CITY OF MUSKEGON

CITY COMMISSION MEETING

MARCH 27, 2018 @ 5:30 P.M.

MUSKEGON CITY COMMISSION CHAMBERS

933 TERRACE STREET, MUSKEGON, MI 49440

AGENDA

- □ **CALL TO ORDER:**
- □ **PRAYER:**
- □ **PLEDGE OF ALLEGIANCE:**
- □ **ROLL CALL:**
- □ **HONORS AND AWARDS:**
- □ **INTRODUCTIONS/PRESENTATION:**

  Review of Final Imagine Muskegon Lake Plan with Consultants
- □ **CITY MANAGER'S REPORT:**
- □ **CONSENT AGENDA:**
  - **A. Approval of Minutes** City Clerk
  - **B. Special Event Liquor License – Cole's Anniversary Party** City Clerk
  - **C. Special Event Liquor License – Taste of Muskegon** City Clerk
  - **D. Fireworks Display Permit for Heritage Landing** City Clerk
  - **E. Fireworks Display Permit for Muskegon Country Club** City Clerk
  - **F. 123 Net Unilateral METRO Act Permit** Engineering
  - **G. Aggregates, Highway Maintenance Materials and Concrete** Department of Public Works
  - **H. Lakeshore Drive Preliminary and Construction Engineering** Department of Public Works
- □ **PUBLIC HEARINGS:**
- □ **COMMUNICATIONS:**
- □ **UNFINISHED BUSINESS:**

□ **NEW BUSINESS:**

A. <u>Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Following:</u> Public Safety

425 Octavius Street

609 Mulder Street

955 Turner Avenue

1317 7th Street

1768 Wood Street

1814 Dyson

1699 Pine Street

B. <u>Request to Amend the Planned Unit Development (PUD) at 1161 W. Southern Avenue</u> Planning & Economic Development

C. <u>Request to Amend the Planned Unit Development (PUD) at 1670 E. Sherman Boulevard</u> Planning & Economic Development

D. <u>Rezoning Several Properties</u> Planning & Economic Development

E. <u>Amendment to the Zoning Ordinance – Wireless Communication Service Facilities</u> Planning & Economic Development

F. <u>Purchase of Property for Industrial Park Expansion</u> Planning & Economic Development

□ **ANY OTHER BUSINESS:**

□ **PUBLIC PARTICIPATION:**

► **Reminder: Individuals who would like to address the City Commission shall do the following:**
► Fill out a request to speak form attached to the agenda or located in the back of the room.
► Submit the form to the City Clerk.
► Be recognized by the Chair.
► Step forward to the microphone.
► State name and address.
► Limit of 3 minutes to address the Commission.
► (Speaker representing a group may be allowed 10 minutes if previously registered with City Clerk.)

□ **CLOSED SESSION:**

A. <u>Collective Bargaining</u>

□ **ADJOURNMENT:**

ADA POLICY: THE CITY OF MUSKEGON WILL PROVIDE NECESSARY AUXILIARY AIDS AND SERVICES TO INDIVIDUALS WHO WANT TO ATTEND THE MEETING UPON TWENTY-FOUR HOUR NOTICE TO THE CITY OF MUSKEGON. PLEASE CONTACT ANN MARIE MEISCH, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TTY/TDD DIAL 7-1-1- TO REQUEST A REPRESENTATIVE TO DIAL (231) 724-6705.

Memorandum

To: Mayor and Commissioners

From: Frank Peterson

Re: City Commission Meeting

Date: March 22, 2018

Here is a quick outline of the items on our agenda(s):

1. Under the Consent Agenda, we are asking the Commission to consider the following:
    a. Approval of meeting minutes from the most-recent City Commission meeting.
    b. Approval of a special event liquor license for Cole's Bakery's 75th Anniversary Party. Cole's is throwing a big community celebration as a thank you for 75 years of support from the Muskegon Community. The event will take place at Heritage Landing and will be free to the public. The event will include a concert and a fireworks display.
    c. Approval of a special event liquor license for Taste of Muskegon. This is the first year that our Clerk's office will be heading the event in place of Downtown Muskegon Now.
    d. Approval of a fireworks display permit for the 4th of July celebration at Heritage Landing. This is an annual event as part of Rock Stock.
    e. Approval of a fireworks display for the 4th of July celebration at the Muskegon Country Club. This is an annual event and will not conflict with the event at Heritage Landing, as it will take place on day earlier.
    f. Approval of a telecommunications permit under the METRO Act for 123 Net. The METRO Act does require that we authorize this request as long as it is compliant with the Act – it is. The City does receive permit fees related to the telecommunications infrastructure in our right-of-ways.
    g. Award bids for miscellaneous highway maintenance materials to the low bidders of each supply type. The annual cost of these materials is expected to reach $472,397.00.
    h. Authorization to enter into an agreement with Prein & Newhof for the design engineering work related to the reconstruction of Lakeshore Drive. Prein & Newhof has undertaken a number of engineering projects in the City of Muskegon, including the recent reconstruction of Muskegon and Webster Avenues.

