

CITY OF MUSKEGON

CITY COMMISSION MEETING

MAY 24, 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, May 24, 2022. Vice Mayor, Willie German, Jr., 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 Ken Johnson, Vice Mayor Willie German, Jr., Commissioners, Eric Hood (left at 7:25 p.m.), Teresa Emory, Rachel Gorman, Rebecca St.Clair, and Michael Ramsey (left at 7:30 p.m.) Interim City Manager LeighAnn Mikesell, City Attorney John Schrier, and Deputy City Clerk Kimberly Young

PUBLIC COMMENT ON AGENDA ITEMS: No public comments were received.

2022-46 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the April 26, 2022 Regular Meeting and April 29, 2022 Special Meeting.

STAFF RECOMMENDATION: To approve the minutes.

C. Concession Agreement – Patti Wagon Public Works

SUMMARY OF REQUEST: Staff is asking permission to enter into a contractual agreement with Patti Costner of "Patti Wagon" at various locations including Robert C. Lighton Park, Beachwood Park, Pere Marquette Park, and Margaret Drake Elliot Park.

Staff is asking permission to enter into a Concession Agreement for 2022 with Patti Costner of "Patti Wagon" at various parks including Robert C. Lighton Park, Beachwood Park, Pere Marquette park, and Margaret Drake Elliot Park. "Patti Wagon" has been operating in the parks near the beach and City Hall at various times this spring. Staff has contacted Ms. Costner in an attempt to reach a concession agreement. Ms. Costner and staff have proposed fees to the City of \$250.00 plus 5% of gross receipts; the specific proposal is in the packet and

includes certification and inspection documents; staff will work to ensure all necessary licenses and certificates are on file. Ms. Costner proposes to locate the concession each day depending on weather and traffic in an attempt to maximize sales. Staff will work with Ms. Costner to ensure specific locations are safe and accessible.

STAFF RECOMMENDATION: Authorize staff to enter into a Concession Agreement with Patti Costner of "Patti Wagon" at various city parks, including Robert C. Lighton, Beachwood, Pere Marquette, and Margaret Drake Elliot, for 2022.

D. Engineering Services – Drinking Water Revolving Fund for Lead Service Line Replacement Public Works

SUMMARY OF REQUEST: Staff is seeking permission to enter into a professional services agreement with Prein & Newhof for \$220,000 related to lead service line replacement design and construction engineering services.

The Michigan Department of Environment, Great Lakes and Energy (EGLE) has awarded the City a Drinking Water Revolving Fund (DWRf) loan of up to \$3,220,000 for lead service line replacement (LSLR). As a part of the Water Infrastructure Funding Transfer Act (U.S. Senate Bill 1689), this "loan" was issued with the knowledge that once complete, \$3,000,000 in principle will be forgiven. The funding will be available for expenditure from approximately October 1, 2022 through September 20, 2025 (over a three year period).

Staff are pursuing a two-pronged approach. Approximately half of the \$3 million will be spent by DPW staff over the next three years. The grant will be used to pay existing staff when working on LSLR, purchase additional equipment and hire new staff as necessary, and buy materials. The other half will be spent by contracting to replace service lines in the Marsh Field neighborhood, southwest of the intersection of Laketon and Getty. The full three years will be provided to the contractor to help reduce pricing.

In accordance with the prequalified firm process undertaken with the Commission in late 2019, staff negotiated with Prein & NEwhof to prepare a proposal for design and construction services related to the contracted portion of the loan, as well as assistance, with the loan paperwork and reporting on the entire loan. The proposal and professional services agreement are provided in the packet, are predicated on a three-year construction period, and are of the form used by Prein & Newhof for the last several years. If the contracted portion is completed sooner, at the contractor's option, then the amount of construction services could be less. This was not included in this fiscal year budget as award of the loan was not certain. It will be included in the next three fiscal year budgets as appropriate.

