

City of Muskegon
City Commission Meeting
Minutes

May 23, 2023, 5:30 pm
Muskegon City Hall
933 Terrace Street, Muskegon, MI 49440

Present: Mayor Ken Johnson
Commissioner Rachel Gorman
Commissioner Rebecca St.Clair
Commissioner Eric Hood (left about 7:30 p.m.)
Vice Mayor Willie German, Jr.
Commissioner Michael Ramsey
Commissioner Teresa Emory

Staff Present: City Manager Jonathan Seyferth
City Clerk Ann Meisch
City Attorney John Schrier
Deputy City Clerk Kimberly Young

1. Call To Order

The Regular Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m. on Tuesday, May 23, 2023. Mayor Johnson called the City Commission Meeting to order at 5:30 p.m.

2. Prayer

Pastor Tara Foreman, Bethany Christian Reformed Church, opened the meeting with prayer.

3. Pledge of Allegiance

The Pledge of Allegiance to the Flag was recited by the Commission and the public.

4. Roll Call

As recorded above

5. Honors, Awards, and Presentations

5.a Muskegon Pride Center

Jeffery Pienela, President of Muskegon Pride Center, addressed the commission regarding the upcoming Muskegon Pride Festival and Muskegon Pride Parade.

5.b Seaway Run Presentation

Commissioner Ramsey shared information regarding the 2023 Seaway Run. The Seaway Run is partnering with all area schools, providing schools with a code and a champion. Students register at cost (\$12) and parents may register for \$20. The fee includes the bib, medal, t-shirt. Reach out to your school office or Seaway Run for the code for your school.

6. Public Comment on Agenda Items

Public comments were received.

7. Consent Agenda

Action No. 2023-61

Motion by: Commissioner Ramsey

Second by: Commissioner Emory

To accept the consent agenda as presented, minus items 7b, 7e, and 7i.

Ayes: (7): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

MOTION PASSES (7 to 0)

7.a Approval of Minutes - City Clerk

To approve the minutes of the April 25, 2023 Regular Commission Meeting.

STAFF RECOMMENDATION: To approve the minutes.

7.c Environmental Contract - Public Safety

There were three bids for the City of Muskegon Environmental cleanup and grass mowing contract. Earth Creations, Barry's Greenhouse, and Preferred Lawn Care. Earth Creations came in as the lowest bidder.

AMOUNT REQUESTED: \$197,000 per fiscal year/3-year contract

AMOUNT BUDGETED: \$197,000 per year 2023-2026 contract, with an approximate increase of 10% per year.

FUND OR ACCOUNT: 101-387-494

STAFF RECOMMENDATION: To approve and award the Environmental clean-up contract to Earth Creations for the upcoming June 5, 2023 through June 5, 2026 and allow the Director of Public Safety to sign the contract.

7.d All Traffic Solution Contract Renewal - Public Safety

All Traffic Solutions contract is up for renewal as of September 30, 2023. All Traffic Solutions is the company that we have purchased our digital display traffic trailers (2). This contract will be for the continued upkeep of technical support which allows the police department to program the trailers from a desktop in the office, receive satellite signal. The traffic trailers have been used in different area of the city to reduce speeding and at Pere Marquette notifying of paid parking and speed. This amount for the 3-year contract is at a 20% savings to the City.

AMOUNT REQUESTED: \$7,200 for a 3-year contract

AMOUNT BUDGETED: \$7,200 for a 3-year contract

FUND OR ACCOUNT: 101-301-801

STAFF RECOMMENDATION: To approve the renewal of the 3-year contract with All Traffic Solutions.

7.f Lumberjacks Renovations - Arena

Seeking approval to construct new team space at Trinity Health Arena. In exchange, the Lumberjacks would like to add an additional renewal option to Lumberjacks Shared Use Agreement.

All Traffic Solutions is the company that we have purchased our digital display traffic trailers (2). This contract will be for the continued upkeep of technical support which allows the police department to program the trailers from a desktop in the office, receive satellite signal. The traffic trailers have been used in different area of the city to reduce speeding and at Pere Marquette notifying of paid parking and speed. This amount for the 3-year contract is at a 20% savings to the City.

STAFF RECOMMENDATION: To approve continued exploration for the addition and amendment and authorize the City Manager and Clerk to sign.

7.g Parks & Recreation Advisory Committee Establishing Ordinance - 2nd Reading - Public Works

An ordinance to provide guidelines for the creation of a Parks & Recreation Advisory Committee.

STAFF RECOMMENDATION: To adopt the Parks & Recreation Advisory Committee ordinance as presented.