2. Under the New Business, we are asking the Commission to consider the following:
    a. Concurrence with the Housing Board of Appeals recommendation to demolish seven structures.
    b. Concurrence with the Planning Commission's recommendation to amend the Planned Unit Development at 1161 W Southern Ave (former Nims School) to demolish the former gymnasium and expand the parking lot.
    c. Concurrence with the Planning Commission's recommendation to amend the Planned Unit Development at 1670 E Sherman Blvd to redevelop a vacant restaurant to an urgent care facility to be operated by Mercy Health Partners.
    d. Concurrence with the Planning Commission to rezone a number of residential parcels that are currently zoned as commercial/business. The rezoning will help the owners with future changes/developments/financing related to their homes.
    e. Concurrence with the Planning Commission to expand the overlay district to allow cellphone towners at Marsh Field and the Water Filtration Plant. Public input was received on both sites. There were no objections to the Marsh Field site. There were some objections to the Water Filtration Plant site, but staff feels that the final location addressed many/all of those concerns.

Let me know if you have any questions/comments/concerns

Date: March 21, 2018

To: Honorable Mayor and City Commissioners

From: Ann Marie Meisch, City Clerk

RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes of the March 12, 2018 Worksession Meeting and the March 13, 2018 Regular Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON
CITY COMMISSION WORKSESSION

Monday, March 12, 2018
5:30 p.m.
City Commission Chambers

MINUTES

2018-14

Present: Gawron, German, Rinsema-Sybenga, Johnson, Warren, Hood, and Turnquist

Absent: None

Purchase Agreement – 241 and 255 West Western, 1251 8th Street

City staff has been working with a housing developer that is interested in creating multifamily housing in Muskegon. After careful consideration, the developer has identified three parcels: 241 West Western, 255 West Western, and 1251 8th Street. This item is on the agenda for the regular meeting tomorrow, March 13, 2018.

880 First Selective Demolition, Abatement, and Site Prep

City staff is seeking permission to begin selective demolition of the five story office building located at 880 First Street. Three bids were received, with the lowest responsible bidder being Melching, Inc. Staff is seeking approval to reimburse Port City Construction up to $350,000 to undertake the selective demolition, abatement, and site preparation. This item is on the agenda for the regular meeting tomorrow, March 13, 2018.

Service Firearm Program

The Director of Public Safety requests that the Commission authorize the amount of **$49,962.10**; for the purchase of department issued primary hand guns for all Muskegon sworn police officers. This firearms platform proposed **(GLOCK 17 Gen 5 pistol)**, will replace our current system where officers purchase and attempt to maintain a primary duty weapon at their expense, which has been less than successful. Muskegon Police Officers currently carry a Sig-Sauer semi-auto pistol with multiple ammunition options (**POLC contract**). This firearm is expensive to purchase, and the use of three (3) options of ammunition is costly for the department and can present logistical issues in the field. Allowing different caliber(s) in primary service weapons is not recommended and ammunition is not interchangeable in the handguns, again causing logistical issues. Our proposed platform increases officer safety, efficiency with the move to a one (1) caliber system **(9mm)** department wide for the proposed primary duty weapon. The department will own, maintain, issue, and check-in firearms and support equipment as officers pass through our department from hire to retirement. This item is on the agenda for the regular meeting tomorrow, March 13, 2018.

Medical Marihuana Facilities Licensing Act – Opt in or Out

Staff is requesting that the City Commission make a determination whether to opt in or out of the Michigan Medical Marihuana Facilities Licensing Act (MMFLA). We have included an excerpt from the February 15 Planning Commission meeting, the proposed zoning ordinance amendment with the overlay districts, and the proposed regulatory ordinance. The Planning Commission voted in favor (4-2) of recommending to the City Commission to approve the zoning ordinance amendment for the MMFLA overlay district at their February 15 meeting.

Discussion took place regarding whether the city should or should not opt in and about adding some incentives for local residents. There was also discussion as to the size of the area and license classes to be allowed. This matter will be placed on the Worksession Agenda for April 9, 2018

Any Other Business

Per the City Manager, Frank Peterson, two items need to be added to the agenda for the regular meeting tomorrow, Tuesday, March 13, 2018. The items are Administrative Vehicle Replacement and 1000 W. Western and Hartshorn Marina.

Public Comment

Public Comments were received.

