CITY OF MUSKEGON

CITY COMMISSION MEETING

MAY 28, 2019 @ 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, MI at 5:30 p.m., Tuesday, May 28, 2019, Reverend Michael Fedewa, St. Paul's Episcopal Church, opened the meeting with prayer, after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen J. Gawron, Vice Mayor Eric Hood, Commissioners Ken Johnson, Byron Turnquist, Debra Warren, Dan Rinsema-Sybenga, and Willie German, Jr., City Manager Frank Peterson, City Attorney John Schrier, and City Clerk Ann Meisch.

2019-41 CONSENT AGENDA:

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

SUMMARY OF REQUEST: To approve minutes of the May 13, 2019 Worksession and May 14, 2019 Regular Meeting.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

C. <u>Aggregates, Highway Maintenance Materials and Concrete</u> Department of Public Works

SUMMARY OF REQUEST:

Award supply of Calcium Chloride 38% (road brine) and 32% (winter salting) to Great Lakes Chloride

Award bid to supply bituminous products (Base and Top) to Asphalt Paving, Inc.

Award bid to supply Sylvax patching material to Unique Paving Materials

Award bid to supply AE-90 Asphalt Emulsions to Bit-Mat Products

Award bid for crack sealant to Surface Coatings, Co.

Award bid to supply H1/32FA limestone chip blend to Verplank Trucking Company

Award bid to supply road slag to Yellow Rose Transport

Award bid to supply road gravel to Yellow Rose Transport and Verplank

Award bid to supply 2NS sand to Verplank Trucking Company

Award bid to supply screened top soil to Accurate Excavators

Award bid to supply fill sand to Accurate Excavators

Award bid to supply concrete mix to Port City Redi-Mix

FINANCIAL IMPACT: $516,030.00

BUDGET ACTION REQUIRED: None; funds appropriated in several budgets.

STAFF RECOMMENDATION: Recommend approval of bids as outlined in the Summary of Request.

D. <u>Contract for Mowing, Trash, and Brush Pickup</u> Public Safety

SUMMARY OF REQUEST: The City of Muskegon had requested contract fee proposals for mowing, trash, and brush clean up on both private and public properties throughout the City of Muskegon for a three (3) year limit with the option to be extended one (1) year upon mutual agreement from both parties with a 60-day notice before expiration of the contract.

This request resulted in two submissions from area contractors to perform the services needed. Because of the varying process, we would like to recommend that a three (3) year contract be awarded to Earth Creations LLC with the option to extend one (1) year upon mutual agreement.

Earth Creations LLC has served as the contractor for these services for the past 11 years; they have worked diligently and seamlessly with the City of Muskegon. The rates Earth Creations have applied to this bid are higher than in previous years due to increased costs in insurance, equipment, and labor. Awarding contract as indicated would also be accepting the lowest bidder.

FINANCIAL IMPACT: Funds budgeted for this activity.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve a three (3) year contract with Earth Creations, LLC.

H. <u>Zoning Ordinance Amendment – Critical Dunes</u> Planning & Economic Development

SUMMARY OF REQUEST: Staff initiated request to amend section 2310 of the zoning ordinance to make several changes to the critical dune ordinance.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the zoning ordinance amendment.

COMMITTEE RECOMMENDATION: The Planning Commission unanimously recommended approval of the request at their May 16 meeting.

Motion by Commissioner German, second by Vice Mayor Hood, to approve the consent agenda as presented, except items B, E, F, and G.

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

Nays: None

MOTION PASSES

2019-42 ITEMS REMOVED FROM CONSENT:

B. <u>Authorization to Sign Community Housing Development Organization (CHDO) Agreements</u> Community & Neighborhood Services

SUMMARY OF REQUEST: To direct the Mayor and City Clerk to sign the approved agreement for the City's CHDO Reserve and Operating Funds for Bethany Housing Ministries, Inc., doing business as Community enCompass. Community enCompass, has proposed to build a multi-family home, located at 480 Houston in the Nelson Neighborhood. The total budget for this project is $108,000. Community eCcompass has been allocated $100,000 (CHDO Reserve) and $8,000 (CHDO Operating), in HOME funds to assist in the completion of this home. Community enCompass will be providing decent affordable housing within the City of Muskegon.

