# CITY OF MUSKEGON

## CITY COMMISSION MEETING

### JUNE 14, 2022 @ 5:30 P.M.

### MUSKEGON CITY COMMISSION CHAMBERS

### 933 TERRACE STREET, MUSKEGON, MI 49440

# MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, June 14, 2022. Pastor Matt Eenigenburg, Celebration Community Church, opened the meeting with prayer, after which the Commission and public recited the Pledge of Allegiance to the Flag.

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

Absent: Commissioner Eric Hood

**2022-54 HONORS, AWARDS, AND PRESENTATIONS:**

**A. <u>Juneteenth Independence Day Resolution</u>** City Commission

**Motion by Vice Mayor German, second by Commissioner Emory, to adopt the Juneteenth National Independence Day Resolution.**

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

**Nays: None**

***MOTION PASSES***

**PUBLIC COMMENT ON AGENDA ITEMS:** Public comments received.

**2022-55 CONSENT AGENDA:**

**A. <u>Approval of Minutes</u>** City Clerk

SUMMARY OF REQUEST: To approve the minutes of the May 9, 2022 Work Session Meeting and May 10, 2022 Regular meeting.

STAFF RECOMMENDATION: To approve the minutes.

**B. <u>Fair Housing Services Agreement</u>** Community & Neighborhood Services

SUMMARY OF REQUEST: The cities of Muskegon, Muskegon Heights and Norton Shores are currently in agreement with the Fair Housing Center of West Michigan (FHCWM) that ends June 30, 2022. The work that is performed by FHCWM is vital to show that we are furthering further fair housing initiatives in our community/region.

The proposed agreement will continue to offer education, testing, trainings and reports of each community's practice and inquiries received of fair housing complaints. The 3-year agreement will begin July 1, 2022 and expire June 20, 2025.

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| AMOUNT REQUESTED: | $28,620 | AMOUNT BUDGETED: | $182,578 |
| FUND OR ACCOUNT: | CDBG | FUND OR ACCOUNT: | CDBG FY22 |

STAFF RECOMMENDATION: To approve the partnership agreement with Fair Housing Center of West Michigan for the furtherance of fair housing in Muskegon.

**C. 1761 Clinton – House Move** City Manager

SUMMARY OF REQUEST: City staff was approached by the Muskegon Public School District with a proposal to obtain the house located at 1761 Clinton Street on the campus for the new middle school and move the home to a city owned vacant lot in an adjacent neighborhood. Staff is seeking approval of the agreement and bill of sale.

The home was purchased by the school district, and the former owner has moved. Staff have reviewed the structure and found it to be worth salvaging. A vacant lot at 1728 Terrace Street in the McLaughlin neighborhood was selected to minimize moving costs and keep the home in a location that serves the neighborhood and school district. Estimated costs to move and renovate the house are $173,000, and it is anticipated that the completed house will sell for $180,000. The project will be included in our scattered site brownfield program and contribute to the TIF capture funding other projects where the purchase price was less than the cost of construction.

AMOUNT REQUESTED: $173,000 AMOUNT BUDGETED: $173,000 in FY 22/23

FUND OR ACCOUNT: Public Improvement

STAFF RECOMMENDATION: To approve the agreement and bill of sale, authorize the Mayor and Clerk to sign both and to authorize the City Manager to expend up to $173,000 to move and renovate the home.

**E. MDOT Agreement for Terrace Street** Public Works

SUMMARY OF REQUEST: Staff is requesting approval of the contract with MDOT for the reconstruction of Terrace Street from Apple Avenue to Shoreline Drive and approval of the resolution authorizing the Mayor and Clerk to sign the Contract.

This is the standard contract governing projects that are constructed using federal funds through MDOT. The estimated cost for the project construction is $1,509,000 with $764,904 of that being federal surface transportation funding, $88,593 being federal highway infrastructure program COVID funds, and the remainder being funded through the City's Major Street Budget in the FY23 Budget year.

Work is expected to begin in August and take approximately 15 weeks to complete.