Adjournment

The Worksession meeting adjourned at 8:36 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk

CITY OF MUSKEGON

CITY COMMISSION MEETING

MARCH 13, 2018 @ 5:30 P.M.

MUSKEGON CITY COMMISSION CHAMBERS
933 TERRACE STREET, MUSKEGON, MI 49440

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, March 13, 2018. Sister Agnes Mary, St. Michael's Catholic Church, opened the meeting with prayer, after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen J. Gawron, Vice Mayor Eric Hood, Commissioners Ken Johnson, Byron Turnquist, Debra Warren, and Dan Rinsema-Sybenga, City Manager Frank Peterson, City Attorney John Schrier, and City Clerk Ann Meisch.

Absent: Commissioner Willie German, Jr.

INTRODUCTIONS/PRESENTATION: Mayor Stephen J. Gawron presented a group of Girl Scouts with a proclamation Celebrating Girl Scout Ween and the Importance of Girls' Leadership Development.

2018-15 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve minutes of the February 27, 2018 Regular Meeting.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Fire – Hurst EDraulic Ram Public Safety

SUMMARY OF REQUEST: The Director of Public Safety requests that the Commission authorize the amount of $17,130.00 for the purchase of two Hurst EDraulic Ram tools with 4 EXL Lithium ion batteries and charging units. The Muskegon Fire Department's antiquated hydraulic "Ram" tool is in disrepair and

outside the scope of service life. The two Ram tools will be utilized in critical lifesaving situations for efficient extrications, and to complement our battery operated Hurst "Spreader" and "Cutting" Tools.

FINANCIAL IMPACT: Negative Impact on Fire Budgeted

BUDGET ACTION REQUIRED: No action at this time *(to be reviewed in third quarter forecast)*

STAFF RECOMMENDATION: Staff recommends approval of the Two Hurst EDraulic Ram Tools.

E. <u>One Year Janitorial Services Extension</u> Department of Municipal Services

SUMMARY OF REQUEST: Extend the current janitorial services contract with Reliant Professional Cleaning for City Hall and the Public Service Building for one year through April 30, 2019.

FINANCIAL IMPACT: Cost will be $35,280.00 for City Hall and $12,156.00 for Public Service Building through April 30, 2019.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the one year extension with Reliant Professional Cleaning Services to provide cleaning services through April 2019.

F. <u>Mercy Health Easement</u> DPW

SUMMARY OF REQUEST: Mercy Health has requested an easement for ingress/egress across city property at the end of Harvey Street for access to a newly constructed employee parking lot. Maintenance, repairs and snowplowing for the easement property are the sole responsibility of Mercy Health, and maintenance and repair work require prior approval by the City.

Staff request that the easement be approved for signature.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve the easement for signature.

G. <u>State Revolving Fund, DEQ Loan Program, Engineering Costs</u> DPW/Water and Sewer

SUMMARY OF REQUEST: Authorize staff to enter into an agreement with Prein & Newhof to develop a Project Plan for the City's sanitary sewer system, which is required to apply for a low interest State Revolving Fund (SRF) loan from the MDEQ. With the completion of the SAW (Stormwater, Asset Management, and Wastewater) Grant work, the City is in a position to take advantage of the MDEQ loan program which provides funding to address the failing infrastructure discovered during the asset inventory. Our city's demographics may allow us to

receive some principal forgiveness.

Prein & Newhof is being recommended since they managed the SAW Grant work and have familiarity with the needs of our sanitary system. The engineering cost is a "not to exceed" $55,000.

FINANCIAL IMPACT: The total cost of engineering services is $44,000 to be covered by City's sewer fund.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with Prein & Newhof for engineering services to develop a SRF Project Plan for the City's sanitary sewer system.

H. <u>Purchase Agreement – 241 and 255 West Western, 1251 8th Street</u> City Manager

SUMMARY OF REQUEST: City staff has been working with a housing developer that is interested in creating multifamily housing in Muskegon. After careful consideration, the developer has identified three parcels: 241 West Western, 255 West Western, and 1251 8th Street.

FINANCIAL IMPACT: $75,000 minus closing costs – deposited to the City's Public Improvement Fund

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To authorize the City Manager to negotiate a purchase agreement with Dusendang Custom Homes for $75,000, providing 60 days of due diligence for the purchaser and up to 18 months for completion of the projects.

Motion by Commissioner Warren, second by Vice Mayor Hood, to approve the consent agenda as presented, except Item C, D, and I.

ROLL VOTE: Ayes: Gawron, Hood, Warren, Rinsema-Sybenga, Turnquist, and Johnson

Nays: None

MOTION PASSES

2018-16 ITEMS REMOVED FROM CONSENT AGENDA:

C. <u>Approval of Building Contract for 1025 E Forest Avenue</u> Community and Neighborhood Services

SUMMARY OF REQUEST: To award the Building Contract for the rehabilitation of 1025 E. Forest Avenue to Custom Exteriors, for the City of Muskegon's Homebuyers Program through CNS.

