CITY OF MUSKEGON

CITY COMMISSION MEETING

APRIL 11, 2006

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 11, 2006.

Mayor Warmington opened the meeting with a prayer from Pastor Penny Johnson from the Oak Crest Church of God 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, Commissioner Chris Carter, Kevin Davis, Clara Shepherd, Lawrence Spataro, and Sue Wierengo, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Gail Kundinger.

2006-34 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 28, 2006.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Appointment to the City Employee's Pension Board and the Police & Fire Retirement Board. CITY CLERK

SUMMARY OF REQUEST: To appoint G. Thomas Johnson to the City Employee's Pension Board and the Police & Fireman's Retirement Board.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To make the appointment.

COMMITTEE RECOMMENDATION: The Community Relations Committee recommended the appointment at their March 6th meeting.

C. Approval of the Use & Maintenance of City Owned Property at 1561

Albert Avenue for a Garden by Marquette Neighborhood Association. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the use and maintenance of the City owned property located at 1561 Albert Avenue for a community garden. The property is a buildable lot. The City would retain the right to sell the property with the Marquette Neighborhood Association having time to remove the garden prior to any sales. The Marquette Neighborhood Association has proposed a vegetable garden with flowers. The neighborhood residents will be involved in the garden and the maintenance. All gardening tools will be stored off site. There will be no permanent structures on the site. The garden will be maintained weekly.

FINANCIAL IMPACT: None. By having the maintenance agreement with the Marquette Neighborhood Association, the City would not need to maintain the property while the garden is at the location.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and the Clerk to sign said resolution and maintenance agreement.

COMMITTEE RECOMMENDATION: The Land Reutilization Committee, at their regular meeting of March 28, 2006, stated that if this garden follows what Sacred Suds will be doing, then this may go directly to the City Commission for approval due to the timeline for planting season.

D. **Approval of the Use & Maintenance of City Owned Property at 1728 & 1734 Terrace Street & 274 E. Larch Avenue for a Garden by Sacred Suds.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the use and maintenance of the City owned property located at 1728 & 1734 Terrace Street and 274 E. Larch Avenue for a community garden. The properties are contiguous and together create a buildable lot. The City would retain the right to sell the property with Sacred Suds having time to remove the garden prior to any sales. Sacred Suds has proposed a vegetable garden with flowers. The neighborhood residents will be involved in the garden and the maintenance. All gardening tools will be stored off site. There will be no permanent structures on the site. The garden will be maintained weekly. Sacred Suds is located diagonally from this property (their address is 289 E. Larch).

FINANCIAL IMPACT: None. By having the maintenance agreement with Sacred Suds, the City would not need to maintain the property while the garden is at the location.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and the Clerk to sign said resolution and maintenance agreement.

COMMITTEE RECOMMENDATION: The Land Reutilization Committee recommended approval of the use of the property for a garden to Sacred Suds at their regular meeting of March 28, 2006.

E. <u>Grant Application for Transportation Economic Development Fund Category F.</u> ENGINEERING

SUMMARY OF REQUEST: Authorize staff, by adopting the resolution, to submit a Transportation Economic Development Fund Category – F Grant application requesting funds for the reconstruction of Park Street between Hackley & Young. This project, if approved, will be submitted as a joint application between the City and Muskegon Heights since the street is equally owned by both communities. Local share, which is estimated at $48,000, for the project will be equally divided between the two cities with each picking up $24,000 plus one half of the engineering cost.

FINANCIAL IMPACT: The estimated construction share of $24,000 plus one half of the engineering cost.

BUDGET ACTION REQUIRED: None at this time. However, should you authorize the submittal; the project will appear on the upcoming CIP for 2007.

STAFF RECOMMENDATION: Authorize staff to submit the grant application.

F. <u>City-Michigan Department of Transportation Agreement for Non-Motorized Pathway, Bike Path Phase I (McCracken to Shoreline).</u> ENGINEERING

SUMMARY OF REQUEST: To approve the contract with Michigan Department of Transportation for the construction of a Non-Motorized Pathway (bike path phase I) from McCracken Street to Shoreline Drive and to approve the resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT: Michigan Department of Transportation's participation of federal money is caped at $799,370 but not to exceed 50% of eligible cost. The estimated total construction cost (with engineering) of the project, including the state's department of natural resources (MDNR) grant, is $1,800,000.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: That the agreement and resolution be approved.

