CITY OF MUSKEGON

CITY COMMISSION MEETING

APRIL 27, 2010

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, Michigan at 5:30 p.m., Tuesday, April 27, 2010.

Mayor Warmington opened the meeting with a prayer from Pastor Marcy Miller from the Samuel Lutheran 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 Warmington, Vice Mayor Stephen Gawron, Commissioners Sue Wierengo, Steve Wisneski, Chris Carter, Clara Shepherd, and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

2010-35 HONORS AND AWARDS:

A. Retirement of Bob Kuhn.

Mayor Warmington recognized and thanked Bob Kuhn for his 35 years of working for the community.

2010-36 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the April 12th Commission Worksession, and the April 13th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

C. SECOND READING: Amend Chapter 54, Article IV Offenses Involving Public Peace and Order. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety is requesting that the City Commission amend Chapter 54, Article IV Offenses Involving Public Peace and Order, of the Code of Ordinances of the City of Muskegon. This is being requested in order to update language in this ordinance.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the request.

D. <u>SECOND READING: Amendments to the Zoning Ordinance – On-site Sustainability and Conservation Efforts.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2334 #5, Exempt Signs, to allow signage related to on-site sustainability and conservation efforts.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their March 11th meeting.

E. <u>SECOND READING: Amendments to the Zoning Ordinance – Sporting Venues.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2334 #5, Exempt Signs, to allow sporting venues to display signage to those in attendance.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the request

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their March 11th meeting.

F. <u>2010 Water Treatment Chemical Bids.</u> WATER FILTRATION

SUMMARY OF REQUEST: Recommend endorsement of the lowest responsible bidder to supply sodium hypochlorite for the Water Filtration Plant and authorize staff to issue an annual purchase order to Alexander Chemical Corp.

FINANCIAL IMPACT: Annual cost of $44,132 (based on average annual water pumped to mains).

BUDGET ACTION REQUIRED: None at this time. These chemicals are budgeted annually.

STAFF RECOMMENDATION: Staff recommends the Mayor and City Commission endorse the low bid received and enter into contract with Alexander Chemical Corp. for sodium hypochlorite.

G. <u>Acquisition of Property for a Right Turn Radius – Portion of 1813 S. Getty Street.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: In a previous action, City Commission authorized proceeding with eminent domain for this property, which is needed for street improvements. Staff has since been able to negotiate a purchase price with the owner, Samei Betak. The value of the property (per the County Equalization Department) is $758.44. The agreed upon purchase price is $3,000.

FINANCIAL IMPACT: The purchase price will be paid for from the Public Improvement Fund.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Purchase Agreement and authorize the Mayor and Clerk to sign the Purchase Agreement and other documents necessary to purchase the property.

J. <u>Concession Contract for Pere Marquette Park.</u> PUBLIC WORKS

SUMMARY OF REQUEST: Staff is asking permission to enter into a three-year contractual agreement with two additional one-year options with Ken Huston of Amazing Gift Direct, LLC for operating a Concession (The Island Concession) at Pere Marquette Park.

FINANCIAL IMPACT: Contract revenue was $2,118 for the 2009 operating season. Approximately $325-$1,200 per year in revenue was received from previous vendor (Dan Etterman of Sandy Bottoms Concession) during the 2003-2008 contracts.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve request.

COMMITTEE RECOMMENDATION: The Leisure Services Board has approved the intended contractual agreement on April 19, 2010.

K. <u>Maintenance Agreement for Aamodt Park – Jackson Hill Neighborhood Association and City.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: An Achieve Grant has been received by the County of Muskegon for the Jackson Hill Neighborhood. The County has partnered with the City to oversee this grant. The Achieve group from Jackson Hill has chosen to use some of the funds for a community garden at Aamodt Park.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Maintenance Agreement between the City of Muskegon and Jackson Hill Neighborhood Association and authorize the Mayor and Clerk to sign.

L. <u>Deficit Elimination Plan for Home Rehabilitation Fund, Brownfield Redevelopment Authority Fund and Engineering Fund.</u> FINANCE

SUMMARY OF REQUEST: At December 31, 2009, the City of Muskegon Home Rehabilitation Fund had a deficit balance of $316,838; the Brownfield Redevelopment Authority Fund had a deficit balance of $10,214; and the

Engineering Fund had a deficit balance of $61,951. Act 275 of the Public Acts of 1980 requires that the City file a Deficit Elimination Plan with the Michigan Department of Treasury. Staff is requesting adoption of the Home Rehabilitation Fund, Brownfield Redevelopment Authority Fund and Engineering Funds Deficit Elimination Plan Resolutions.