AMOUNT REQUESTED: $744,503(FY23) AMOUNT BUDGETED: $946,503 (FY23)

FUND OR ACCOUNT: 202 (Major Streets)

STAFF RECOMMENDATION: To approve the contract with MDOT for the reconstruction of Terrace Street from Apple Avenue to Shoreline Drive and approve the resolution authorizing the mayor and clerk to sign.

**F. <u>Arena Roof Lease and Power Purchase Agreement</u>** Public Works

SUMMARY OF REQUEST: Staff is seeking to void the previously approved (June 8, 2001) Rooftop System Site Lease Agreement and the Power Purchase Agreement with New Energy Equity related to the installation of a solar array on the roof to the Trinity Health Arena.

This topic was previously discussed at the July 2020 work session meeting, and again at a meeting on April 27th to recommend a property tax exemption for the site. The roof lease and the power purchase agreement were approved by the Commission at their June 8, 2021 meeting.

Since that time New Energy Equity has not signed and returned those agreements and staff has recommended that the agreements be voided by the City Commission.

New Energy Equity has been unable to sign the agreements due to complications with the governing tax laws. State laws are unclear and the County Assessor has taken the position that the investment should be taxed for County purposes. Payment for the taxes was not factored into the pro forma for the development and negates any savings that could be realized from the installation. Staff, Charthouse Energy and New Energy Equity remain committed to finding a route forward for this project when there is an opportunity for it to be done in a way that is financially viable.

STAFF RECOMMENDATION: To void the previously approved Rooftop System Site Lease Agreement and void the Power Purchase Agreement that were previously approve at the June 8, 2021 Commission Meeting.

**G. <u>City of Muskegon Housing Study and Needs Assessment Firm Recommendation</u>** Development Services

SUMMARY OF REQUEST: Staff disseminated the Commission-endorsed Housing

Study and Needs Assessment RFP to qualified firms credited by MSHDA, and received two proposals. Staff has reviewed the proposals and is prepared to recommend contracting with Bowen National Research to conduct this important work.

As we scale our efforts to deliver more housing units to combat the nationwide housing shortage, we require more and higher quality data to direct these efforts. There has not been a formal study compiled for our market since 2016, and our neighboring areas such as Ottawa County and the greater Grand Rapids area have recently commissioned similar studies, which have had great effect in their efforts to infill housing units of all types. After the April 12th City Commission Meeting, staff sent the FRP to the seven firms on MSHDA's "Approved Market Analyst" list as well as one firm that has been contracted by CNS to conduct our Analysis of Impediments study. That fir, RKG Associates, and one other, Bowen National Research submitted proposals for your consideration. Both clearly carefully read the RFP document and tailored their proposed services to our needs. Both firms also propose using very qualified teams and similar methodology to deliver the product, so staff's recommendation comes down to price and relevant experience. RKG was the high-priced proposal at $74,500, while the price from Bowen for equivalent services was $33,500, with optional add-ons exceeding the requested scope that total an additional $12,600. Additionally, Bowen conducted Ottawa County and the City of Grand Rapids/Kent County needs assessment, and demonstrated more experience in our region. Some of the add-ons Bowen offered may prove beneficial following additional conversation with the vendor, and so staff is recommending he City Commission approve Bowen National Research's proposal not-to-exceed $46,100.

AMOUNT REQUESTED: $46,100 AMOUNT BUDGETED: $50,000

FUND OR ACCOUNT: 101-80400-5300

STAFF RECOMMENDATION: To allow staff to contract with Bowen National Research to conduct a 5-year Housing Study and Needs Assessment for an amount not-to-exceed $46,100.

**H. <u>Sanitation Fee Resolution</u>** Finance

SUMMARY OF REQUEST: The FY 2022-23 budget calls for the Sanitation Fee to be increased from $2.50 per month to $3.50 per month, this resolution established the Sanitation Fee for FY 2022-23. Staff is recommending that the City Commission adopt the resolution charting a sanitation free of $3.50 per month to cover the shortfall between the sanitation charges ad the millage collected for sanitation.

STAFF RECOMMENDATION: To adopt the Sanitation Fee Resolution for FY 2022-23.