After the Mayor and Clerk sign the contracts, the CNS office will retain one copy for our files and a copy will be supplied to Community enCompass for their records.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: HOME Funds prior to 2018.

STAFF RECOMMENDATION: To direct the Mayor and Clerk to sign the agreements.

Motion by Vice Mayor Hood, second by Commissioner Hood, to direct the Mayor and Clerk to sign Community Housing Development Organization Agreement for Bethany Housing Ministries, Inc., DBA Community enCompass.

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

Nays: None

MOTION PASSES

E. <u>Halaula Hawaiian Ice Shack Concession/Business Contract for City of Muskegon Parks</u> Department of Public Works

SUMMARY OF REQUEST: Staff is asking permission to enter into a seasonal contractual agreement for 2019 with Kim Fegel of "Halaula Hawaiian Ice Shack" at Pere Marquette Park, Margaret Drake Park, and Kruse Park, located within the City of Muskegon, to sell various items, as stated in their proposal, from a mobile concession.

FINANCIAL IMPACT: Concession revenue is $1,000 plus 5% of gross receipts.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Enter into a seasonal Concession/Business contractual agreement, for 2019, with Kim Fegel of "Halaula Hawaiian Ice Shack"

Motion by Commissioner Johnson, second by Commissioner Warren, to enter into a seasonal Concession/Business contractual agreement for 2019 with Kim Fegel of Halaula Hawaiian Ice Shack.

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

Nays: None

MOTION PASSES

F. <u>Trespassing Ordinance (Amendment)</u> Public Safety

SUMMARY OF REQUEST: The Director of Public Safety requests the Commission consider amending the City of Muskegon Trespassing Ordinance to reflect the change in the new State Law (MCL 750.552), which has been amended from a 93 day misdemeanor with a maximum fine of $500.00 to a reduced penalty.

A city ordinance cannot exceed the State Law penalty and/or fine schedule, this adjustment will align our trespassing ordinance and bring our local law into compliance with the statute. The city's penalty and fine for trespassing would be reduced to a 30 day misdemeanor and/or a fine of $250.00.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the reduced penalty to comply with State Law.

Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to approve the ordinance amendment reducing the penalty to comply with State Law.

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

Nays: None

MOTION PASSES

G. <u>Disorderly Conduct Ordinance (Amendment)</u> Public Safety

SUMMARY OF REQUEST: The Director of Public Safety requests the Commission consider the amendment to 54-101 (Disorderly Conduct Ordinance) Subsection (a.3) amplifying the sound produced by a radio or other electronic device from a motor vehicle (public place, roadway, or park).

This adjustment will define a violation for amplified sound being produced in such a manner to be plainly audible at a distance 50 feet from the location of said motor vehicle. A person who violates 54-101 (a.3) shall be responsible for a civil infraction.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the amendment to the Disorderly Conduct Ordinance (54-101 a.3).

Motion by Commissioner Johnson, second by Commissioner Warren, to approve the ordinance amendment to the Disorderly Conduct Ordinance (54-101 a.3).

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

Nays: None

MOTION PASSES

2019-43 NEW BUSINESS:

A. <u>Amendment to the Form Based Code Section of the Zoning Ordinance</u> Planning & Economic Development

SUMMARY OF REQUEST: Staff initiated request to amend the form based code section of the zoning ordinance to create new context areas for Lakeside.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the zoning ordinance amendment.

COMMITTEE RECOMMENDATION: The Planning Commission unanimously recommended approval of the request at their May 16 meeting.

Motion by Commissioner Warren, second by Commissioner Rinsema-Sybenga, to approve the zoning ordinance amendment.

