

CITY OF MUSKEGON

CITY COMMISSION MEETING

JUNE 24, 2014

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

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

Mayor Gawron opened the meeting with prayer from Mr. George Monroe from the Evanston Avenue Baptist Church after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Gawron, Vice Mayor Lawrence Spataro, Commissioners Eric Hood, Willie German, Dan Rinsema-Sybenga, Byron Turnquist, and Ken Johnson, City Manager Franklin Peterson, City Attorney John Schrier, and City Clerk Ann Marie Cummings.

2014-46 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

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

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

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

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

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

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To adopt the resolution extending the moratorium.

C. Wheel Loader. PUBLIC WORKS

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

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

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

STAFF RECOMMENDATION: Authorize the purchase.

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

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

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

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

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

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the request.

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

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

Nays: None

MOTION PASSES

2014-47 ITEMS REMOVED FROM THE CONSENT AGENDA:

D. Mini Excavator. PUBLIC WORKS

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

FINANCIAL IMPACT: \$46,100.

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

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

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

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

Nays: None

MOTION PASSES

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

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

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

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

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

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

Nays: None

MOTION PASSES

2014-48 NEW BUSINESS:

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

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

Specifications have been prepared and are ready for Commission approval.

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

BUDGET ACTION REQUIRED: None.

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

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

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

Nays: None

MOTION PASSES

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

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

Staff is requesting approval of the rental rates listed.

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

BUDGET ACTION REQUIRED: None.

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

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

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

Nays: None

MOTION PASSES

C. Police Review Board Minority Coalition. CITY CLERK

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

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

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

Remove term limits.

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

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

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

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

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

Nays: None

MOTION PASSES

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

254 Monroe

1245 Fleming (garage only)

30 E. Clay

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

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

BUDGET ACTION REQUIRED: None.

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

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

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

Nays: None

MOTION PASSES

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

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

Nays: None

MOTION PASSES

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

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

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

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

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

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

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Public comments were received.

2014-49 CLOSED SESSION:

A. Attorney-Client Privileged Communications.

B. City Manager's Evaluation.

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

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

Nays: None

MOTION PASSES

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

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

Nays: None

MOTION PASSES

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

Respectfully submitted,

Ann Marie Cummings, MMC
City Clerk