FINANCIAL IMPACT: As presented by the Deficit Elimination Plan the Home Rehabilitation Fund, Brownfield Redevelopment Authority and Engineering funds will no longer have a deficit by December 31, 2010.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Adoption of the Deficit Elimination Plan Resolutions.

M. <u>Reclassification of Maintenance Worker Position.</u> ENGINEERING

SUMMARY OF REQUEST: Change the classification of the Maintenance Worker Position from Range XI to Range X. The reclassification is necessary to compensate for combining the duties' of the maintenance worker position with most of those in the Maintenance Supervisor position which is not being filled upon the retirement of the current supervisor. This proposal will result in a net annual SALARY saving of $40,285 and if we were to consider the other benefits could be in excess of $60,000.

FINANCIAL IMPACT: The difference between the upper limits of the two ranges which is $3,642 (based on the adopted 2009 salary schedule).

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the reclassification of the Maintenance Worker position from Range XI (11) to Range X (10).

N. <u>Consideration of Bids for H-1660 White Street and Scott Street from Wood Street to Oak Avenue.</u> ENGINEERING

SUMMARY OF REQUEST: Award the White Street/Scott Street project to McCormick Sand, Inc. out of Twin Lake since they were the lowest responsible bidder with a total bid price of $195,446.15.

FINANCIAL IMPACT: The construction cost of $195,446.15 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Award the construction project to McCormick Sand, Inc.

O. <u>City – MDOT Agreement for the Reconstruction of Getty Street from Apple to Marquette.</u> ENGINEERING

SUMMARY OF REQUEST: To approve the contract with MDOT for the reconstruction of Getty Street from Apple to Marquette and approve the resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT: MDOT's participation is limited to the federal funds of $310,500. The estimated total construction cost is $443,900.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Approve the contract and resolution authorizing the Mayor and Clerk to sign both.

P. <u>Approval of Contractor for Rehabilitation of House at 134 Isabella.</u>
COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the contract with Statewide Abatement, 1720 Creston, Muskegon, MI for the completion of the rehabilitation to be located at 134 Isabella within 90 days of signing the contract, for the bided amount of $37,597. This property's rehabilitation is being financed with Neighborhood Stabilization funds from the Michigan State Housing Development Authority. After the total rehabilitation is completed, the home will be marketed to any eligible owner occupied homebuyer with a household income less than 121 percent of the area median income.

The City received five additional bids:

Grayspace Construction of 601 Amity, Muskegon, MI for $65,509

Depender Construction of 4471 Tomkins Trail, Muskegon, MI for $66,325

Tim Weberg of 6263 Dakson Rd., Twin Lake, MI for $61,800

Murphy and Son of 84 N. Bock, Muskegon, MI for $58,350

Mossy Oak Builders of 3101 Hall Rd., Muskegon, MI for $49,630

Specialty Builders of 4392 Hall Rd., Muskegon, MI for $43,910

FINANCIAL IMPACT: The funding for the project will be taken from the money awarded to the City of Muskegon through the Neighborhood Stabilization Program.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval for Community and Neighborhood Services office to develop a contract with Statewide Abatement and direct the Mayor and Clerk to sign the contract.

Q. <u>Approval of Contractor for Rehabilitation of House at 468 W. Forest.</u>
COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the contract with Specialty Builders, 4392 Hall Rd., Muskegon, MI for the completion of the rehabilitation to be located at 468 W. Forest within 120 days of signing the contract, for the bided amount of $63,760. This property's rehabilitation is being financed with Neighborhood Stabilization funds from the Michigan State Housing Development Authority. After the total rehabilitation is completed, the home will be marketed to any eligible owner occupied homebuyer with a household income less than 121 percent of the area median income.

The City received five additional bids:

Grayspace Construction of 601 Amity, Muskegon, MI for $76,162

Mossy Oak Builders of 3101 Hall Rd., Muskegon, MI for $68,980

Tim Weberg of 6263 Dakson Rd., Twin Lake, MI for $66,750

Murphy and Son of 84 N. Bock, Muskegon, MI for $65,850

Statewide of 1720 Creston, Muskegon, MI for $69,455

FINANCIAL IMPACT: The funding for the project will be taken from the money awarded to the City of Muskegon through the Neighborhood Stabilization Program.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval for Community and Neighborhood Services office to develop a contract with Specialty Builders and direct the Mayor and Clerk to sign the contract.