FINANCIAL IMPACT: The funding for this project has been secured with 2017 HOME Funds.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To award Custom Exteriors the rehabilitation contract for 1025 E. Forest in the amount $61,051.00, for the Community and Neighborhood Services Office.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to award Custom Exteriors the rehabilitation contract for 1025 E. Forest in the amount of $61,051.00 for the Community and Neighborhood Services Office.

ROLL VOTE: Ayes: Hood, Warren, Rinsema-Sybenga, Turnquist, Johnson, and Gawron

Nays: None

MOTION PASSES

D. <u>Purchase of the Home at 1188 4th Street</u> Planning & Economic Development

SUMMARY OF REQUEST: Staff is requesting approval to purchase the home at 1188 4th Street for $85,000 plus closing costs. The seller is also requesting that the City pay the outstanding 2017 and 2018 taxes and the transfer taxes. This property is important for the redevelopment of the area, including the next phase of Midtown Square homes.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To allow the City Manager to enter into a purchase agreement with the seller.

Motion by Commissioner Turnquist, second by Johnson, to allow the City Manager to enter into a purchase agreement with the seller

ROLL VOTE: Ayes: Warren, Rinsema-Sybenga, Johnson, Gawron, and Hood

Nays: Turnquist

MOTION PASSES

I. <u>880 First Selective Demolition, Abatement, and Site Prep</u> City Manager

SUMMARY OF REQUEST: City staff is seeking permission to begin selective demolition of the five story office building located at 880 First Street. Three bids were received, with the lowest responsible bidder being Melching, Inc. Staff is seeking approval to reimburse Port City Group up to $350,000 to undertake the selective demolition, abatement, and site preparation.

FINANCIAL IMPACT: Not to exceed $350,000

BUDGET ACTION REQUIRED: None at this time – the expense will be

documented in the 3rd Quarter Reforecast.

STAFF RECOMMENDATION: To authorize the City Manager to reimburse Port City Group up to $350,000 to undertake the selective demolition, abatement, and site preparation costs at 880 First Street.

Motion by Commissioner Johnson, second by Commissioner Warren, to authorize the city manager to reimburse Port city Construction up to $350,000 in selective demolition, abatement, and site preparation costs at 880 first street which will ultimately be paid back to the city at time of property sale closing and/or once occupancy permit is issued.

ROLL VOTE: Ayes: Rinsema-Sybenga, Turnquist, Johnson, Gawron, Hood, and Warren

Nays: None

MOTION PASSES

2018-17 PUBLIC HEARINGS:

A. <u>Recommendation for Annual Renewal of Liquor Licenses</u> City Clerk

SUMMARY OF REQUEST: To adopt a resolution recommending non-renewal of those liquor license establishments who are in violation of Section 50-146 and 50-147 of the Code of Ordinances for the City of Muskegon. These establishments have been found to be in non-compliance with the City Code of Ordinances and renewal of their liquor licenses should not be recommended by the City Commission. If any of these establishments come into compliance by March 13, 2018, they will be removed from this resolution, and recommendation for their renewal will be forwarded to the Liquor Control Commission.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Adoption of the resolution.

PUBLIC HEARING COMMENCED: No public comments were received.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Johnson, to close the Public Hearing and adopt the resolution.

ROLL VOTE: Ayes: Rinsema-Sybenga, Turnquist, Johnson, Gawron, Hood, and Warren

Nays: None

MOTION PASSES

2018-18 NEW BUSINESS:

A. <u>Service Firearm Program</u> Public Safety

SUMMARY OF REQUEST: The Director of Public Safety requests that the

Commission authorize the amount of $49,962.10 for the purchase of department issued primary hand guns for all Muskegon sworn police officers. This firearms platform proposed, (GLOCK 17 Gen 5 piston), will replace our current system where officers purchase and attempt to maintain a primary duty weapon at their expense, which has been less than successful. Muskegon Police Officers currently carry a Sig-Sauer semi-auto pistol with multiple ammunition options (POLC Contract). This firearm is expensive to purchase, and the use of three options of ammunition is costly for the department and can present logistical issued in the field. Allowing different calibers in primary service weapons is not recommended and ammunition is not interchangeable in the handguns, again causing logistical issues. Our proposed platform increases officer safety and efficiency with the move to a one caliber system (9mm) department wide for the proposed primary deputy weapon. The department will own, maintain, issue, and check-in firearms and support equipment as officers pass through our department from hire to retirement.