AMOUNT REQUESTED: \$220,000

AMOUNT BUDGETED: n/a

FUND OR ACCOUNT: 591-60555-Various

STAFF RECOMMENDATION: Authorize staff to enter into a professional services agreement with Prein & Newhof for \$220,000 related to lead service line replacement design and construction engineering services.

E. Transportation Economic Development Fund Public Works

SUMMARY OF REQUEST: Staff is seeking a formal resolution of support to submit a grant application to MDOT for a TEDF Grant for the extension of Olthoff Drive.

Staff is seeking funds for the extension of Olthoff Drive to serve developments on the former corrections department site. Grant funding is being pursued through the state's Transportation Economic Development Fund, specifically the Category A program. If successful this grant could provide up to 65% of the funding necessary for the project. If successful, construction would likely begin in the spring of 2023.

A formal resolution of support for the application is required as a part of the grant process. Staff is recommending approval of the resolution of support.

STAFF RECOMMENDATION: Approve the resolution of support for the TEDF Category A grant applications and authorize the clerk to sign.

F. Transportation Asset Management Plan Public Works

SUMMARY OF REQUEST: Staff is requesting authorization to contract with Prein & Newhof for professional services related to preparation of a Transportation Asset Management Plan and related services.

Public Act 325 of 2018 began a process which will require all road maintaining agencies with at least 100 centerline miles to prepare and have on file with the state a Transportation Asset Management Plan that is updated every three years. A rolling deadline system has resulted in Muskegon having our first plan on file by October 1, 2022h. To that end, and recognizing the value of asset management principles applied to City infrastructure, staff solicited a proposal.

As defined by the act, asset management is "an ongoing process of maintaining, preserving, upgrading, and operating physical assets cost effectively, based on a continuous physical inventory and condition assessment and investment to achieve established performance goals." In more practical terms, the plan will provide a detailed inventory of roads, bridges and culverts in the City, make and keep a record of their condition, set goals for improving the overall condition of the City's transportation infrastructure, and make recommendations on how to achieve the goals in the context of the fund expected to be available.

Staff worked with Prein & Newhof to obtain a proposal for the plan. Prein & Newhof has prepared asset management plans for the City's water system, sanitary sewer system, and stormwater drainage system using various grant-

based funding sources over the past five years. They have developed a consistent format that allows the City to house much of the data in a single GIS-based database, making decisions about which assets to repair or replace a more wholistic and context-based process. Staff is confident that having the Transportation Asset Management Plan as a part of the same system as our other asset management plans will be a critical to making cost-efficient and practical investments that take all the City's assets into account.

Due to a plan document format required by the state, and the impending deadline, Prein & Newhof has proposed to perform the work in two parts. First, and with data collection assistance from the City, they will prepare a plan that meets the state's requirements for format, data collection, and deadlines. Once approved by the state, and as the second part of the work, they will translate the plan and data into the existing system the City is using, and make capital improvement recommendations using the new transportation asset management data in the context of the other plans the City has, namely water, sanitary and drainage.

AMOUNT REQUESTED: \$29,500.00 AMOUNT BUDGETED: \$29,500.00

FUND OR ACCOUNT: 202- AND 203-60440-5300

STAFF RECOMMENDATION: Authorize staff to contract with Prein & Newhof in the amount of \$29,500 to prepare a Transportation Asset Management Plan and related services.

G. Updated (MNRTF) Michigan Natural Resources Trust Fund Grant Resolution
Public Works

SUMMARY OF REQUEST: Staff is seeking to rescind a previously approved resolution of support and replace it with an updated resolution of support for a Michigan Natural Resources Trust Fund Grant application.

Commission previously approved Resolution 2022-27(B) at the March 22, 2022 Commission Meeting which was submitted to the Michigan Department of Natural Resources (MDNR) on April 1, 2022 as part of a grant application. During the administrative review process, it was noted by MDNR that the costs in the resolution did not match the costs in the grant application.

Staff is requesting to have Resolution 2022-27(B) rescinded and to have the new resolution approved to fulfill the administrative completeness requirements identified by MDNR. There is no change in the match amount (\$400K) or the grant request amount (\$300k) from the original resolution.

