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. **<u>Budgeted Vehicle Replacement - Two F-450 Cab and Chassis.</u>** 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. **<u>Budgeted Vehicle Replacement - One F-250 4x4 Pickup Truck.</u>** 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. **<u>Budgeted Vehicle Replacement - Two F-350 Cab and Chassis.</u>** 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. **<u>Consideration of Bids - Lakeshore Drive, McCracken to Laketon (H-1609).</u>** 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. <u>Construction Engineering Agreement with Fleis & Vandenbrink: Decorative Concrete - Street Lights - Roundabout on Western Avenue, Third to Terrace.</u> 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. <u>Request for Final Planned Unit Development Approval for Phase V of the Park Terrace Development.</u> 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. <u>Vacation of the East/West Alley Between Fifth and Sixth Streets, Running Parallel to Washington and W. Grand Avenues.</u> 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. <u>Vacation of a Portion of "Old" Ottawa Street.</u> 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. <u>2005 3rd Quarter, 2005 4th Quarter, and 2006 1st Quarter Suggestion Award Winners.</u> 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. <u>Construction of Clubroom Facility at LC Walker Arena.</u> 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. <u>Concurrence with the Housing Board of Appeals Notice and Order to Demolish 1986 Continental.</u> 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. <u>Multiple Alcohol License within the City of Muskegon over the Period June 29 to July 7, 2006. Request Received from Tipsy Toad.</u> ASSISTANT CITY MANAGER

SUMMARY OF REQUEST: We received a Special Event request from Tipsy 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