FINANCIAL IMPACT: None – GF Budgeted

BUDGET ACTION REQUIRED: Firearm & support equipment proposed platform will be funded by the *Drug Forfeiture Fund*

STAFF RECOMMENDATION: Staff recommends approval of this platform to update and enhance the department with primary service pistols and supporting equipment.

Motion by Vice Mayor Hood, second by Commissioner Turnquist, to approve this platform to update and enhance the department with primary service pistols and supporting equipment.

ROLL VOTE: Ayes: Turnquist, Johnson, Gawron, Hood, Warren, and Rinsema-Sybenga

Nays: None

MOTION PASSES

B. <u>Administrative Vehicle Replacement</u> DPW/Equipment

SUMMARY OF REQUEST: Authorize staff to purchase three Chevy Impalas from Berger Chevrolet the Mi-Deal State contract holder. This will replace the three oldest administrative vehicles currently being used. Cost to the City will be $23,183 per vehicle.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: $23,183 x three - $69,549.00

STAFF RECOMMENDATION: Authorize staff to purchase three Chevy Impala's from Berger Chevrolet.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Johnson,

authorize staff to purchase three Chevy Impalas from Berger Chevrolet.

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Warren, Rinsema-Sybenga, and Turnquist

Nays: None

MOTION PASSES

C. Letter of Intent – 1000 West Western Ave Sales Agreement

SUMMARY OF REQUEST: The City Commission accepted a $249,000 purchase offer from Smith Equities in 2016. After nearly one year of due diligence, Smith Equities is ready to finalize the details of the purchase agreement under their Harbor West, LLC. The Letter of Intent outlines the commitments that Harbor West, LLC and the City of Muskegon intend to commit to as part of the Purchase Agreement. The remaining due diligence activities to be undertaken by Harbor West, LLC will be costly; providing this signed letter of intent will give them the necessary security that the city is generally agreeable to the terms that will be in the purchase agreement.

FINANCIAL IMPACT: $250,000 minus closing costs – deposited to the City's Public Improvement Fund

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To authorize the city manager to sign the Letter of Intent and negotiate a final purchase agreement with Harbor West, LLC consistent with the terms of the Letter of Intent.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Johnson, authorize staff to purchase three Chevy Impalas from Berger Chevrolet.

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Warren, Rinsema-Sybenga, and Turnquist

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: No public comments were received.

ADJOURNMENT: The City Commission meeting adjourned at 6:25 p.m.

Respectfully Submitted,

Ann Marie Meisch, City Clerk

Date: March 20, 2018

To: Honorable Mayor and City Commissioners

From: City Clerk – Ann Meisch

RE: Special Event Liquor License – Cole's Anniversary Party

SUMMARY OF REQUEST: The Muskegon City Clerk's office has partnered with Cole's Bakery to hold a community party on May 26, 2018, celebrating their 75th Anniversary this year and is seeking City Commission approval to apply for a license for Beer and Wine sales.

FINANCIAL IMPACT: $50 permit from the State for every date requested and $75 bond.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the request.

Date: March 20, 2018

To: Honorable Mayor and City Commissioners

From: City Clerk – Ann Meisch

RE: Special Event Liquor License – Taste of Muskegon

SUMMARY OF REQUEST: The Muskegon City Clerk's office is spearheading the Taste of Muskegon on Friday, June 15 and Saturday, June 16 this year and is seeking City Commission approval to apply for a license for Beer, Wine, and Spirit sales during the two-day event.

FINANCIAL IMPACT: $50 permit from the State for every date requested and $75 bond.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the request.

Date: March 20, 2018

To: Honorable Mayor and City Commissioners

From: Ann Marie Meisch, City Clerk

RE: Fireworks Display Permit for Heritage Landing

SUMMARY OF REQUEST: Night Magic is requesting approval of a fireworks display permit for July 4, 2018, at the Heritage Landing. The fire Marshall will inspect the fireworks on the day of the event.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval contingent on inspection of the fireworks and approval of insurance.

2018

Permit for Fireworks Other Than Consumer or Low Impact

Michigan Department of Licensing & Regulatory Affairs
Bureau of Fire Services
P.O. Box 30700
Lansing, MI 48909
(517) 241-8847

Authority	2011 PA 256	The Department of Licensing & Regulatory Affairs will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency/
Compliance	Required	
Penalty	Permit will not be issued.	

This permit is not transferable. Possession of this permit authorizes the herein named person to possess, transport and display fireworks in the amounts, for the purpose of and at the place listed below only.

