licensee will save the City of Muskegon harmless from all claims.
4. A proof of liability insurance in the amount of \$ 1M is required. A copy of the Certificate of Insurance naming the City of Muskegon as additional insured is required before the permit can be approved.
5. Special requirements as follows: _____

With my signature, I certify that I have read and understand the regulation of this license/permit. I also understand that City staff may require a meeting with applicant organization to help clarify the requests for services. Failure to attend the meeting could result in the denial of the request.

 6-19-06
Signature of Applicant Date

Director of Leisure Services Date

Date Received in Office 6/19/06 Staff Signature Macklerberg

10-16-03



CITY OF MUSKEGON

SPECIAL EVENTS/SPECIAL ALCOHOL LICENSE POLICY

INTRODUCTION

Throughout the year, the City of Muskegon is asked by various organizations to supply various Services for special events, including the approval of special liquor licenses. While the Police Chief must sign all alcohol-related requests, several other departments get involved in the process, including the Department of Leisure Services. This policy centralizes the administration of special liquor licenses and special events with the Department of Leisure Services and provides rules and regulations to govern both the granting of the special request and the on-site administration of the event. The final authority for signing the special liquor licenses, however, remains with the Police Chief.

In the best interest of the city, this policy allows for only one (1) special alcohol license for outdoor events on any given night in the City of Muskegon, unless a specific event needs more than one license. Licenses will only be granted for events sponsored by non-profit charitable or service organizations involving broad community support, and not for private profit-making activities. The following events are expected, under normal circumstances to have licenses granted annually:

- a. Memorial Day Spectacular
- b. Ten Parties-in-the-Park
- c. Summer Celebration
- d. Shoreline Spectacular
- e. Steak and Blues
- f. Up to two additional beer tent days per month from
Memorial Day to Labor Day
- g. Only three days per month for outdoor events after Labor Day and
before Memorial Day and they must be on consecutive days.

PROCEDURE FOR REQUESTING A SPECIAL EVENT PERMIT

- I. All requests for a special permit shall be filed with the Department of Leisure Services at least sixty days prior to the event.
 - a. A fifty dollar (\$50.00) administration fee must accompany the request.
 - b. Applicants submitting the application 59-45 days before the event will be charged \$150.
 - c. Applicants submitting the application 44-30 days before the event will be charged \$250.
 - d. Applicants submitting the application 29 days or less before the event will be charged \$450.
 - e. Failure to apply sixty (60) days prior to the event is cause to deny the request.

Amendment to Special Event Policy-Effective February 8, 2005

The City Commission has determined that the Special Event permit application fee will be waived for Veteran Groups and the Neighborhood Associations. However, requests from either group for special events services that result in overtime costs or undue burden to the City will not be waived. 2005-12 (j)

- II. The request for a special permit shall be in writing and must be submitted on the appropriate application form. Application for outdoor special liquor licenses shall be for beer and wine only.
- II. All special permittees agree to the following:
 - a. While a Police Officer's presence may not be required at all special events, it shall be at the discretion of the Chief of Police as to whether or not, and how many, City Police Officers will be required at any special event. Event sponsors will be responsible for payment of officer(s) service based on the time-and-one-half or triple time established rate plus benefits and all overhead cost.
 - b. For all alcohol-related events, the applicant will provide a system of Checking I.D.'s to prohibit underage drinking.
 - c. Where the event is being held on City-owned or controlled property the applicant shall provide an amount of insurance as set by the City for liquor liability and general liability insurance, naming the City as an additional insured. An acceptable certificate of insurance must be submitted prior to approval.
 - d. All outdoor events shall provide adequate restroom (port-o-jon) facilities including adequate handicapped accessible facilities.
 - e. Hours of operation shall be posted in the beverage serving area.
 - f. For alcohol events, the applicant shall agree to stop selling drink tickets at 10:30 P.M., stop pouring beverages at 11:00 P.M., and have the area cleared by 11:30 P.M.
 - g. The applicant shall provide evidence and certification that the organization shall at all times have person's pouring beer or selling beverages that have received alcohol awareness training at every serving station. (The applicant shall provide evidence and certification to the City that persons pouring beer or selling beverages have received alcohol awareness training.)
 - h. Checking for underage drinking and over consumption of patrons is the responsibility of the sponsoring group, not the police.
 - i. Where the event is held on city owned or controlled property, the Applicant shall be responsible for all clean up of city facilities after an event, and for providing a dumpster. If the event is on other property, the cleanup shall be the responsibility of the owner. The city shall have the right to enforce cleanup measures, including but not limited to entry and cleaning by city personnel and charging and liening the cost to the owner, occupant, or applicant or all of them.

- j. The applicant shall reimburse the city for all out-of-pocket expenses related to the set-up or clean up of the event, including overhead costs. **A list of expenses is attached.**
- k. Failure to comply with all city rules and regulations may result in the denial of future requests.
- l. Digging or staking on grounds will be cleared through Miss Dig. A minimum of a 5 working day notice is required. The sponsoring agency is responsible for contacting Miss Dig (1-800-482-7171), and paying for any damage of underground utilities created by digging or staking.
- m. City Staff may require a meeting with event sponsors where City staff needs clarification of service (s) requested. Failure to attend the meeting could result in the denial of the request.
- n. Understand that the event location is subject to all building, plumbing, mechanical, electrical, and fire codes. The permit tee will schedule an inspection by any and all required inspectors and pay the inspection fee as set by the City Commission in the adopted fee schedule. It may be possible that a fire watch will be required by the Fire Marshal. The licensee is responsible for all costs associated with providing this service, including but not limited to current wage rate plus benefits and all overhead costs.

