CITY OF MUSKEGON

CITY COMMISSION MEETING

MARCH 28, 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, March 28, 2006.

Mayor Warmington opened the meeting with a prayer from Pastor Gerald Wahr from the McGraft Memorial Congregational 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, Commissioner Kevin Davis, Clara Shepherd, Lawrence Spataro, Sue Wierengo, and Chris Carter, City Manager Bryon Mazade, City Attorney John Schrier, and Deputy City Clerk Linda Potter.

2006-28 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the March 13th Commission Worksession, and the March 14th Regular Commission Meeting.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Appointment to the Zoning Board of Appeals. CITY CLERK

SUMMARY OF REQUEST: To appoint Lori Gomez-Payne to the Zoning Board of Appeals.

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.

D. FIRST READING: Zoning Ordinance Amendment to the Sign Ordinance. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2334 (Signs, #5,a) of Article XXIII (General Provisions) to allow a building wrap for a building undergoing construction or major renovation.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend language to allow building wraps.

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

E. **FIRST READING: Zoning Ordinance Amendment to Article II (Definitions).** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Article II (Definitions) to add a definition for "Building Wrap".

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to add a definition for "Building Wrap".

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.

F. **FIRST READING: Zoning Ordinance Amendment – Flood Hazard Areas.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2323 (Flood Hazard Areas, #3) of Article XXIII (General Provisions) regarding reference numbers for the Michigan Residential Code and Michigan Building Code.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend the language for Flood Hazard Areas.

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

G. **City - MDOT Agreement for Lakeshore Drive, McCracken to Laketon.** ENGINEERING

SUMMARY OF REQUEST: To approve the contract with MDOT for the milling and resurfacing of Lakeshore Drive from McCracken to Laketon and to approve the resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT: MDOT's participation is caped at $375,000 but not to exceed 75% of eligible cost. The estimated total construction cost (without engineering which is not eligible) of the project is $500,000.

BUDGET ACTION REQUIRED: None at this time. The City's share of the cost will come out of the Major Street and water/sewer funds as was budgeted.

STAFF RECOMMENDATION: That the agreement and resolution be approved.

I. <u>Budgeted Meter Reading Equipment Replacement.</u> PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase two SSI AR 4002 Solid State Interrogators – Hand Held Meter Reading Units. Currently, the City owns four units that are 13 years old. This proposal is intended to replace two this year and two in 2007 (under a future request).

FINANCIAL IMPACT: Total cost $11,600.

BUDGET ACTION REQUIRED: None, included in 2006 Budget.

STAFF RECOMMENDATION: Approve purchase from ETNA Supply.

J. <u>Consideration of Proposals for Right of Way Survey on Shoreline Drive.</u> ENGINEERING

SUMMARY OF REQUEST: Enter into an engineering services agreement with Holland Engineering out of Holland to perform the necessary survey collection, drawings of publicly owned properties and preparation of right-of-way description for Shoreline Drive as requested by MDOT.

Holland Engineering was one of four firms to submit quality based proposals which were reviewed by staff from both MDOT and the City. Upon review of qualifications, scope and project team, Holland was deemed as the most qualified and a costed proposal was requested (following MDOT's procedure). After review of the cost verses the scope, Holland Engineering appears to be well within the preliminary estimate of $100,000 for such services at a not to exceed cost of $73,602.

FINANCIAL IMPACT: The cost for the engineering services of $73,602.

BUDGET ACTION REQUIRED: None, this task is an eligible build Michigan III grant for Shoreline Drive expense.

STAFF RECOMMENDATION: Enter into an engineering services agreement with Holland Engineering.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the Consent Agenda as read minus items C and H.

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

Nays: None

MOTION PASSES

2006-29 ITEMS REMOVED FROM THE CONSENT AGENDA:

C. 2006, 2007 and 2008 Street Sweeping Contract. PUBLIC WORKS

SUMMARY OF REQUEST: To award a three-year contract to provide four annual street sweepings to Tri-Us Services, Inc., 78 N. Ball Creek Road, Kent City, Michigan.

FINANCIAL IMPACT: $148,981.60 each year; $446,944.80 over the course of the contract. Excludes special requests charged at $115/hour.

BUDGET ACTION REQUIRED: None, monies appropriated in highway and state trunkline budgets.

STAFF RECOMMENDATION: Approval of this request.

Motion by Commissioner Shepherd, second by Commissioner Spataro to award the 2006, 2007 and 2008 Street Sweeping Contract to Tri-Us Services.