STAFF RECOMMENDATION: Rescind previously approved Resolution 2022-27(B) and authorize the Mayor and Clerk to sign the updated Resolution of Support for the Michigan Natural Resources Trust Fund Application at Pere Marquette Park.

I. HOME Administrative and Planning Funds from American Rescue Plan (ARP) Grant Community and Neighborhood Services

SUMMARY OF REQUEST: HOME Administrative and Planning Funds from American Rescue Plan (ARP) grant.

HOME – ARP grant allows up to 5% of our award to Community Housing Development Organizations and non-profit organizations including homeless providers administering all or a portion of our program grant. United Way has provided a proposal through the RFP process offering 2022 CDBG funding support. Their request is more in line with the new resources from HOME – ARP to address homeless assistance needs through supportive services from the City's FY2021 budget.

AMOUNT REQUESTED: FY - \$50,000 AMOUNT BUDGETED: \$60,912.50

FUND OR ACCOUNT: HOME - ARP

STAFF RECOMMENDATION: To approve the funding request to hire a Muskegon Homeless Coordinator/Grant Writer for the HOME – ARP initiative through the City of Muskegon.

J. Muskegon Social Equity Plan Amendments Planning

SUMMARY OF REQUEST: Request to approve the Muskegon Social Equity Program. The percentages allocated to each individual program have been modified slightly.

Last year, the allocations were as follows: 30% towards grants/loans, 35% towards expungement clinics, 35% towards education/community outreach. This year, we are proposing 40% towards grants/loans, 30% towards expungement clinics, 30% towards education/outreach.

STAFF RECOMMENDATION: To approve the Muskegon Social Equity Program amendments as proposed.

K. Re-assignment of 433/435 E. Isabella Avenue Community and Neighborhood Services

SUMMARY OF REQUEST: To assign the 2-unit Building Rehabilitation to Community and Neighborhood Services for Affordable Housing contacts with Local Continuum of Care agencies for the creation of City Rental Rehabilitation Program.

Current rehabilitation of 433/435 E Isabella (2-unit) house is nearing the rough-in inspection stage and will be demarked to assign to CNS for the final Certificate of Occupancy inspection. CNS will hold as a Rental property owned by the city for Affordable Housing units for local CoC agencies in need of housing units for homeless, and at-risk of homelessness.

AMOUNT REQUESTED: \$150,000 AMOUNT BUDGETED: \$320,000

FUND OR ACCOUNT: HOME Program 2020

STAFF RECOMMENDATION: Approve the re-assignment of 433/435 E Isabella Avenue to CNS for affordable housing creation under the Rental Rehabilitation Program.

Motion by Commissioner Gorman, second by Commissioner Ramsey, to accept the consent agenda as presented, minus item B and H.

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

Nays: None

MOTION PASSES

2022-47 REMOVED FROM CONSENT AGENDA:

B. Annual Action Plan Budget 2022 Community and Neighborhood Services

SUMMARY OF REQUEST: The Annual Action Plan Budgets are presented to the Commission for approval based on the Department of Housing and Urban Development (HUD) appropriations for FY2022. The Community Planning and Development (CPD) office funded programs are Community Development Block Grant (CDBG) and HOME investment Partnerships (HOME) and the allocations total \$1,252,544.00 for eligible programs administered by the office of Community and Neighborhood Services.

AMOUNT REQUESTED:

CDBG - \$912,894

HOME - \$339,650

AMOUNT BUDGETED:

CDBG - \$912,894

HOME - \$339,650

FUND OR ACCOUNT: 472 AND 473

STAFF RECOMMENDATION: To approve the 2022 Annual Action Plan Budgets for CDBG and HOME Programs.

Motion by Vice Mayor German, second by Commissioner St. Clair, to approve the 2022 Annual Action Plan Budgets for CDBG and HOME Programs.