IV. HANDLING OF REQUESTS

- a. **The Leisure Services Board**, shall review all requests for special permits, except as otherwise provided by this policy.
 - 1. Any indoor facility may need an inspection before approval can be granted.
 - 2. The Board shall approve, deny, or table all requests at the Board Meeting following the receipt of the request.
 - 3. That reviews by other departments shall be provided in copy form to the Leisure Services Board.
- b. Where the applicant proposes an indoor alcohol event occurring after Labor Day or before Memorial Day, it shall be reviewed by the staff and other departments of the City and Leisure Services Board review shall not be necessary, unless City park or recreation facilities are proposed to be used for the event.
- c. Where the Leisure Services Board reviews an application and denies same, it shall state in writing the reasons for the denial. An appeal of that decision may be made to the City Commission whose decision shall be final.
- d. Where an existing Liquor Control Commission licensee applies for a special license, the review shall be made by the staff and other departments of the City as needed before the Police Chief's decision. Any moneys owed the City could be reason for denial.
- e. All requests that include road closings shall go the traffic Committee for review prior to final approval, denial, or tabling by the Leisure Services Board. The sponsoring agency will be responsible for all associated costs.

The Traffic Committee meets monthly on the second Friday. Applicants must provide a map showing the proposed route for walks, runs, parades, etc. for pre-approval before the event can be approved by the Leisure Services Board.

- f. Sales of all items for Special Events must be out of the public right-of-way. Street sales of newspapers, poppy's, etc. shall not be allowed except for those events that have existed before September 1, 1996, which will be allowed as long as they exist. These events include: The Old Newsies, Muskegon High School Band Tag Sale, The Veteran's Poppy sale, and the Kiwanis.

INSURANCE REQUIREMENTS

High degree of risk (H)	\$1,000,000
Medium degree of risk (M)	500,000
Low degree of risk (L)	100,000

Event minimum requirements:

Parties-in-the-Park	(H)	Parades	(L)
Carnivals	(H)	Block Parties	(L)
Organized Walks/Runs	(M)	Summer Celebration	(H)
Shoreline Spectacular	(H)	Winterfest	(M)
Corporate Cup Events	(L)	Fireworks	(H)
Bike Races	(M)	Alcohol licenses	(H)
Any event using City streets and/or sidewalks			(M)

BUILDING

PARTIAL
LOT

BUILDING

44' GATE

13' →

20'

BUILDING
34'

78 FT

ALLEY

20'



CITY OF MUSKEGON

DIVISION OF PUBLIC SAFETY

Anthony L. Kleibecker
Director of Public Safety



RECEIVED

JUN 23 2006

CITY CLERK'S OFFICE

MEMORANDUM

TO: Ms. Lee Slaughter
Assistant City Manager

FROM: Anthony L. Kleibecker
Director of Public Safety

CC: Mr. Bryon Mazade

DATE: June 23, 2006

SUBJECT: Request for Special Event: Fruitport Lions/Tipsy Toad

Earlier today public safety division staff reviewed the Request for Special Event/Special Alcohol License which has been submitted by the Fruitport Lions Club. Based upon this review the following issues have been identified:

1. Until such time that the Tipsy Toad is issued a Certificate of Occupancy, the building shall remain closed to all but construction personnel. This means that the restrooms may not be used by the public, and that it may not be used for food preparation or storage.
2. If food preparation is to occur outside of the restaurant the cooking area must be inspected and approved by the Fire Marshall.
3. If the Certificate of Occupancy is obtained, then egress from the restaurant shall not be blocked by the fencing.
4. There must be a 3' safety zone around the exterior electrical service which is adjacent to the fenced area at the rear of the restaurant.
5. All applicable procedures for fencing, security and identification checks shall be followed.

I have discussed these issues with Mike Johnson who serves as the contact person for the Fruitport Lions Club. Mr. Johnson advised me that it is the intent of those overseeing the Topsy Toad project to have the project completed by June 29th pending all final inspections. He did state that the club would comply with all of our requests.

If you have any questions please don't hesitate to contact me.

6/23/06

Memo to Lee Slaughter from Tony Kleibecker dated June 23, 2006, re "Request for Special Event: Fruitport Lions/Tipsy Toad"

copy: ✓ Linda Potter, Deputy City Clerk
Mayor Warmington & City Commissioners (to be distributed at 6/27 meeting if mail has not been picked up)

/pb


Memo

To: Mayor Warmington and City Commissioners
From: Bryon L. Mazade, City Manager *BLM*
CC: John Schrier
Linda Potter
Date: June 27, 2006
Re: McGraft Memorial Congregational Church Lawsuit

I would like to go into closed session at today's meeting to discuss this litigation.
I do not expect this discussion to last very long.

Thank you for your consideration.