Public Display

ISSUED TO: B Bashen Enterprises 1489 Lawton Dr. 49445 | AGE (18 or over):

ADDRESS: 7834 Saint Huberts Trail Hesperia, MI 49421

NAME OF ORGANIZATION, GROUP, FIRM OR CORPORATION: Night Magic Displays

ADDRESS: 3999 Hupp Road, Building R-3-1, LaPorte, IN 46350

NUMBER AND TYPES OF FIREWORKS:

889 pcs 3 to 6 inch display shells
8 pcs Multi shot boxes (2+2½ inch)

EXACT LOCATION OF DISPLAY OR USE: Heritage Landing

CITY, VILLAGE, TOWNSHIP	DATE	TIME
Muskegon	7-4-18	10:30pm

BOND OR INSURANCE FILED: ☒ Yes ☐ No | AMOUNT: $10,000,000.00

Issued by action of the Legislative Body of a

☐city ☐village ☐township of _____ on the _____ day of

_____ 20___.

_____

(Signature and Title of Legislative Body Representative)

FORM IS VALID FOR YEAR SHOWN ONLY

BFS-49e

NIGHT MAGIC DISPLAYS

3999 Hupp Rd. La Porte IN 46350 800-998-3900 Toll Free Fax 574-272-6042

AGREEMENT made this 15th day of February, 2018, by **Night Magic Displays,** by its authorized agent hereinafter referred to as "Seller" and the **B. Baskin Enterprises, LLC,** hereinafter referred to as "Buyer".

1. SALE OF GOODS: The Seller shall sell to the Buyer certain Fireworks Display(s) in accordance with the program (Bid) attached hereto which shall be incorporated herein. This Display will be given on the evening(s) **July 4, 2018,** weather permitting, it being understood that should inclement weather prevent the giving of any Display on the date mentioned herein, it will be given on the next clear agreed upon date in the given year.

2. PURCHASE PRICE and PAYMENT: Purchase price shall be $24,000. Payment shall be made within 10 days after display is shot. A finance charge of one and one half percent per month will be assessed on all accounts overdue.
If inclement weather should prevent the giving of this display on the alternate agreed upon date, the Buyer will have the option of fulfilling this contract with a buyout of 40% of the display amount to the Seller.

3. CLAIMS: Any claims for loss or damage, defective materials and or product or shortages in count, or for any other cause is waived by Buyer unless made within Three (3) days after delivery.

WARRANTIES: The Seller warrants that the displays and their contents are in conformity with the specifications set forth in the Bid. No other representations or warranties have been made by the Seller or relied upon by the Buyer. This warranty is expressly in lieu of any and all warranties expressed or implied.

4. LIABILITY: The Buyer further agrees to provide the following:

a) Sufficient area for the Displays in accordance with the N.F.P.A. code of distances.
b) Adequate Security Staff protection to prevent spectators from entering Display Area.
c) Protection of the Display area by roping off or similar facility.
d) Daylight inspection of Display site the day following the Display.
e) State Permit for Fireworks Display.

5. ADDITIONAL COVENANTS:

a) Seller agrees to furnish Pyrotechnicians for this Display. This includes labor for setup, firing, tear down of display and initial inspection and clean up of Display area.
b) Seller shall purchase insurance for the benefit of Seller and Buyer in the amount of $10,000,000.00 for each display. Such insurance shall cover damage and personal injury resulting from any aspect of this contract.
c) The additional insured with respect to the General Liability is the City of Muskegon, all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and board members, including employees and volunteers thereof. City of Muskegon, 933 Terrace St., Muskegon MI 49440
d) The additional insured with respect to the General Liability is the County of Muskegon, all elected and appointed officials, all employees and volunteers, all boards, commissions, and/or authorities and board members, including employees and volunteers thereof. County of Muskegon, 316 Morris Ave. Suite 200, Muskegon MI 49440

6. BENEFIT: This agreement shall be binding upon and inure to the benefit of the parties, their successors, and assigns.

IN WITNESS, WHEREOF THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT THIS 15th DAY OF February, 2018.

NIGHT MAGIC DISPLAYS
By _____
Authorized Agent of SELLER

By _____
Authorized Agent of BUYER

Brandon Baskin
Printed Name

BBaskinEnterprises@gmail.com
email address

7834 Saint Helen Trl Hesperia MI 49421
Billing Address City State Zip

Insurance certificate will be emailed to address provided here by buyer

PROPOSAL

Muskegon 4th of July Celebration

This proposal includes the following:

BID AMOUNT:	**$23,000.00 and $24,000.00**
DISPLAY DATES:	**July 4, 2018**
LIABILITY INSURANCE	**$10,000,000.00 Coverage provided by James River Insurance Company**
PRODUCT:	**All fireworks in enclosed bid.**
	We reserve the right to substitute for equal or greater value if product is not available.
DELIVERY:	**By CDL/Hazmat endorsed drivers**
FIRING:	**All setup, firing of display by our protechnicians and initial clean up.**
WORKER'S COMP.:	**Liberty Mutual Insurance to cover the pyrotechnicians**