G. <u>Consideration of Bids: Denmark, Crozier to Lakeshore Drive (H-1613)</u> ENGINEERING

SUMMARY OF REQUEST: Award the paving, using the concrete alternate for the block between Harrison and Lakeshore, and underground utility construction contract (H-1613) for the reconstruction of Denmark between Crozier and Lakeshore Drive to Wadel Stabilization out of Hart since they were the lowest, responsible bidder with a bid price of $454,897.70.

FINANCIAL IMPACT: The construction cost $454,897.70 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Award the contract to Wadel Stabilization.

H. <u>Aggregates, Highway Maintenance Materials and Concrete.</u> PUBLIC WORKS

SUMMARY OF REQUEST:

Award bid to supply H1 and H2 limestone chip blend to Verplank Trucking Company, PO Box 8, Ferrysburg, MI 49409.

Award bid to supply road slag to Verplank Trucking Company, PO Box 8, Ferrysburg, MI 49409.

Award bid to supply Sylvax patching material (CP-6 alternative) to Asphalt Paving, Inc., 1000 E. Sherman Blvd., Muskegon, MI 49440.

Award bid to supply bituminous asphalt product to Asphalt Paving, Inc., 1000 E. Sherman Blvd., Muskegon, MI 49444.

Award bid to supply Calcium Chloride 38% (road brine) and 32% (winter salting) to Liquid Dustlayer, Inc., PO Box 188, Manistee, MI 49660.

Award bid to supply screened top soil to Felco Contractors, 874 Pulaski Ave., Muskegon, MI 49441.

Award bid to supply 7-sack mix concrete to Port City Redi-Mix Company, 1780 Sheridan Road Muskegon, MI 49442; contingent upon product availability, timely deliveries, and prices as quoted.

FINANCIAL IMPACT: $146,500 based on 2005 quantities at 2006 quotes.

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

Motion by Commissioner Davis, second by Commissioner Carter to approve the Consent Agenda as read.

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

Nays: None

MOTION PASSES

2006-35 PUBLIC HEARINGS:

A. <u>Create a Special Assessment District for Fifth Street, Merrill Avenue to Muskegon Avenue.</u> ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the proposed special assessment for Fifth Street, Merrill Avenue to Muskegon Avenue, and to create the special assessment district and appoint two City Commissioners to the Board of Assessors if it is determined to proceed with the project.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To create the special assessment district and assign two City Commissioners to the Board of Assessors by adopting the resolution.

The Public Hearing opened at 5:40 p.m. to hear and consider any comments from the public. No comments were heard.

Motion by Commissioner Carter, second by Commissioner Spataro to close the Public Hearing at 5:42 p.m. and create the special assessment district for Fifth Street, Merrill to Muskegon.

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

Nays: None

MOTION PASSES

Commissioner Spataro and Shepherd were appointed to the Board of Assessors.

2006-36 UNFINISHED BUSINESS:

A. <u>SECOND READING: Zoning Ordinance Amendment to Article XXII, Nonconforming Uses.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Sections 2200, 2201, 2202, 2203, and 2204 (Nonconforming Uses) of Article XXII of the Zoning Ordinance.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of Article XXII (Nonconforming Uses) of the Zoning Ordinance.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the amendment at their March 16th meeting. The vote was unanimous in favor of the amendment, with J. Aslakson and T. Michalski absent.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to adopt the zoning ordinance amendment to Article XXII.

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

Nays: Davis

MOTION PASSES

2006-37 NEW BUSINESS:

A. <u>Transmittal of 2005 Comprehensive Annual Financial Report.</u> FINANCE

SUMMARY OF REQUEST: The City's *2005 Comprehensive Annual Financial Report* (CAFR) has previously been distributed to City Commissioners. At this time, the CAFR is being formally transmitted to the Commission in accordance with state law. The 2005 CAFR has been prepared in accordance with Governmental Accounting Standards Board (GASB) 34 accounting standards. The 2005 CAFR also includes the "single-audit" of federal grants.

FINANCIAL IMPACT: None. The CAFR report summarizes the City's financial activities for 2005 and includes the independent auditor's unqualified opinion on the City's financial statements.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Acceptance of the 2005 CAFR.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the 2005 Comprehensive Annual Financial Report.

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

Nays: None

MOTION PASSES

B. <u>Selection of Architect for Arena Clubroom.</u> FINANCE

SUMMARY OF REQUEST: Proposals were received from four area architectural firms for design and construction oversight services for the proposed Walker Arena clubroom facility:

Bosma Architects	-	$19,600
C. Richard Borgeson	-	$15,000
Hooker DeJong	**-**	**$18,750**
Sidock Group	-	$30,000

A selection committee comprised of staff and arena personnel interviewed each firm to gain better understanding of their qualifications and vision for the project. After going through this process, it is recommended that Hooker, DeJong be selected as architect. Hooker was one of the top two firms selected by all four committee members.