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

Nays: None

MOTION PASSES

H. City Park Concession Policy Public Works

SUMMARY OF REQUEST: Staff is seeking approval of a formal concession fee waiver process to be applied to potential concessionaires operating within the City Park system.

Staff is presenting a draft fee waiver application for concessionaires within the City Park system. This document and discussion are the first step in developing a formal concession policy, of which this fee waiver application would be one part. Currently applications are accepted by DPW and approved at the Commission level, with no formalized policy.

If approved, the fee waiver structure would apply to any concessionaire within the traditionally recognized city park system that seeks a waiver due to the types of services they provide and the groups their efforts benefit. As presented, this waiver application would not apply to other similar operations like Western Market that operate outside of the city park system.

STAFF RECOMMENDATION: Approve the City Park Concession Fee Waiver Application.

Motion by Commissioner Ramsey, second by Vice Mayor German, to approve the City Park Concession Fee Waiver Application.

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

Nays: None

MOTION PASSES

2022-48 PUBLIC HEARINGS:

A. Commercial Facilities Exemption Certificate – Sweetwater Development Planning

SUMMARY OF REQUEST: Sweetwater Development was issued a Commercial Facilities Exemption Certificate (PA255) on June 25, 2019 for the development of The Leonard building at 292 W Western Avenue. This commercial tax abatement was awarded to the first three floors of the building, while the top three floors were awarded a Neighborhood Enterprise Zone Certificate for the residential units. They are requesting to revoke the portion of the commercial tax abatement on only the third floor so that they may convert that floor to additional residential units.

STAFF RECOMMENDATION: To revoke the third floor portion of the Commercial Facilities Exemption Certificate, number 2019-142, at 292 W Western Avenue.

PUBLIC HEARING COMMENCED: Jared Balka with Warner, Norcross, and Judd, on behalf of Corey Leonard, provided an update to the Commission as to the progress of the project.

Motion by Commissioner Ramsey, second by Commissioner Emory, to close the public hearing and revoke the third floor portion of the Commercial Facilities Exemption Certificate, number 2019-142, at 292 W. Western Avenue.

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

Nays: None

MOTION PASSES

B. Commercial Rehabilitation Certificate – Northern Biomedical Research, Inc. Planning

SUMMARY OF REQUEST: Pursuant to Public Act 210 of 2005, as amended, Northern Biomedical Research Inc has requested the issuance of a Commercial Rehabilitation Certificate at 2725 Olthoff Drive.

The Certificate will freeze the taxable value of the building and exempt the new real property investment from local taxes. The school operating tax and the State Education Tax (SET) are still levied on the new investment. Land and personal property cannot be abated under this act. The City Commission approved the creation of the Commercial Rehabilitation District at its March 22 meeting. The estimated investment cost is \$63,000,000. The tax incentive committee has recommended an abatement duration of ten (10) years.

STAFF RECOMMENDATION: To approve the issuance of a Commercial Rehabilitation Certificate at 2725 Olthoff Drive for a duration of the (10) years.

PUBLIC HEARING COMMENCED:

Rev. James Johnson, 1541 Fifth Street, opposed – would like to keep this type of business out of Muskegon.

Jan Jacobs, 16 Watershore Drive, Norton Shores, opposed.

Darlene DeHudy, 4356 Lake Harbor, Norton Shores, opposed.

Hannah Hilborn, 3320 Peck Street, opposed.

Michael Hauelsen, 903 Turner Avenue, opposed.

Kwame James, 2076 Miner Ave, appreciates Commission's careful consideration.

Shane Woods, CEO of Northern Biomedical Research, answered questions from the City Commissioners.

Motion by Commissioner Hood, second by Commissioner Emory, to close the public hearing and approve the issuance of a Commercial Rehabilitation Certificate at 2425 Olthoff Drive for a duration of ten (10) years.