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

Nays: None

MOTION PASSES

H. City - MDOT Agreement for Park Street, Laketon to Southern Avenue. ENGINEERING

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

FINANCIAL IMPACT: MDOT's participation is caped at $210,518 but not to exceed 81.85% of eligible cost. The estimated total construction cost (without engineering) of the project, including the non-participating items of watermain & sanitary sewer work is estimated at $551,600.

BUDGET ACTION REQUIRED: None at this time. The City's share of the cost will come out of the Major Street and water/sewer funds as was budgeted.

STAFF RECOMMENDATION: That the agreement and resolution be approved.

Motion by Commissioner Shepherd, second by Vice Mayor Gawron to approve the Michigan Department of Transportation Agreement for Park Street, Laketon to Southern Avenue.

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

Nays: None

MOTION PASSES

2006-30 PUBLIC HEARINGS:

A. Designation of Cole's Quality Foods and Surrounding Area as a Neighborhood Enterprise Zone. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To hold a public hearing on designating Cole's Quality Foods and the surrounding area as a Neighborhood Enterprise Zone, and to pass the Statement of Goals, Objectives, Policies, and Findings. Staff will be requesting that the City Commission pass a resolution creating the Neighborhood Enterprise Zone on April 25th.

FINANCIAL IMPACT: There is no direct financial impact from the designation of a Neighborhood Enterprise Zone.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To hold a public hearing on designating Cole's Quality Foods and the surrounding area as a Neighborhood Enterprise Zone, and to pass the Statement of Goals, Objectives, Policies, and Findings.

The Public Hearing opened at 5:45 p.m. to hear and consider any comments from the public. No public comments were heard.

Motion by Commissioner Carter, second by Commissioner Spataro to close the Public Hearing at 5:47 p.m.

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

Nays: None

MOTION PASSES

B. Request for an Industrial Facilities Exemption Certificate - Ameriform Inc. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, Ameriform Inc., 1790 Sun Dolphin, has requested the issuance of an Industrial Facilities Exemption Certificate for the property located at 1790 Sun Dolphin Drive, Muskegon. The total capital investment is approximately $651,030 in personal property and $324,983 in real property. This request qualifies Ameriform Inc. for a term of 12 years for real property and 9 years for personal property.

FINANCIAL IMPACT: The City will capture certain additional property 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 12 years for real property and 9 years for personal property.

The Public Hearing opened at 5:48 to hear and consider any comments from the public. No public comments were heard.

Motion by Vice Mayor Gawron, second by Commissioner Spataro to close the Public Hearing at 5:50 p.m. and approve resolution granting an Industrial Facilities Exemption Certificate for a term of 12 years for real property and 9 years for personal property to Ameriform Inc.

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

Nays: None

MOTION PASSES

2006-31 UNFINISHED BUSINESS:

A. <u>Concurrence with the Housing Board of Appeals Notice and Order to Demolish 442 W. Muskegon.</u> PUBLIC SAFETY

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 442 W. Muskegon 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.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 442 W. Muskegon Avenue.

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

Nays: Davis and Wierengo

Abstain: Shepherd

MOTION PASSES

2006-32 NEW BUSINESS:

A. <u>Request for Preliminary Planned Unit Development Approval for 1050 W. Western Avenue.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The request for preliminary Planned Unit Development approval for 1050 W. Western Avenue (Hartshorn Building property) is for a mixed use recreational and commercial development. The request is by John Bultema II, GLM Properties, LLC.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends preliminary approval of the preliminary Planned Unit Development provided that the conditions listed in the resolution are met.

COMMITTEE RECOMMENDATION: The Planning Commission recommended preliminary approval of the Planned Unit Development, with the conditions listed on the resolution, at their March 16th meeting. The vote was unanimous with J. Aslakson and T. Michalski absent.

Motion by Vice Mayor Gawron, second by Commissioner Carter to grant preliminary approval of the Planned Unit Development for 1050 W. Western Avenue for mixed use recreational and commercial development.

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

Nays: None

MOTION PASSES

B. FIRST READING: Rezoning Request for Properties Located at 1438, 1446, 1458, 1468, and 1478 Terrace Street. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the properties located at 1438, 1446, 1458, 1468, and 1478 Terrace Street from B-2, Convenience and Comparison Business District to R-1, One Family Residential District.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of the request.

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

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the rezoning request for the properties located at 1438, 1446, 1458, 1468, and 1478 Terrace from B-2, Convenience and Comparison Business District to R-1, One Family Residential District.