R. Approval of Contractor for Rehabilitation of House at 1201 Ransom. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the contract with Specialty Builders, 4392 Hall Rd., Muskegon, MI for the completion of the rehabilitation to be located at 1201 Ransom within 180 days of signing the contract, for the bided cost of $77,135. This property's rehabilitation is being financed with Neighborhood Stabilization funds from the Michigan State Housing Development Authority. After the total rehabilitation is completed, the home will be marketed to any eligible owner occupied homebuyer with a household income less than 121 percent of the area median income.

The City received four additional bids:

Grayspace Construction of 601 Amity, Muskegon, MI for $122,835

Mossy Oak Builders of 3101 Hall Rd., Muskegon, MI for $96,860

Tim Weberg of 6263 Dakson Rd., Twin Lake, MI for $82,150

Murphy and Son of 84 N. Bock, Muskegon, MI for $78,700

FINANCIAL IMPACT: The funding for the project will be taken from the money awarded to the City of Muskegon through the Neighborhood Stabilization Program.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval for Community and Neighborhood Services office to develop a contract with Specialty Builders and direct the Mayor and Clerk to sign the contract.

S. **Approval of Contractor for Rehabilitation of House at 627 Apple.** COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the contract with Specialty Builders, 4392 Hall Rd., Muskegon, MI for the completion of the rehabilitation to be located at 627 Apple within 90 days of signing the contract, for the bided amount of $46,800. This property's rehabilitation is being financed with Neighborhood Stabilization funds from the Michigan State Housing Development Authority. After the total rehabilitation is completed, the home will be marketed to any eligible owner occupied homebuyer with a household income less than 121 percent of the area median income.

The City received five additional bids:

Grayspace Construction of 601 Amity, Muskegon, MI for $74,200

Depender Construction of 4471 Tomkins Trail, Muskegon, MI for $59,603

Mossy Oak Builders of 3101 Hall Rd., Muskegon, MI for $57,940

Tim Weberg of 6263 Dakson Rd., Twin Lake, MI for $52,200

Murphy and Son of 84 N. Bock, Muskegon, MI for $49,300

FINANCIAL IMPACT: The funding for the project will be taken from the money awarded to the City of Muskegon through the Neighborhood Stabilization Program.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval for Community and Neighborhood Services office to develop a contract with Specialty Builders and direct the Mayor and Clerk to sign the contract.

T. **Approval of Contractor for Rehabilitation of House at 1331 Amity.** COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the contract with Mossy Oak Builders, 3101 Hall Rd., Muskegon, MI for the completion of the rehabilitation to be located at 1331 Amity within 120 days of signing the contract, for the agreed upon amount of $63,635. This property's rehabilitation is being financed with Neighborhood Stabilization funds from the Michigan State Housing Development Authority. After the total rehabilitation is completed, the home will be marketed to any eligible owner occupied homebuyer with a household income less than 121 percent of the area median income.

The City received six additional bids:

Depender Construction of 4471 Tomkins Trail, Muskegon, MI for $97,145

Grayspace Construction of 601 Amity, Muskegon, MI for $79,974

Statewide Abatement of 1720 Creston, Muskegon, MI for $74,184

Tim Weberg of 6263 Dakson Rd., Twin Lake, MI for $74,000

Murphy and Son of 84 N. Bock, Muskegon, MI for $70,500

Specialty Builders of 4392 Hall, Muskegon, MI for $58,780

Obviously Specialty Builders was the lowest bidder on this project but they also were the lowest bidder on three other projects in this round of NSP projects. It was the opinion of both the CNS office as well as Specialty Builders that they did not have the capacity to complete four rehabilitation projects in a quality manner in the time frame that the CNS office is requesting.

FINANCIAL IMPACT: The funding for the project will be taken from the money awarded to the City of Muskegon through the Neighborhood Stabilization Program.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval for Community and Neighborhood Services office to develop a contract with Mossy Oak Builders and direct the Mayor and Clerk to sign the contract.

U. <u>Liquor License Request for Shoreline Inn, 750 Terrace Point.</u> CITY CLERK

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Shoreline Inn, LLC for a new SDM License and a new Direct-Connection located at 750 Terrace Point.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.