Muskegon 4th of July Celebration
Fireworks!
July 04, 2018
$23,000.00

* * * * *

Opening Barrage

Three Inch Display Shells

24 - Variegated Color Peony Finale Shells

Four Inch Display Shells

5 - Dominator Assorted Color and Pattern Shells

Body Of Display

Three Inch Display Shells

48 - Fancy Colors & Effect Shells
36 - Dominator Shells
15 - Guandu Fancy Flight Shells
13 - Titanium Salute with Rising Tail
8 - Crackling Nishiki Kamuros in flight
8 - Gold Palm Trees in flight
8 - Red, White & Blue Peonies in flight
8 - Brocade Crown Flight Shells
4 - Multi Color Cycas Blooms
4 - Green Strobe Shells in flight
4 - Glittering Silver Strobes in flight
4 - White Strobe Shells in Flight

3957

3 - Gold Comet to Brocade Crowns
3 - Titanium Salutes with Rising Tails Shot in Flight
1 - White Strobe with Red Pistil
1 - Assorted Color Sky Mines

Four Inch Display Shells

36 - Guandu Assorted Shells
36 - Japanese Style Chrysanthemums
18 - Fancy Color & Effect Shells
18 - Fancy Color Chrysanthemums and Peonies
18 - Wizard Special Imported Shells
3 - Gold Palm Trees With Green Strobes in flight
3 - Red, White & Blue Peonies in Flight
3 - Smiley Face Shells in flight
3 - Metai Special Effect Shells
3 - Brocade Crowns in Flight
2 - Yung Feng Japanese-Style Chrysanthemums
1 - Silver Crossette
1 - Diamond Screamers with Red & Blue Stars

Five Inch Display Shells

18 - Fancy Color & Effect Shells
18 - Fancy Color Chrysanthemums with Pistils
18 - Wizard Special Imported Shells
18 - Yuan Yang Japanese Style Shells
6 - Dominator Assorted Color and Pattern Shells
3 - Gold Palm Trees with Green Strobes in flight
3 - Red, White and Blue Peonies in Flight
3 - Metai Special Effect Cylinder Shells

3957

3 - Brocade Crowns in Flight
2 - Yung Feng Japanese-Style Chrysanthemums
1 - Red Crossette
1 - Red Crackling Double Hearts

Six Inch Display Shells

9 - Fancy Color & Special Effects
9 - Guandu Assorted Shells
9 - Fancy Color Chrysanthemums and Peonies
9 - Wizzard Brand Display Shell
9 - Yuan Yang Japanese Style Shells
3 - Yung Feng Display Shell
1 - Green Bocade with Thousand Flowers
1 - Colored Windbell
1 - Brocade Ring to Saturn Shell
1 - Gold Wave to Green Swimming

Multishot Boxes

2 - 36 Shot 2.5" Assorted Color Waves
2 - 36 Shot 2.5" Brocade Crowns
2 - 50 Shot 2' Assorted Colors with silver tails
2 - 50 Shot 2" Titanium Salutes

3957

The Grand Finale

180 - Three Inch Grand Finale Bombshells consisting of Fancy Oriental Shells, Glittering Comets, and Flash Salutes

60 - Three Inch Variegated Peony Finale Shells

60 - Three Inch Gold Brocade Finale Shells

60 - Three Inch Titanium Salute Finale Shells

15 - Four Inch Grand Finale Bombshells consisting of Special Imported Chrysanthemums and Peonies

10 - Four Inch Gold Brocade Finale Shells

5 - Five Inch Canopy Shells

300 - 9' ignitors
95 - 15' ignitors

3957

Muskegon 4th of July Celebration
Optional Increase to Display
July 04, 2018
$1,000.00

Adding the following to your $23,000 proposal will provide for a $24,000 program.

Body Of Display

Five Inch Display Shells

18 - Fancy Color & Effect Shells

3 - Crackling Nishiki Willows in flight

The Grand Finale

10 - Four Inch Grand Finale Bombshells consisting of Special Imported Chrysanthemums and Peonies