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

Nays: None

MOTION PASSES

C. FIRST READING: Zoning Ordinance Amendment to Article XXII, Nonconforming Uses. 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.

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

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

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 approve the zoning ordinance amendment to Article XXII, nonconforming uses.

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

Nays: Shepherd, Carter, and Davis

MOTION PASSES – REQUIRES SECOND READING

D. <u>Consideration of Bids for Nims Street Tank Painting (W-651).</u> ENGINEERING

SUMMARY OF REQUEST: We received three bids for the painting contract (W-651) for the Nims Street Tank. The two lowest bidders, M. K. Painting and G & M Painting, failed to submit the Non-Collusion Affidavit as required by the contract. The third bidder, Horizon Brothers, committed a mathematical error (submitted a bid of $440,200 which should have been $441,200). While staff is not recommending acceptance of any of those bids, due to the irregularities, we are however, recommending that M. K. Painting be awarded the contract since they were the lowest bidder with a bid price of $409,700, should the Commission desire to waive those irregularities.

FINANCIAL IMPACT: The construction cost of $409,700 plus associated engineering costs.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: If irregularities are waived, award the contract to M. K. Painting.

Motion by Commissioner Davis, second by Commissioner Wierengo to award the bid to M. K. Painting for the painting of Nims Street Tank.

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

Nays: None

MOTION PASSES

E. <u>Muskegon Area Intermediate School District Encroachment Agreements.</u> ENGINEERING

SUMMARY OF REQUEST: The Muskegon Area Intermediate School District has requested approval at the staff level for encroachment agreements needed to install future pole placements and directional bores within the right of way at various locations throughout the City.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the Muskegon Area Intermediate School District encroachment agreements.

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

Nays: None

MOTION PASSES

F. <u>Terrace Lots Request for Proposals.</u> CITY MANAGER

SUMMARY OF REQUEST: To authorize City staff to solicit proposals for the construction of the new central fire station, the development of the remainder of the Terrace lots and the redevelopment of the current central fire station.

FINANCIAL IMPACT: Development on the Terrace lots and redevelopment of the current fire station will add to the City's tax base.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the request.

Motion by Commissioner Carter, second by Vice Mayor Gawron to request proposals for the Terrace Street lots.

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

Nays: None

MOTION PASSES

G. <u>Arialink Telecommunication, LLC – METRO Act Permit Application Request.</u> ASSISTANT CITY MANAGER

SUMMARY OF REQUEST: Authorize the Mayor to sign the permit application submitted by Arialink Telecom, LLC. Submittal of the permit application is in response to the City opting into the State's METRO Act. It is requested that approval be conditioned upon verification of satisfactory review of all required documentation that are supposed to accompany the request.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the permit and authorize the Mayor to sign the document.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the Arialink Telecommunication, LLC METRO Act Permit Application request.

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

Nays: None

MOTION PASSES

H. **Concurrence with the Housing Board of Appeals Notice and Order to Demolish 1272 Spring, 530 Catherine, 1357 Terrace-Garage, and 1435 Park.** PUBLIC SAFETY

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 1272 Spring, 530 Catherine, 1357 Terrace – garage, and 1435 Park are unsafe, substandard, a public nuisance, and that they be demolished within 30 days. It is further requested that administration be directed to obtain bids for the 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.

FINANCIAL IMPACT: CDBG Funds

BUDGET ACTION REQUIRED: None

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

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 530 Catherine and 1435 Park.

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

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 1272 Spring.

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

Nays: None

MOTION PASSES

Motion by Vice Mayor Gawron, second by Commissioner Shepherd to concur with the Housing Board of Appeals notice and order to demolish the garage at 1357 Terrace effective April 27, 2006.

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

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Various comments were heard.

PUBLIC PARTICIPATION: Comments were made and a presentation was given reference the upcoming Hispanic Festival.

2006-33 CLOSED SESSION: To discuss labor negotiations.

Motion by Commissioner Carter, second by Commissioner Spataro to go into Closed Session at 7:55 p.m. to discuss labor negotiations.

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

Nays: None

MOTION PASSES

Motion by Commissioner Carter, second by Commissioner Davis to come out of Closed Session at 8:02 p.m.

VOTE: All ayes.

Motion by Commissioner Carter, second by Commissioner Spataro to authorize the Mayor and City Clerk to sign documents to move Police to MERS.

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

Nays: None

MOTION PASSES

The City Commission Meeting adjourned at 8:05 p.m.

Respectfully submitted,

Gail A. Kundinger, MMC
City Clerk