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

Nays: None

MOTION PASSES

2022-49 UNFINISHED BUSINESS:

A. Concession Agreement – Muskegon Lighthouse Conservancy

Public Works

SUMMARY OF REQUEST: Staff is asking permission to enter into a 3-year contractual agreement with Erin Vorgias of the Michigan Lighthouse Conservancy – Muskegon Lights Branch to operate a gift shop and to support the tour operations in the chalet at Pere Marquette Park.

Staff is asking permission to enter into a Concession Agreement from May 10, 2022 – May 10, 2025 with Erin Vorgias of the Michigan Lighthouse Conservancy – Muskegon Lights Branch. Ms. Vorgias has proposed to operate a gift shop and support facility for their tour operations in the chalet at Pere Marquette Park.

MLC is proposing to pay the standard \$1,000 annual fee to the city for the right to use the facility, but is asking for the standard 5% of gross receipts to be waived to help support the capital fundraising goals of the 501c3 organization as they work to secure funds for needed repairs at the lights.

STAFF RECOMMENDATION: Authorize staff to enter into a 3-year Concession Agreement with Erin Vorgias of the Michigan Lighthouse Conservancy for use of the chalet at Pere Marquette Park.

Motion by Commissioner St.Clair, second by Commissioner Emory, to authorize staff to enter into a 3-year Concession Agreement with Erin Vorgias of the Michigan Lighthouse Conservancy for use of the chalet at Pere Marquette Park.

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

Nays: None

MOTION PASSES

2022-50 NEW BUSINESS:

A. Housing Board of Appeals Demolitions

Public Safety

872 Forest

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 872 Forest 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 or staff may issue infraction tickets to the owner, agent, or responsible party if they do not demolish the structure.

FUND OR ACCOUNT: 101-80387-5356

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish 872 Forest.

Motion by Commissioner Ramsey, second by Commissioner Gorman, to concur with the Housing Board of Appeals decision to demolish 872 Forest.

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

Nays: None

MOTION PASSES

B. Amendment to Neighborhood Enterprise Zone Certificate – 292 W. Western Planning

SUMMARY OF REQUEST: The project was approved for the NEZ Certificate in December 2019 and included 18 residential units on floors three through six. The applicant will now be converting the second floor into additional residential units for a total of 24 units and is requesting to amend the NEZ certificate to include the units on the second floor.

STAFF RECOMMENDATION: To approve the amendment to the NEZ certificate at 292 W Western Avenue to include the new second floor units for a total of 24 units on floors two through six.

Motion by Commissioner Gorman, second by Commissioner Ramsey, to approve the amendment to the NEZ certificate at 292 W. Western Avenue to include the new third floor units for a total of 24 units on floors three through six.

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

Nays: None

MOTION PASSES

2022-51 ANY OTHER BUSINESS:

A. Request to fly Japanese Flag Mayor Johnson

Consul General Chido, from the Consulate-General of Japan, Detroit will be visiting Muskegon with his wife on Friday, June 10, 2022. Mayor Johnson has proposed to fly the Japanese flag in recognition of their visit.

Motion by Commissioner St.Clair, second by Commissioner Emory, to fly the Japanese flag on June 10, 2022 at City Hall.

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

Nays: None

MOTION PASSES

B. Request to fly Progressive Pride Flag in June

Commissioner Ramsey

Last year the City Commission passed a resolution to recognize June as Pride Month each year and part of that is to fly the Pride Flag.

Motion by Commissioner Ramsey, second by Commissioner St.Clair, to fly the Progressive Pride Flag for the month of June, except June 10, when we will fly the Japanese Flag.

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

Nays: Hood and German

MOTION PASSES

Also, under any other business, Mayor Johnson shared that the Great Lakes Area of Concern Conference is taking place this week in the City of Muskegon. As part of the conference, the EPA is here in Muskegon to celebrate the Greater Muskegon Area's completion of all management actions, setting us up for a de-listing of Muskegon Lake from the Great Lakes Area of Concern. This is a monumental moment in our history.

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

ADJOURNMENT: The City Commission meeting adjourned at 7:41 p.m.

Respectfully Submitted,

Kimberly Young, Deputy City Clerk