FINANCIAL IMPACT: The project will be funded through an internal borrowing targeted at $300,000, including architect fees. All architects agreed the project is achievable within that budgeted figure. When construction bids are received and the City Commission gives final approval for the project, an internal loan will be set up with specific payback terms.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Selection of Hooker, DeJong as architect.

Motion by Commissioner Spataro, second by Commissioner Shepherd to select Hooker, DeJong as the architect contingent upon City Attorney's approval of the contract.

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

Nays: Wierengo and Davis

MOTION PASSES

C. <u>Water Filtration Plant Improvements Project Final Change Order #11.</u> WATER FILTRATION PLANT

SUMMARY OF REQUEST: Request endorsement of the Final Change Order, #11, to close out the Water Filtration Plant Improvements Project.

FINANCIAL IMPACT: The change order is in the amount of $68,253.

BUDGET ACTION REQUIRED: The funding will come from the Water Fund.

STAFF RECOMMENDATION: Staff recommends approval of the final change order #11 for the Water Filtration Plant Improvements Project in the amount of $68,253.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the final change order.

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

Nays: None

MOTION PASSES

D. <u>2006-2007 Community Development Block Grant and Home Investment Partnership Program Funding.</u> COMMUNITY AND NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: For the City Commission to make their final allocation decision concerning the 2006-2007 Community Development Block Grant/HOME Partnership Program allocations for this coming fiscal year. The Commission has received the recommendations from the Citizen's District Council and the City administration. The Commission made their preliminary recommendations during the March 14, 2006, City Commission Meeting. After receiving the Commissions final allocation decision, the Community and Neighborhood Services office will amend the City's 2006-2007 Action Plan if needed and continue the comment period until April 17, 2006. At that time, the Community and Neighborhood Services staff will request the United States Department of Housing and Urban Development for the Release of Funds for the 2006-2007 fiscal year to begin June 1, 2006.

FINANCIAL IMPACT: The decision will determine how the Community Development Block Grant/HOME Partnership Program funding will be allocated for the 2006-2007 fiscal year.

BUDGET ACTION REQUIRED: The Commission actions will establish the fiscal years budget.

STAFF RECOMMENDATION: The Commission previously received the administration recommendations.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the preliminary recommendation as final.

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

Nays: None

MOTION PASSES

E. <u>Approval of the 2006-2007 Action Plan.</u> COMMUNITY AND NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the 2006-2007 Action Plan for the City of Muskegon Community Development Block Grant/HOME Partnership Program activity. If the Action Plan is approved, the Community and Neighborhood Services office will continue the comment period of the Action Plan as amended if needed until May 30, 2006. On or after April 17, 2006, the Community and Neighborhood Services office will deliver the Action Plan to the United States Department of Housing and Urban Development as required in order to request the Release of Funds for the 2006-2007 fiscal year.

FINANCIAL IMPACT: Action Plan establishes the 2006-2007 budget.

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

STAFF RECOMMENDATION: To approve the Action Plan as is or as amended.

Motion by Vice Mayor Gawron, second by Commissioner Shepherd to approve the 2006-2007 Action Plan.

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

Nays: None

MOTION PASSES

F. <u>Consideration of Bids: Beach Leveling.</u> PUBLIC WORKS

SUMMARY OF REQUEST: We received five bids for the beach-leveling contract for Pere Marquette Park. The lowest bidder, Hitsman Enterprises, failed to submit the bid bond as required by the contract. The other four bidders did not include bids for 2007 and 2008. Due to the irregularities in the bids submittal, staff is requesting rejection of all bids and authorization to re-bid the project. However, if the Commission decides to waive these irregularities, we suggest that Hitsman Enterprises be awarded a one-year contract, since they were the lowest bidder with a bid price of $48,000. We would then re-bid the project in 2007.

FINANCIAL IMPACT: $48,000.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Reject all bids.

Motion by Vice Mayor Gawron, second by Commissioner Spataro to waive irregularities and award the bid to Hitsman Enterprises for one year.

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

Nays: Carter and Davis

MOTION PASSES

2006-38 CLOSED SESSION: To discuss collective bargaining.

Motion by Commissioner Spataro, second by Commissioner Shepherd to go into Closed Session at 7:02 p.m.

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

Nays: None

MOTION PASSES

Motion by Commissioner Shepherd, second by Commissioner Carter to come out of Closed Session at 7:37 p.m.

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

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 7:38 p.m.

Respectfully submitted,

Gail A. Kundinger, MMC
City Clerk