7.h Brownfield Development & Reimbursement Agreement, The Meadows at Harbor 31 LLC, 170 Viridian Drive - Economic Development

Staff is seeking approval of the Brownfield Development and Reimbursement Agreement for the Meadows at Harbor 31 LLC and approval of the resolution.

The Meadows at Harbor 31 is located on 2.5-acres along Muskegon Lake. The proposed redevelopment activities will include a 21 two-story multi-family dupe style residential homes with surrounding grass lawn areas, sidewalks and roadways creating a walkable community that provides access to Muskegon Lake, greenspace areas in downtown Muskegon. Sustainable development concepts are proposed throughout the project including green building techniques and low-impact development and stormwater management. The total costs for the eligible activities, including contingencies and interest, are \$1,961,135. The Brownfield TIF Revenue will be used to reimburse the Developer for the Developer Eligible Activities incurred and approved for the Project.

The Total private investment, not including property acquisition, is approximately \$7,000,000. Development is expected to begin this fall through 2024.

The Development & Reimbursement Agreement outlines the procedures for the City to reimburse the Developer for eligible expenses within the Brownfield Plan. The Authority shall pay 100% of the available Brownfield TIF Revenue to the Developer to reimburse the costs of Developer Eligible Activities. The Developer will provide the BRA a request for payment of eligible expenses. The BRA has 30 days to approve the request. Payments are made on a semi-annual basis when incremental local taxes

are captured and available. This agreement is to be approved by the Brownfield Redevelopment Authority during a special meeting held on May 23, 2023.

The Brownfield Plan Amendment was approved by the BRA on April 14, 2023 and the Commission on April 25, 2023.

STAFF RECOMMENDATION: To approve the Meadows at Harbor 31, LLC Brownfield Development and Reimbursement Agreement and authorize the Mayor and City Clerk to sign the agreement and resolution.

7.j Ordinance to Prohibit Illegal Entry into a Motor Vehicle - Public Safety

Proposal of an ordinance to prohibit illegal entry into a motor vehicle. Currently local and state law makes it unlawful for any person to enter a motor vehicle and steal an item. To appropriately charge this offense, intent needs to be proven that the defendant intended to steal when entering, or they are caught with the item they removed from the vehicle. There is no law that prohibits anyone from just entering another person's vehicle. In 2022 MUPD investigated 212 reports of larceny from a motor vehicle. This proposed ordinance makes it illegal for someone to enter another person's vehicle. This will allow MUPD another tool during our investigations.

STAFF RECOMMENDATION: To approve the proposed ordinance making it illegal for someone to enter another person's vehicle.

7.k Lakeshore Art Festival Grant - City Clerk

The City of Muskegon is in the process of pursuing a grant from the Michigan Arts and Culture Council Grant (MACC) in the amount of \$25,000 to support the 2024 Lakeshore Art Festival. Grant funds will support artists' fees (performers and artists), art supplies for the interactive art activities, and marketing efforts to attract a diverse audience. Per the grant requirements, the funds will be matched 1:1 from the Festival budget through sponsorship dollars.

STAFF RECOMMENDATION: To authorize staff to apply for the MACC grant in the amount of \$25,000

7.b City Manager DEI Certification - City Manager

Approval for the City Manager to enroll in Cornell University's Diversity, Equity & Inclusion (DEI) online Certificate Program. As part of the City

Manager's employment agreement, there's a requirement to complete a DEI certificate program (time frame is unspecified). After some research and talking with DEI practitioners, I am requesting approval to enroll in Cornell University's online DEI Certificate Program.

This program comes highly recommended and is well respected in the DEI field. I have included an endorsement of the program from Muskegon Community College's Chief Diversity Officer, Ken James for your reference. The program has rolling start dates. It is my objective to start the program in June or July which should lead to completion by early fall 2023. Although this expense is within the City Manager's authority, Commission is being asked to approve this item as it was called out as a requirement in the City Manager's contract.

AMOUNT REQUESTED: \$3,700

AMOUNT BUDGETED: N/A

FUND OR ACCOUNT: 101-172-861

STAFF RECOMMENDATION: To approve the enrollment of the City Manager in Cornell University's Online DEI Certificate Program.

Action No. 2023-62(b)

Motion by: Vice Mayor German

Second by: Commissioner St.Clair

To approve the enrollment of the City Manager in Cornell University's Online DEI Certificate Program.