I. **Beach Parking – Neighboring Community Proposal** City Manager

REMOVED

**Motion by Vice Mayor German, second by Commissioner Gorman, to accept the consent agenda as presented, minus item D and J.**

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

**Nays: None**

***MOTION PASSES***

**2022-56 REMOVED FROM CONSENT AGENDA:**

D. **CSX Salvage Plan** City Manager

SUMMARY OF REQUEST: Staff is seeking approval to proceed with a cost share for developing a salvage plan for the removal of the CSXT owned track.

CSXT is hiring a consultant to assist them in developing permitting materials necessary for the removal of the track. Items needed for the plan include a wetland and waterway delineation report, and MDEQ joint permit application, and a health and safety plan. The costs for this salvage plan work are higher than CSXT anticipated, and the city is being asked to share in the expense.

AMOUNT REQUESTED: $28,000 AMOUNT BUDGETED: $2 Million

FUND OR ACCOUNT: State/Federal Grants

STAFF RECOMMENDATION: To authorize expenditures not to exceed $28,800 for consultant fees associated with the removal of the CSXT owned track.

**Motion by Commissioner Emory, second by Commissioner St.Clair, to authorize expenditures not to exceed $28,000 for consultant fees associated with the removal of the CSXT owned track.**

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

**Nays: None**

***MOTION PASSES***

J. **Request to Fly Juneteenth Flag** City Clerk

SUMMARY OF REQUEST: Juneteenth honors the end to slavery in the United States and is considered the longest-running African American holiday. On June 17, 2021, it officially became a federal holiday. This is to request that the City of Muskegon fly the Juneteenth Flag from June 17 through June 20, 2022.

STAFF RECOMMENDATION: To approve the request.

**Motion by Commissioner Ramsey, second by Vice Mayor German, to fly the Juneteenth Flag from June 17, 2022 through the end of June.**

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

**Nays: None**

***MOTION PASSES***

**2022-57 PUBLIC HEARINGS:**

**A. <u>FY 2022-2023 Budget Transmittal</u>** Finance

SUMMARY OF REQEUST: At this time staff is transmitting to the City Commission the proposed budget for fiscal year 2022-23 which starts July 1, 2022. Electronic versions of the budget have been distributed to the Commissioners. Additionally, the budget is available for inspection on the City's website and at the City Clerk's office.

The proposed budget was reviewed in detail with staff at the June 13, 2022 work session. A public hearing on the budget was held at the regular Commission meeting on June 14, 2022. City ordinance requires that the budget be adopted by the Commission on or before the second Commission meeting in June.

STAFF RECOMMENDATION: To close the public hearing and approve the proposed budget for fiscal year 2022-23.

PUBLIC HEARING COMMENCED: Chuck Modd, 59 E. Giles Road – addressed the topic of softball fields at Buekema Park and wanted to make it known that the fields are used regularly.

**Motion by Commissioner Ramsey, second by Commissioner St.Clair, to close the Public Hearing**

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

**Nays: None**

***MOTION PASSES***

**2022-58 NEW BUSINESS:**

**A. <u>Concession Agreement – B & S Bikes</u>** Public Works

SUMMARY OF REQUEST: Staff is asking permission to enter into a contractual agreement with Benny Edwards of "B&S Bikes" at the restroom building in Pere Marquette Park for a bike rental concession.

Staff is asking permission to enter into a Concession Agreement for 2022 with benny Edwards of "B&S Bikes" at the restroom building in Pere Marquette Park for a bike rental concession. Mr. Edwards' proposal is included, and shows the specific location for the bikes, the style of bike and rental station Mr. Edwards owns and proposes, and other details.

STAFF RECOMMENDATION: Authorize staff to enter into Concession Agreement with Benny Edwards of "B&S Bikes" at the restroom building in Pere Marquette Park for a bike rental concession for 2022.

**Motion by Commissioner Ramsey, second by Commissioner Emory, to authorize**

**staff to enter into a Concession Agreement with Benny Edwards of "B&S Bikes" at the restroom building in Pere Marquette Park for a bike rental concession for 2022.**

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

**Nays: None**

***MOTION PASSES***

**B. <u>Rezoning 930 W. Sherman</u>** Planning

SUMMARY OF REQUEST: Request to rezone the property at 930 W Sherman Boulevard from B-2, Convenience and Comparison Business to B-4, General Business, by 930 Sherman, LLC.

The Planning Commission unanimously recommended approval of the rezoning.

STAFF RECOMMENDATION: To approve the request to rezone the property at 930 W Sherman Boulevard from B-2, Convenience and Comparison Business to B-4, General Business.

**Motion by Commissioner St.Clair, second by Commissioner Ramsey, to approve the request to rezone the property at 930 W. Sherman Boulevard from B-2, Convenience and Comparison Business to B-4, General Business.**

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

**Nays: None**

***MOTION PASSES***

**C. <u>Zoning Ordinance Amendment – Height Overlay District</u>** Planning

SUMMARY OF REQUEST: Staff initiated request to amend Section 404 of the zoning ordinance to create a height overlay district that would allow certain principal structures near or on Nelson Street to be built up to three stories or 45 feet in height.

The Planning Commission unanimously voted to deny the request.

STAFF RECOMMENDATION: To deny the request to amend Section 404 of the zoning ordinance to create a height overlay district that would allow certain principal structures near or on Nelson Street to be built up to three stories or 45 feet in height.

**Motion by Commissioner Emory, second by Commissioner Ramsey, to deny the request to amend Section 404 of the zoning ordinance to create a height overlay district that would allow certain principal structures near or on Nelson Street to be built up to three stories and 45 feet in height.**

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

**Nays: None**

***MOTION PASSES***

**D. <u>West Urban ARP Agreement Amendment</u>** Development Services/Economic Development

SUMMARY OF REQUEST: Staff is seeking approval of the listed amendments to West Urban Properties Development Agreement for the ARP Infill Housing Program.

West Urban Properties was selected as one of four contractors for the ARPA-funded infill housing program. The goal of the program is ton continue in-filling vacant lots in our core neighborhoods while ensuring the housing units are offered in a more-affordable manner.

Two of the four awardees have had to decline their agreements for various reasons, leaving $1.15 million of the commission-approved funds unallocated to a builder. West Urban Properties initially was not assigned specific lots in their agreement, which has proven a difficulty when attempting to implement the project as there are other smaller scale builders interested in lots to build homes on as well. With no defined legal right to any buildable lots for this program by virtue of an exhibit to the ARP Agreement, staff are left in a difficult position when more than one builder wants a specific lot.

To that end, West urban also has an infill housing agreement through the city to build rental housing units in residential neighborhoods, which contains an exhibit with some lots, though not enough to fulfill the builder's obligations to build 100 homes. In that exhibit, the builder and city inadvertently selected lots that builders on the east side of the city had been interested in for some time to infill owner occupied housing. West Urban, the interested builders, and the city have been working together very effectively to correct these implementation issues and to make space for other builders in their own neighborhoods.

We have mutually agreed that it makes sense to amend both agreements, adding an exhibit of lots to West Urban's ARP agreement and increasing their allocation by $1.15 million to ensure that we continue to infill lots on schedule, while removing the lots desired by the smaller builders on the rental construction agreement side. This item is in tandem with the other contract amendment on the agenda and staff only recommends passing this one if there is support for the other.

AMOUNT REQUESTED: $1.15 million AMOUNT BUDGETED: $1.15 million

FUND OR ACCOUNT: Federal ARPA

STAFF RECOMMENDATION: Motion to approve the amendments to the West Urban ARP Agreement by increasing the infill housing allocation by $1.15 million dollars, including the lot list exhibit as presented and authorize the Mayor and Clerk to sign.

**E. <u>West Urban PILOT Agreement Amendment</u>** Development Services/Economic Development

SUMMARY OF REQUEST: Staff is seeking approval of the listed amendments to West Urban Properties Development Agreement for the PILOT Infill Housing Program.