V. <u>Amendments to the Zoning Ordinance – Assisted Living Facilities.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Staff initiated request to amend Section 700, #9 of Article VII (RM-1, Low Density Multiple-Family Residential) to allow assisted living facilities as a principal use permitted in RM-1, Low Density Multiple-Family Residential Districts.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the zoning ordinance amendment.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their April 15th meeting.

Motion by Vice Mayor Gawron, second by Commissioner Wierengo to approve the Consent Agenda as presented minus items B, H, and I.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, Warmington, and Wierengo

Nays: None

MOTION PASSES

2010-37 ITEMS REMOVED FROM THE CONSENT AGENDA:

B. SECOND READING: Vacant Building Registration Ordinance Amendments. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend the Code of Ordinances Chapter 10, Section 107, Annual Registration of Vacant Buildings and Registration Fees, for the purposes of exempting seasonal residences and vacation homes from the fee requirements and occupancy notification requirements of this ordinance, removing the requirement to notarize the registration forms, clarify the language regarding the billing process and add a requirement that all fees owed the City must be paid in full before a waiver of registration fee can be considered.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of Chapter 10, Section 107, Annual Registration of Vacant Buildings and Registration Fees for the purposes stated.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the Vacant Building Registration Ordinance amendments as presented.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

MOTION PASSES

H. Machine Vending Contract for Pere Marquette Park. PUBLIC WORKS

SUMMARY OF REQUEST: To enter into a one-year contractual agreement with Spark Paul John, 3070 Maple Grove Rd., Apt #350, Muskegon, MI for a Knockout Vending Machine to be located at Pere Marquette Park.

FINANCIAL IMPACT: Contract revenue is unknown at this time.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve request.

COMMITTEE RECOMMENDATION: The Leisure Services Board has previously approved the request to enter into a contractual agreement with Spark Paul John for a Knockout Vending Machine at the April 19th meeting.

Motion by Commissioner Carter, second by Commissioner Shepherd to approve the machine vending contract for Pere Marquette Park with Spark Paul John.

Motion by Commissioner Spataro, second by Commissioner Wisneski to table this item and refer it back to staff for their recommendation at the first meeting in May.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Wisneski, and Carter

Nays: None

MOTION TO TABLE PASSES

I. <u>Beverage Vending Contract for Parks/Marina Facilities.</u> PUBLIC WORKS

SUMMARY OF REQUEST: To enter into a three-year contractual agreement with Dr. Pepper/Snapple to provide vending service throughout City Parks and Marina Facilities.

FINANCIAL IMPACT: Contract revenue has averaged $2,090 per year over the last three-year contract.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve request.

COMMITTEE RECOMMENDATION: The Leisure Services Board has previously approved the request to enter into a contractual agreement with Dr. Pepper/Snapple at their April 19th meeting.

Motion by Vice Mayor Gawron, second by Commissioner Shepherd to approve the three-year contractual agreement with Dr. Pepper/Snapple to provide vending service throughout City Parks and Marina Facilities.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

2010-38 UNFINISHED BUSINESS:

A. <u>Concurrence with the Housing Board of Appeals Notice and Order to Demolish 439 Houston Avenue.</u> PUBLIC SAFETY (Tabled from 3-23-10)

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 439 Houston Avenue, Area 10, is unsafe, substandard, a public nuisance and that it be demolished within 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.

FINANCIAL IMPACT: CDBG Funds.

BUDGET ACTION REQUIRED: None.

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

This item was tabled at the March 23, 2010, City Commission Meeting.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, Gawron, and Shepherd.

Nays: None

MOTION PASSES

2010-39 NEW BUSINESS:

A. <u>2010 Budget Adjustments.</u> CITY MANAGER

SUMMARY OF REQUEST: To make changes to the 2010 budget based on the current economic conditions. The proposed changes will reduce the budget expenditures and put them more in line with anticipated revenues.

FINANCIAL IMPACT: Over $700,000 to the City's General Fund.

BUDGET ACTION REQUIRED: Approve an amendment to the 2010 budget and authorize implementation of the changes.

STAFF RECOMMENDATION: To approve the proposed adjustments.

Motion by Commissioner Spataro, second by Commissioner Wierengo to approve the proposed budget adjustments for 2010.

ROLL VOTE: Ayes: Warmington, Wierengo, Wisneski, Carter, Gawron, Shepherd, and Spataro

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 7:10 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk