CITY OF MUSKEGON

CITY COMMISSION MEETING

APRIL 13, 2004

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 13, 2004.

Mayor Warmington opened the meeting with a prayer from Commissioner Gawron 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 Bill Larson, Commissioners Chris Carter, Kevin Davis, Stephen Gawron Clara Shepherd, and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier and City Clerk Gail Kundinger.

2004-34 INTRODUCTIONS/PRESENTATIONS:

A. National Youth Service Day 2004 "Preparing Muskegon for a Call to Service"

Commissioner Spataro presented a resolution announcing Nation Youth Service Day 2004, "Preparing Muskegon for a Call to Service" to Martha Bottomly, representative of Volunteer Muskegon.

2004-35 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, March 23, 2004.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Liquor License Request – Sardine Room. CITY CLERK

SUMMARY OF REQUEST: The Liquor Control Commission seeks local recommendation on a request from Small Perch, Inc. for a new outdoor service area to be held in conjunction with their current 2003 Class C-SDM licensed business with Dance permit and Official Permit (food).

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: All departments are recommending approval.

C. **<u>SECOND READING: Zoning Ordinance Amendment for Permits.</u>** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2311 (Accessory Structures and Buildings) of Article XXIII (General Provisions) of the City's Zoning Ordinance to add language regarding permits.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to add language regarding permits.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their 3/11 meeting. The vote was unanimous with T. Johnson absent.

D. **<u>Sale of Non-Buildable Lot at 550 McLaughlin Avenue.</u>** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of a vacant non-buildable lot (Parcel #24-205-081-0006-00) at 550 McLaughlin Avenue to Gurney Brower, of 560 McLaughlin Avenue, Muskegon, MI. Approval of this sale will allow the owner to expand his current yard. Mr. Brower is attempting to purchase the small vacant lot directly to the north of this City-owned property from a private owner. This lot is being offered to Mr. Brower for $1 under the Dollar Lot Marketing Plan.

FINANCIAL IMPACT: The sale of this lot will allow the property to be placed back on the City's tax rolls thus relieving the City of Continued maintenance costs.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and the Clerk to sign the resolution and the deed.

E. **<u>Road Salt Procurement Authorization.</u>** DEPARTMENT OF PUBLIC WORKS

SUMMARY OF REQUEST: Authorize procurement of 4,500 tons road salt for the 2004/2005 winter season through the State of Michigan MiDeal Program.

FINANCIAL IMPACT: Per Ton price yet to be determined; 2003/2004 extended price is $24.70/ton. At the price, 4,500 tons would total $111,150.

BUDGET ACTION REQUIRED: None; expense budgeted for through public works.

F. Aggregates, Highway Maintenance Materials and Concrete. DEPARTMENT OF PUBLIC WORKS

SUMMARY OF REQUEST: Award bid to supply H1 and H2 limestone chip blend to Verplank Trucking Company. Award bid to supply road slag to Verplank Trucking Company. Award bid to supply sylvax-patching material UPM-CP-7 to Rieth-Riley Construction Co., Inc. Award bid to supply bituminous asphalt product to Asphalt Paving, Inc. Award bid to supply Calcium Chloride 38% (road brine) and 32% (winter salting) to Liquid Dustlayer, Inc. Award bid to supply 7-sack mix concrete to Port City Redi-Mix Company, contingent upon product availability, timely deliveries, and prices as quoted.

FINANCIAL IMPACT: $120,480, based on 2003 quantities at 2004 quotes.

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

G. Police Car Video Systems. DEPARTMENT OF PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase ten video systems for police cruisers.

FINANCIAL IMPACT: Cost per unit $5,907.50

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve purchase of new video systems for police cruisers.

Motion by Commissioner Spataro, second by Commissioner Gawron to accept the Consent Agenda as read minus item H.

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, Gawron

Nays: None

MOTION PASSES

2004-36 ITEMS REMOVED FROM CONSENT AGENDA

H. Sheldon Park Neighborhood Maintenance Agreement. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the Agreement between Sheldon Park Neighborhood Association and the City of Muskegon. We have had an agreement with the neighborhood Association since 1997, which has been renewed every 1-2 years.

FINANCIAL IMPACT: The City donates $2,000 to the Association to maintain the Northwest corner of Evanston and Oak Grove Street and the South side of McLaughlin Ave., just East of Burton Road. This is for the term of the Agreement (May 1, 2004-December 31, 2005).

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the Agreement and authorize the Mayor and Clerk to sign.

Motion by Vice Mayor Larson, second by Commissioner Carter to approve the Agreement between Sheldon Park Neighborhood Association and the City of Muskegon, and have the Mayor and Clerk sign.

ROLL VOTE: **Ayes: Shepherd, Spataro, Warmington, Carter, Davis Gawron, Larson**

Nays: None

MOTION PASSES

2004-37 PUBLIC HEARINGS:

A. <u>Request for an Industrial Facilities Exemption Certificate – United Sign Company.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, United Sign Company, 2068 E. Sherman Boulevard, Muskegon, Michigan, has requested the issuance of an Industrial Facilities Exemption Certificate. The total capital investment for this project is $652,095 in personal property which will lead to the retention of 2 jobs. This request qualifies United Sign Company for a 6-year exemption on personal property. United Sign Company's current workforce is 16.

FINANCIAL IMPACT: The City will capture certain additional property taxes and income taxes generated by the expansion.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the resolution granting an Industrial Facilities Exemption Certificate for a term of six (6) years for personal property to United Sign Company.

The Public Hearing opened at 5:42pm to hear any comments from the people. No comments were heard at this time.

Motion by Commissioner Larson, second by Commissioner Gawron to close the Public Hearing at 5:45pm and to approve the resolution granting an Industrial Facilities Exemption Certificate for a term of six (6) years for personal property to United Sign Company.

ROLL VOTE: **Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, Shepherd**

Nays: None

MOTION PASSES

B. <u>Request for an Industrial Facilities Exemption Certificate – Total Quality Machining, Inc.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, Total Quality Machining, Inc., 2226 Olthoff Drive, Muskegon, Michigan, has requested the issuance of an Industrial Facilities Exemption Certificate. The total capital investment for this project is $129,503 in personal property which will lead to the retention of 10 jobs. This request qualifies Total Quality Machining, Inc. for a 6-year exemption on personal property. Total Quality Machining, Inc.'s current workforce is 10.

FINANCIAL IMPACT: The City will capture certain additional property taxes and income taxes generated by the expansion.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the resolution granting an Industrial Facilities Exemption Certificate for a term of six (6) years for personal property to Total Quality Machining Inc.

The Public Hearing opened at 5:45pm to hear any comments from the public. Comments were heard from Rick Goodwin of 3946 Leahy representing Total Quality.

Motion by Commissioner Gawron, second by Commissioner Davis to close the Public Hearing at 5:49pm and to approve the resolution granting an Industrial Facilities Exemption Certificate for a term of six (6) years for personal property to Total Quality Machinging Inc.

ROLL VOTE: **Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, Spataro**

Nays: None

MOTION PASSES

2004-38 UNFINISHED BUSINESS:

A. **Madison Street Fire Barn: Oakview Neighborhood Association**
PLANNING AND ECONOMIC DEVELOPMENT

Motion by Commissioner Larson, second by Commissioner Spataro to extend the Lease Agreement between the City and Oakview Neighborhood Association for 120 days, and for the Association to inform City Staff within 90 days if they intend to purchase the building. If the property is not able to be purchased by Oakview, a Request for Proposal will be put out for other purchasers of the building. The Neighborhood Association may remain in the building during this time, and upon adopting a sale with another purchaser, they would have 30 days after the property is sold to relocate.

ROLL VOTE: **Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, Warmington**

Nays: None

MOTION PASSES

2004-39 NEW BUSINESS:

A. Pere Marquette Ground Lease Assignment. LEISURE SERVICES

SUMMARY OF REQUEST: To authorize the assumption of the ground lease for the restaurant at Pere Marquette Park.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval.

Motion by Commissioner Spataro, second by Vice Mayor Larson to approve the assumption of the ground lease for the restaurant at Pere Marquette Park.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, Carter

Nays: None

MOTION PASSES

B. Hartshorn Marina Proposals. LEISURE SERVICES

SUMMARY OF REQUEST: To authorize staff to negotiate a contract with Westrec Management, Inc. to manage Hartshorn Marina and other marina properties beginning in 2005.

FINANCIAL IMPACT: Unknown

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval.

Motion by Commissioner Spataro, second by Commissioner Gawron to authorize staff to negotiate a contract with Westrec Management Inc. to manage Hartshorn Marina and other marina properties beginning in 2005.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, Davis

Nays: None

MOTION PASSES

C. Request for Extension of Deadlines for Former Lakos Property. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: On February 8, 2000, the City of Muskegon and Desiree Enterprises (Holiday Inn) entered into a "Real Estate Agreement" for the sale of the former Lakos property. At that time, the owners were required to construct a building on the premises within 18 months of closing. On January 22, 2002, an "Amendment Agreement' was entered into between the parties, which allowed for the buyer to construct a parking lot on the premises by May 31, 2002 (which was accomplished), to provide a written schedule of the construction activities to the City by January 15, 2003 (which has not occurred) and to complete the improvements by January 15, 2005. The City has requested the construction schedule from the buyer. However, the purchaser has submitted a letter requesting another time extension (the most recent letter from Mr. Elkhouly requests a 10-12 month extension. Since no schedule or building plans have been forthcoming, and due to the fact that the "Amendment" has been violated, staff is recommending the City proceed with a reversion of the property back to the City.

FINANCIAL IMPACT: The City will have an additional piece of property that can be sold for future development.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To deny the request to extend the deadline for the "Amendment" and to proceed with legal action to cause the property to be reverted to the City of Muskegon. However, if the City Commission would prefer that an extension be granted, staff recommends that the Commission refer the item back to staff to negotiate with the purchaser for acceptable terms.

Motion by Commissioner Spataro, second by Vice Mayor Larson to refer back to staff to negotiate an extension to the agreement and report back to the City Commission.

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, Gawron

Nays: None

MOTION PASSES

D. <u>Purchase of 265 Walton.</u> COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the purchase of the property located at 265 Walton (City of Muskegon revised Plat of 1903 Lot 6 Block 199 also easterly ½ vacated Rathborne Street Th' to) from Mrs. Roxie Murray, 2221 Riverview, Inkster, MI 48141 (Seller). After approval of the purchase by the Commission, the CNS Department will combine this property with property already obtained by the City of Muskegon through the tax reversion process. In order that the City will have the required land to complete the proposed future housing development project south of the Farmers Market area.

FINANCIAL IMPACT: Funding for purchase will come from the City's 2001 HOME funding.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the request and instruct the Mayor and City Clerk to sign the Purchase Agreement.

Motion by Commissioner Shepherd, second by Commissioner Spataro to approve the purchase of the property located at 265 Walton St. from Mrs. Roxie

Murray 2221 Riverview, Inster, MI., and instruct the Mayor and City Clerk to sign the Purchase Agreement.

ROLL VOTE: **Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, Larson**

Nays: None

MOTION PASSES

E. <u>Community Development Block Grant/HOME Final Allocation Decision.</u> COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: For the City Commission to make their final allocation decision concerning the 2004-2005 CDBG/HOME fiscal year. The Commission has received the recommendation from the Citizen's District Council and the City Administration. The Commission made their preliminary recommendations during the March 23, 2004, City Commission Meeting. After receiving the Commissions final allocation decision, the CNS office will amend the City's 2004-2005 Action Plan if needed and continue the comment period until April 15, 2004. At that time, the City will request the U.S. Housing and Urban Development Department for the release of the funds for the 2004-2005 fiscal year to begin June 1, 2004.

FINANCIAL IMPACT: The decision will determine the CDBG/HOME budget for 2004-2005.

BUDGET ACTION REQUIRED: The decision will establish the budget.

STAFF RECOMMENDATION: The Commission has already received the staff recommendation.

Motion by Vice Mayor Larson, second by Commissioner Spataro to approve the final allocation decision concerning the 2004-2005 CDBG/HOME fiscal year.

ROLL VOTE: **Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, Shepherd**

Nays: None

MOTION PASSES

F <u>Approval of the 2004-2005 Action Plan.</u> COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the 2004-2005 Action Plan for the City of Muskegon Community Development Block Grant/HOME activity. If the Action Plan is approved, the CNS will continue the comment period of the Action Plan as amended if needed until April 15, 2004. On April 16, 2004, the CNS Office will deliver the Action Plan to the U.S. Housing and Urban Development as required in order to request the Release of Funds for the 2004-2005 fiscal year.

FINANCIAL IMPACT: Action Plan establishes the 2004-2005 budget.

BUDGET ACTION REQUIRED: None at this time budget established by Action Plan.

STAFF RECOMMENDATION: To approve the Action Plan.

Motion by Commissioner Spataro, second by Commissioner Shepherd to approve the 2004-2005 Action Plan for the City of Muskegon Community Development Glock Grant/HOME as amended.

ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, Spataro

Nays: None

MOTION PASSES

G. <u>Concurrence with the Housing Board of Appeals Notice and Order to Demolish 1355 Pine and 1365 Pine.</u> INSPECTION SERVICES

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures located at 1355 Pine and 1365 Pine are unsafe, substandard, public nuisances and that they be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for demolition of the structures and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

1. 1355 Pine St.

CASE# & PROJECT ADDRESS: #EN-040005, 1355 Pine St.

LOCATION AND OWNERSHIP: This structure is located on Pine Street between Bauer and Catawba and is owned by Raymond Kittel.

STAFF CORRESPONDENCE: On 1/21/04 the trade inspectors and Fire Marshal conducted an inspection at this house after the housing inspector reported dangerous living conditions. At the time there were two women living there with their six children. They believed they were renting from Mr. Kittel, but he had actually had them sign a Land Contract in the amount of $40,000 on 2/21/03. Upon inspection the Fire Marshal and trade inspectors found the structure to be very dangerous and the two families were told they would have to vacate the premises. Their case workers did help them find new places to stay and were referred to legal Aid of West Michigan in reference to the Land Contract. The utilities have since been cut and the house is vacant. A Notice and Order to repair or remove was issued 1/22/04 and on 3/4/04 the HBA declared the structure substandard and a dangerous building.

OWNER CONTACT: Mr. Kittel spoke with Mr. Grabinski the week before the HBA meeting and spoke of selling the house. He stated he had a potential buyer already lined up.

FINANCIAL IMPACT: CDBG Funds

BUDGET ACTION REQUIRED: None

STATE EQUALIZED VALUE: $22,800

ESTIMATED COST OF REPAIR: $20,000

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

Motion by Commissioner Gawron, second by Commissioner Carter to concur with the HBA to demolish 1355 Pine St. and have the Mayor and Clerk authorized and directed to execute a contract for demolition with the lowest responsible bidder.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, Warmington

Nays: None

MOTION PASSES

2. 1365 Pine St.

CASE# & PROJECT ADDRESS: #EN-040004, 1365 Pine St.

LOCATION AND OWNERSHIP: This structure is located on Pine Street between Bauer and Catawba and is owned by Mortgage Electronic Registration. It is currently in the redemption period of foreclosure and a local realtor, John Achterhoff, has listed it to sell.

STAFF CORRESPONDENCE: A dangerous building inspection was conducted on 1/20/04. A Notice and Order to repair was issued 1/22/04. An interior inspection was conducted 3/18/94 and on 3/4/04 the HBA declared the structure substandard and dangerous.

OWNER CONTACT: John Achterhoff contacted the Inspection Department and scheduled the interior inspection. He stated he has been contacted by the management company handling the foreclosure to list the property to sell.

FINANCIAL IMPACT: CDBG Funds

BUDGET ACTION REQUIRED: None

STATE EQUALIZED VALUE: $11,800

ESTIMATED COST OF REPAIR: $20,000

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

Motion by Commissioner Spataro, second by Commissioner Shepherd to concur with the HBA to demolish 1365 Pine St. and have the Mayor and Clerk authorized and directed to execute a contract for demolition with the lowest responsible bidder.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, Carter,

Nays: None

MOTION PASSES

H. Accepting Lemuel Street into the City's Street System. ENGINEERING

SUMMARY OF REQUEST: Adopt the resolution including Exhibit A accepting Lemuel Street north of Hackley into the City's street system. Lemuel Street was constructed as part of the Seaway Industrial Park Development.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Adopt the resolution.

Motion by Commissioner Spataro, second by Commissioner Gawron to adopt resolution including exhibit A accepting Lemuel Street north of Hackley into the City's street system.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, Davis

Nays: None

MOTION PASSES

I. TEDF Category F-Grant Applications. ENGINEERING

SUMMARY OF REQUEST: Your permission to submit a 2005 TEDG Category F Grant application for the Milling & Resurfacing of Lakeshore Dr. between McCracken & Lincoln (2000') is requested. The estimated cost is about $240,000 of which the City's share would be about $60,000 (25%).

FINANCIAL IMPACT: A 25% match plus engineering cost which are estimated at $90,000 if the project is approved.

BUDGET ACTION REQUIRED: None at this time. However, should the project get approval, we would have to include it in the 2005 Capital Improvement Budget.

STAFF RECOMMENDATION: Approve the submittal of the grant application.

Motion by Vice Mayor Larson, second by Commissioner Carter to submit a 2005 TEDF Category F Grant application for the Milling & Resurfacing of Lakeshore Dr., between McCracken & Lincoln (2000').

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, Gawron

Nays: None

MOTION PASSES

J. FIRST READING: Repeal Article III of Chapter 26. ENGINEERING

SUMMARY OF REQUEST: Adopt the ordinance repealing Article III of Chapter 26 of the City's Ordinance dealing with the soil erosion & sedimentation control. By us repealing such ordinance, enforcement of such program will fall on the County's DPW as per MDEQ's rules. At the present time, Muskegon County is the enforcing agent for most of the communities within the County. Repealing said ordinance will not have an impact on City-owned projects since we will be able to retain our Authorized Public Agency designation. However, all activities that fall within the established MDEQ guidelines as needing a soil erosion permit, one must be issued by the County. The advantages of such action can be in the form of consistency.

FINANCIAL IMPACT: None, the County has there own fee schedule which is very comparable to the one the City has.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Adopt the ordinance.

Motion by Vice Mayor Larson, second by Commissioner Gawron to adopt ordinance repealing Article III of Chapter 26 of the City Ordinance dealing with the soil erosion and sedimentation control.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, Larson

Nays: None

MOTION PASSES

K. **<u>Consideration of Bids: Campus & Strong Projects H-1578 & H-1579.</u>** ENGINEERING

SUMMARY OF REQUEST: The contract to reconstruct both Strong & Campus be awarded to K & R out of Grand Rapids, MI. K & R was the lowest, responsible bidder with a bid price of $286,687.42.

FINANCIAL IMPACT: The construction cost of $286,687.42 plus related engineering expenses.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Award the contract to K & R.

Motion by Commissioner Spataro, second by Vice Mayor Larson to award the contract to K & R out of Grand Rapids, MI. to reconstruct both Strong & Campus streets.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, Shepherd

Nays: None

MOTION PASSES

L. **<u>ANY OTHER BUSINESS</u>:**

Motion by commissioner Davis, second by Commissioner Spataro to participate

in the 2004 Scrap Tire Collections, Muskegon County.

ROLL VOTE: **Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, Spataro**

Nays: None

MOTION PASSES

The Regular Commission meeting for the City of Muskegon was adjourned at 7:30pm.

Respectfully submitted,

Gail A. Kundinger, MMC
City Clerk