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

Nays: None

MOTION PASSES

B. <u>Rezoning of Several Parcels in the Lakeside Neighborhood</u> Planning & Economic Development

SUMMARY OF REQUEST: Staff initiated request to rezone several properties in Lakeside to Form Based Code.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of the rezonings.

COMMITTEE RECOMMENDATION: The Planning Commission unanimously recommended approval of the rezonings, contingent upon the approval of the zoning ordinance amendment by City Commission.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Warren, to approve the zoning ordinance amendment.

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

Nays: None

MOTION PASSES

C. <u>2019 CDBG/HOME Budget Recommendations</u> Community & Neighborhood Services

SUMMARY OF REQUEST: To approve the 2019 Budget Recommendations for CDBG/HOME Allocations.

FINANCIAL IMPACT: Budget will be published for release of funds request.

BUDGET ACTION REQUIRED: To finalize the budget for the CNS department and direct staff to publish approved 2019 CDBG/HOME Allocation and Budget for Release of Funds and Environmental Review of Projects.

STAFF RECOMMENDATION: To approve the 2019 CDBG and HOME Budgets.

COMMITTEE RECOMMENDATION: The Citizens District Council has made their recommendations.

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to approve the staff recommended 2019 CDBG and HOME budgets.

Motion to amend the staff recommended budget to remove $30,000 from Skate Parks, add $25,000 to Priority Home Repair, and add $5,000 to Sidewalks.

ROLL VOTE: Ayes: Warren, German, Rinsema-Sybenga, Turnquist, Johnson,

Gawron, and Hood

Nays: None

MOTION PASSES

ROLL VOTE ON ORIGINAL MOTION W/ AMENDMENTS:

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

Nays: None

MOTION PASSES

D. <u>Convention Center Development Agreement Changes</u> City Manager

SUMMARY OF REQUEST: City Staff is seeking approval to accept the following proposed changes to the Convention Center Development Agreement.

1. Extend the requirement for Parkland Acquisitions Two, LLC to levy the 4% self-assessment to December 31, 2050, or the expiration of the convention center debt, whichever is sooner;
2. Reduce the minimum square footage of the multi-purpose hall in the Convention Center to 17,500 square feet;
3. Remove any requirements that contractors pay their employees prevailing wages.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To accept the changes and authorize the manager to proceed with the development, as amended.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Warren, to accept the changes and authorize the manager to proceed with the development as amended.

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

Nays: Warren and German

MOTION PASSES

E. <u>Sale of City Property at 1246 Fifth, 1252 Fifth, and 1258 Fifth</u> Planning & Economic Development

SUMMARY OF REQUEST: Staff is seeking approval to sell the three vacant parcels at 1246, 1252, and 1258 Fifth Street to West Urban Properties, LLC, a Michigan Domestic Limited Liability Company. These parcels are zoned R-3 (Single-Family Residential). The parcels will be combined then split into two parcels with a single-family home being constructed on each.

FINANCIAL IMPACT: Staff recommends a sale price of $3,600.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval and signature of the purchase agreement, resolution, and deed.

Motion by Commissioner Turnquist, second by Commissioner Rinsema-Sybenga, approve the purchase agreement and resolution.

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

Nays: None

MOTION PASSES

2019-44 ANY OTHER BUSINESS:

Commissioner Turnquist would like to know what has happened with the sand pile that has been at Pere Marquette in the past.

Commissioner German has spoken with residents about a road project to take place in the area of Marsh and Walton near Wood Street.

Motion by Commissioner German, second by Vice Mayor Hood, to amend the design for the Marsh/Walton project, maintaining the connection to Wood Street and to authorize funds to pave and keep the road open.

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

Nays: None

MOTION PASSES

Commissioner Johnson raised the topic of addition of public comment to the top of the agenda. A meeting will be scheduled to review Commission rules.

Commissioner Warren asked about CRC meetings being held out in the community.

PUBLIC PARTICIPATION: Public Comments were received.

ADJOURNMENT: The City Commission Meeting adjourned at 9:20 p.m.

Respectfully Submitted,

Ann Marie Meisch – MMC, City Clerk