Ayes: (7): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

MOTION PASSES (7 to 0)

7.e Annual Action Plan Budget2023 - Community & Neighborhood Services

The Annual Action Plan Budgets are presented to the Commission for approval based on the Department of Housing and Urban Development (HUD) appropriations for FY2023. The Community Planning and Development (CPD) office funded programs are Community Development Block Grant (CDBG) and HOME investment Partnerships (HOME) and

the allocations total \$1,226,786.00 for eligible programs administered by the office of Community and Neighborhood Services. The budgets for CDBG and HOME have been provided for review.

STAFF RECOMMENDATION: To approve the 2023 Annual Action Plan Budgets for CDBG and HOME Programs.

Action No. 2023-62(e)

Motion by: Vice Mayor German

Second by: Commissioner St.Clair

To approve the 2023 Annual Action Plan Budgets for CDBG and HOME Programs.

Ayes: (7): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

MOTION PASSES (7 to 0)

7.i FY24 DWRF Project Plan Updates - Department of Public Works

The City's DWRF Project Plan on file with the state for future revolving fund projects has been updated, and the City needs to receive comment and adopt the plan by resolution.

The City has taken advantage of favorable rates and even some principal forgiveness as a part of the state's Revolving Loan Fund programs to complete substantial utility improvement projects, such as the Sanford Street project currently underway. In order to be eligible for these programs, projects must be included in the City's "Project Plan" that is on file with the state department of EGLE. The specific projects proposed for the program are not known at this time; this Project Plan is simply a list of projects the City may propose for the program in the future. The list is used by the state to perform preliminary environmental and other clearance work so they are prepared for the projects if and when the City proposes them.

Prein & Newhof has updated our Drinking Water Revolving Fund (DWRF) Project Plan (the plan dedicated to drinking water projects) to show potential projects over the next several years. Part of the updating process includes holding a meeting where the public can comment on the plan (satisfied by today's meeting and the public comment periods within

it), and a resolution by the Commission adopting the plan. The resolution is attached.

An Executive Summary of the Project Plan is included. For the full version (520 pages, 34MB), please visit: [2023-05-08 DWRF Project Plan - Muskegon -DRAFT](#)

STAFF RECOMMENDATION: To adopt the City's 2024 DWRF Project Plan by resolution.

Action No. 2023-62(i)

Motion by: Commissioner St.Clair

Second by: Commissioner Ramsey

To adopt the City's 2024 DWRF Project Plan by resolution.

Ayes: (7): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

MOTION PASSES (7 to 0)

8. Public Hearings

8.a Request for an Industrial Facilities Exemption Certificate - Pacific Floorcare, 2259 S. Sheridan Drive - Planning & Economic Development

Pacific Floorcare has requested an Industrial Facilities Tax Exemption Certificate. The company will be making an investment of \$2,570,524 in real property improvements and plans on creating up to 17 jobs as part of the overall project, qualifying them for a 12-year abatement.

Pacific Floor Care is a manufacturing facility providing quality, and innovative floor care equipment. Pacific Floorcare will begin construction for an expansion this month. The expansion will add an additional 36,000 sq ft to the property on 2259 South Sheridan Drive. The new combined building will be 72,000 sq ft of commercial office and manufacturing space. The new facility will provide for additional rotational molding equipment and new production lines in support of new product launches. The new building will also include a 2,100 sq ft customer training center. The total investment for this project is \$2,570,524 in real property. This project will create 17 new jobs, add additional space for lines, warehousing, products and training.

Staff Comments: There is an established Industrial Development District on this site from July 26, 1983 that encompasses the Port City Industrial Park and is included in the agenda packet. The IFT committee reviewed the applicant's project on May 9, 2023 and based on their findings and calculations, the committee suggests approval of the attached resolution for a term of 12 years for real property. The business has turned in all of the necessary documents and application fee.

Contessa Alexander with the Development Services Department presented information on the request for the Industrial Facilities Exemption Certificate. Dwana Thompson, Equal Employment Opportunity Director, provided information on the demographic information and reported that the company does have an Affirmative Action Policy and EEO Policy. Bill Fisher, President of Pacific Floor Care - Larry Hines, owner and Greg Weiss, Vice President of Sales were in attendance. Mr. Fisher provided information on the expansion of their business. Morgan Carrol, Greater Muskegon Economic Development supports the project and encourages the commission to support the request to approve the exemption.

STAFF RECOMMENDATION: To close the public hearing and approve the resolution granting an Industrial Facilities Exemption Certificate for a term of 12 years for real property to Pacific Floor Care.

PUBLIC HEARING COMMENCED:

Deborah Peabody, Nelson Neighborhood, not against exemption but has questions about the demographics of the employees of the company.

Jake Eckholm, Development Services Director, pointed out that this company meets the criteria put forth by our scoring policy for qualifying for the exemption.

Action No. 2023-63(a)

Motion by: Commissioner Ramsey

Second by: Commissioner Gorman

To close the public hearing and approve the resolution granting an Industrial Facilities Exemption Certificate for a term of 12 years for real property to Pacific Floor Care.

Ayes: (7): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

8.b Brownfield Plan Amendment, 3rd Amendment, Adelaide Pointe QOZB, LLC - Development Services

Approval for Brownfield Plan Amendment, 3rd Amendment for Adelaide Pointe QOZB, LLC (Adelaide Pointe Project) and to consider the resolution.

Adelaide Pointe QOZB, LLC has submitted a Brownfield Plan Amendment (3rd Amendment) for the Adelaide Pointe Project – a 35-acre mixed use waterfront development project including winter boat storage, marina space, In/Out forklift boat storage, commercial/retail, and up to 400 housing units. Plans for this site has begun and will continue through Fall 2030 with a total investment of \$92,000,000 (not including property acquisition). The mixed-use waterfront development will create approximately 100 new jobs (retail, office, restaurant, marina) and provide contractor work for hundreds of temporary construction workers.

This amendment adds in the eligible environmental and non-environmental activities and property boundaries (1100 West Western Avenue) related to the construction of a Dry Rack storage building on the eastern portion of the new redevelopment area. This caused an increase in total investment by approximately \$7,000,000 an increase in taxable value by \$2,800,000 and increase in environmental and non-environmental activities equating to approximately \$1,900,000. Future amendments to this amended BPA may be pursued for phases four and five of the development.

In addition to environmental activities, non-environmental activities will include demolition, lead/asbestos abatement, site preparation and public infrastructure improvements. TIF will be used to reimburse the Developer, for the following eligible activities:

- Pre-approved BEA, documentation of due care, asbestos/lead paint survey, and additional due care assessment
- Due care activities
- Asbestos, lead paint, and mold abatement
- Select building and site demolition
- Site preparation

- Infrastructure improvements (public)
- 15% contingency
- Brownfield Plan Amendment
- Brownfield Plan Amendment Implementation
- Interest

Staff Comments:

Adelaide Pointe Brownfield Plan Amendment Approval Dates:

Brownfield Plan Amendment- BRA approval on Oct. 12, 2021 and CC on Oct 26, 2021

1st Amendment to the BPA- BRA approval on Dec. 13, 2022 and CC on Dec. 13, 2023.

2nd Amendment to the BPA- BRA and CC approval on Mar. 14, 2023

3rd Amendment to the BPA- BRA approval on May 9, 2023.

STAFF RECOMMENDATION: To close the public hearing and approve the resolution for the Brownfield Plan Amendment, 3rd Amendment for the Adelaide Pointe Project authorizing the Mayor and City Clerk to sign.

Contessa Alexander, Development Analyst, presented information on the request for the Amendment.

PUBLIC HEARING COMMENCED:

Jamie Cross, Nelson Neighborhood, frustrated that there is no plan for the park/public space at Adelaide Pointe.

Diane Foster, Jackson Hill Neighborhood, wants to know if they're planning to take money from the newly created Recreation Department - who is paying for the park?

Deborah Peabody, Nelson Neighborhood, is any part of the \$2 million going to this?

Director Eckholm clarified some issues for the commission, he also clarified that the park that is being referenced is not part of Adelaide Pointe's private development, it is city property being improved by Adelaide Pointe.

Action No. 2023-63(b)

Motion by: Commissioner Ramsey

Second by: Commissioner Hood

To close the public hearing and approve the resolution for the Brownfield Plan Amendment, 3rd Amendment for the Adelaide Pointe Project authorizing the Mayor and City Clerk to sign.

Ayes: (7): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

MOTION PASSES (7 to 0)

9. Unfinished Business

10. New Business

10.a 3rd Amendment, Brownfield Development & Reimbursement Agreement, Adelaide Pointe QOBZ, LLC - Economic Development

Staff is seeking approval for the 3rd Amendment, Brownfield Development & Reimbursement Agreement, for Adelaide Pointe QOBZ, LLC (Adelaide Pointe Project) and to consider the resolution.

Adelaide Pointe QOBZ, LLC has submitted a Brownfield Plan Amendment (3rd Amendment) for the Adelaide Pointe Project – a 35-acre mixed use waterfront development project including winter boat storage, marina space, In/Out forklift boat storage, commercial/retail, and up to 400 housing units. Plans for this site has begun and will continue through Fall 2030 with a total investment of \$92,000,000 (not including property acquisition). The mixed-use waterfront development will create approximately 100 new jobs (retail, office, restaurant, marina) and provide contractor work for hundreds of temporary construction workers.