The City has previously entered into an agreement with West Urban Properties to construct 100 homes for rental and potential owner-occupied stock in our residential neighborhoods. Some of the lots in the exhibit have been requested by other builders for some time and were inadvertently included in this agreement. We have worked out an agreement with West Urban for them to remove these lots from their development agreement by increasing their ARP agreement allotment, and by working with them to identify lots to add to the PILOT with clear title to ensure that they can fulfill their obligations in this agreement.

This item proposes to remove 266 Meeking, 279 Meeking, 280 Meeking, 290 Meeking, 1057 Leonard, 1067 Leonard, 1077 Leonard, 1087 Leonard, 527 Herrick, and 530 Herrick from the approved PILOT Agreement, and add 2043 Dowd, 2051 Dowd, 2065 Dowd, 2250 Dowd, 2358 Dowd, 846 Wilson, and 1256 Fifth Street. Staff may return with additional lots to add to this agreement exhibit as we clear title and assess buildability.

STAFF RECOMMENDATION: To approve the amendments to the West Urban PILOT Agreement as presented and authorize the Mayor and Clerk to sign.

**Motion by Commissioner Ramsey, second by Commissioner Gorman, to approve the amendments to the West Urban ARP Agreement by increasing the infill housing allocation by $1.15 million dollars, including the lot list exhibit as presented and authorize the Mayor and Clerk to sign and to approve the amendments to the West Urban PILOT Agreement as presented and authorize the Mayor and Clerk to sign.**

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

**Nays: None**

***MOTION PASSES***

**F. <u>Sale – 1375 James, 1284 James, 1057 Leonard, 1067 Leonard, 1077 Leonard, 1087 Leonard</u>** Planning

SUMMARY OF REQUEST: City staff is seeking authorization to sell five of the City owned vacant lot to Lawrence Baker.

Lawrence Baker will be constructing six single family homes on the lots owned by the City of Muskegon. The property is zoned R-1 (Single Family Residential). The lots will be sold for 75% of the True Cash Value (TCV) per policy. The property is in the Brownfield Development area. The homes will be constructed within eighteen (18) months.

STAFF RECOMMENDATION: Authorize the Code Coordinator to work with the developer and complete the sale of the vacant lots to build six single family homes on the City owned buildable lots as described and to have the Mayor and Clerk sign the purchase agreement and deed.

**Motion by Vice Mayor German, second by Commissioner Ramsey, to authorize the Code Coordinator to work with the developer and complete the sale of the vacant lots to build six single family homes on the City owned buildable lots as described and to have the Mayor and Clerk sign the purchase agreement and deed.**

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

**Nays: None**

***MOTION PASSES***

**2022-59 ANY OTHER BUSINESS:**

**A. <u>Community Relations Committee Recommendations</u>** City Clerk

SUMMARY OF REQUEST: To concur with the CRC Recommendations to make appointments.

The CRC recommends appointing Johna Willis to the Housing Code Board of Appeals – Citizen – Term expiring 1/31/2024

The CRC recommends appointing Gregory Borgman – person who resides in a historic district – Term expiring 1/31/2025 to the Historic District Commission.

STAFF RECOMMENDATION: To concur with the recommendation of the CRC to accept the appointments to the Housing Code Board of Appeals and Historic District Commission.

**Motion by Commissioner St.Clair, second by Vice Mayor German, to concur with the recommendation of the Community Relations Committee to accept the appointments of Johna Willis to the Housing Code Board of Appeals, and Gregory Borgman to the Historic District Commission.**

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

**Nays: None**

***MOTION PASSES***

Commissioners provided information about Pride and Juneteenth events happening in the area this weekend. Mayor Johnson talked about the Lakeshore Innovator of the Year.

Commissioner Emory asked Public Works Director, Leo Evans, about the progress at Pere Marquette Park with parking expansion and sidewalk expansion and removal of barrels.

Commissioner Gorman asked Dave Alexander, Downtown Development Authority Manager, for information about previous United Way bicycles that were built by Jaycee's.

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

**ADJOURNMENT:** The City Commission meeting adjourned at 7:40 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC - City Clerk