Due to the addition of the eligible environmental and non-environmental activities related to the construction of a Dry Rack storage building mentioned in the 3rd Amendment to the Brownfield Plan Amendment, the Brownfield Tiff will change, thus needing an updated Brownfield Development and Reimbursement Agreement. This will cause a shift in the Brownfield Tax Increment Funds. This agreement is contingent upon the approval of the 3rd Amendment to the BPA for Adelaide Pointe.

The cost of Eligible Activities may be incurred by the City and APQ. The total cost of the Eligible Activities in the Brownfield Plan Amendment,

including contingencies, is estimated to be \$38 million dollars (the "Total Eligible Brownfield TIF Costs").

The Development & Reimbursement Agreement outlines the procedures for the City to reimburse the Developer for eligible expenses within the Brownfield Plan. The Authority shall pay 100% of the available Brownfield TIF Revenue to the Developer to reimburse the costs of Developer Eligible Activities. The Developer will provide the BRA a request for payment of eligible expenses. The BRA has 30 days to approve the request. Payments are made on a semi-annual basis when incremental local taxes are captured and available. This agreement is to be approved by the Brownfield Redevelopment Authority during a special meeting held on May 23, 2023.

The 1st Amendment to the DRA for APQ was approved by the BRA and CC on Jan.10, 2023. The 2nd Amendment to the DRA was approved by the BRA and CC on March 14, 2023.

STAFF RECOMMENDATION: To approve the Brownfield Development & Reimbursement Agreement for Adelaide Pointe QOZB, LLC (Adelaide Pointe Project) and authorize the Mayor and City Clerk to sign the agreement and resolution.

Action No. 2023-64(a)

Motion by: Commissioner Ramsey

Second by: Commissioner St.Clair

To approve the Brownfield Development & Reimbursement Agreement for Adelaide Pointe QOZB, LLC (Adelaide Pointe Project) and authorize the Mayor and City Clerk to sign the agreement and resolution.

Ayes: (6): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (1): Commissioner Hood

MOTION PASSES (6 to 0)

10.b Insurance Premium Refund - Non-Union Team Members - City Manager

In January 2023 several of the City's unions notified management of a miscalculation in the insurance premiums paid by staff. Upon investigation

it was determined that there was an error in contributions paid by union employees (contributions were negotiated at 10%). An administrative decision was made to adjust union team members back to 10% contributions and repay union team members for their over payment.

At the April 11, 2023 meeting, the Commission also made the decision to adjust non-union team members back to the 10% contributions. This item is to discuss repayment of non-union employees for the amounts paid over 10% going back to January 1, 2020.

As a reminder, starting in 2017 the City began using three different factors to determine employee contributions to their insurance premiums (a percent of actual monthly premiums and a percent of City Paid Benefits (co-insurance & deductibles)). Prior to 2017 just insurance premiums were used as a factor. This change was made because of cost increases in co-insurance and deductibles.

Sometime after 2017 a calculation error occurred and team member's contributions increased above the 10% level. Technically, this is ok for non-union team members as the Commission can set the non-union insurance contributions at any rate it desires. However, traditionally, the insurance contributions have been the same across all employment classes. On April 11, 2023 the commission approved realigning non-union team members' insurance with union members.

The question before the Commission today is, should the City refund non-union team members for the "overpayments" of health insurance contributions for the same time period as we were required to do for union team members? (Going back to Jan. 1, 2020.)

This cost will be about \$90,400 in payments back to team members (ranging from about \$3,000 to \$70 per team member).

STAFF RECOMMENDATION: To approve repaying non-union staff for insurance premiums paid in excess of 10% going back to January 1, 2020.

Action No. 2023-64(b)

Motion by: Commissioner St.Clair

Second by: Commissioner Ramsey

To approve repaying non-union staff for insurance premiums paid in excess of 10% going back to January 1, 2020.

Ayes: (6): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

Absent (1): Commissioner Hood

MOTION PASSES (6 to 0)

11. Any Other Business

12. Public Comment on Non-Agenda items

Public comments were received.

13. Closed Session

14. Adjournment

The City Commission meeting adjourned at 7:50 p.m.

Motion by: Vice Mayor German

Second by: Commissioner Emory

To adjourn.

MOTION PASSES

Respectfully Submitted,
Ann Marie Meisch, MMC - City Clerk