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 2/19/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher Risk Management Services, Inc. 777 108th Ave NE, #200 Bellevue WA 98004	**CONTACT NAME:** Kristen Look **PHONE (A/C, No, Ext):** 425-586-1016 **FAX (A/C, No):** 425-451-3716 **E-MAIL ADDRESS:**
	INSURER(S) AFFORDING COVERAGE / **NAIC #** **INSURER A :** T.H.E. Insurance Company / 12866
INSURED MIANINC-01 Miand, Inc. dba Night Magic Displays 3999 E. Hupp Road, Building R-3-1 La Porte, IN 46350	**INSURER B :** Liberty Insurance Corporation / 42404 **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 1765550719 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X **COMMERCIAL GENERAL LIABILITY** CLAIMS-MADE / X OCCUR X Per Show Agg GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / PRO-JECT / LOC OTHER:			CPP010529902	2/4/2018	2/4/2019	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$1,000,000 $100,000 $ $1,000,000 $ $2,000,000
A	**AUTOMOBILE LIABILITY** X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY			CPP010529902	2/4/2018	2/4/2019	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000 $ $ $
A	**UMBRELLA LIAB** X OCCUR X **EXCESS LIAB** CLAIMS-MADE DED / RETENTION $			ELP001210402	2/4/2018	2/4/2019	EACH OCCURRENCE AGGREGATE	$9,000,000 $9,000,000
B B	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		WC34S311836058 WC534S524913038	2/4/2018 2/4/2018	2/4/2019 2/4/2019	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $1,000,000 $1,000,000 $1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate holder is named as additional insured on the General Liability policy per form number CG133F (07/95)
City of Muskegon all elected and appointed officials, all employees and volunteer, all boards, commissions and or authorities, and their board members, all employees and volunteers,B. Baskin Enterprises,No More Sidelines, and the County of Muskegon,are named as additional insured with respect to the July 4, 2018 firework display in Muskegon MI

CERTIFICATE HOLDER

City of Muskegon
933 Terrace Street
Muskegon MI 49440
USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED—AUTOMATIC STATUS WHEN REQUIRED BY WRITTEN CONTRACT OR WRITTEN AGREEMENT

This endorsement modifies insurance provided by the Coverage Part(s) checked below:

☐ All Coverage Parts or
☒ Only the following checked Coverage Part(s)

☒	COVERAGE PART A - COMMERCIAL GENERAL LIABILITY
N/A	COVERAGE PART B - CONTRACTOR'S POLLUTION LIABILITY
N/A	COVERAGE PART C - PROFESSIONAL LIABILITY
N/A	COVERAGE PART D - SITE ENVIRONMENTAL LIABILITY
N/A	COVERAGE PART E - PRODUCTS POLLUTION LIABILITY
N/A	COVERAGE PART F - OTHER

Solely with respect to coverage afforded by the Coverage Part(s) checked above:

SECTION II – Who Is An Insured is amended to include as an additional insured any person or organization you are required to include as an additional insured on this Policy by written contract or written agreement in effect during this "policy period" and executed prior to the "occurrence" of any "bodily injury" or, "property damage" but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by:

1. Your acts or omissions, or
2. The acts or omissions of those acting on your behalf.

Liability for the above acts or omissions includes the liability you are required to assume in a written contract or written agreement with an additional insured that is specifically related to "your work", provided that assumption of the additional insured's liability is permitted by law.

The insurance provided to the additional insured(s) under this endorsement is limited as follows:

1. In the event that the Limits of Insurance provided by this Policy exceed the Limits of Insurance required by the written contract or written agreement, the insurance provided by this endorsement shall be limited to the Limits of Insurance required by the written contract or written agreement. This endorsement shall not increase the Limits of Insurance stated in the Declarations.

2. Any coverage provided by this endorsement to an additional insured(s) shall be excess over any other valid and collectible insurance available to the additional insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement specifically requires that this insurance apply on a primary and noncontributory basis.

3. With respect to the insurance afforded to the additional insured(s), the following additional exclusions apply:

   This insurance does not apply to "bodily injury" or "property damage" occurring after:

   a. All work, including materials, parts or equipment furnished in connection with such work, (other than service, maintenance or repairs) on the project to be performed by

or on behalf of the additional insured(s) at the location of the covered operations, has been completed; or

b. That portion of "your work" out of which the "bodily injury" or "property damage" arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project;

provided that item 3.a. and 3.b. above shall not apply if such coverage is required by written contract or written agreement in effect during this "policy period" and executed prior to the "occurrence" of any "bodily injury" or "property damage".

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

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Date: March 20, 2018

To: Honorable Mayor and City Commissioners

From: Ann Marie Meisch, City Clerk

RE: Fireworks Display Permit for Muskegon Country Club

SUMMARY OF REQUEST: Melrose Pyrotechnics, Inc. is requesting approval of a fireworks display permit for July 3, 2018, at the Muskegon Country Club, 2801 Lakeshore Drive. The fire Marshall will inspect the fireworks on the day of the event.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval contingent on inspection of the fireworks and approval of insurance.

March 14, 2018

Kimberly Young, Deputy City Clerk
City of Muskegon
933 Terrace Street
Muskegon, MI 49440

Dear Ms. Young:

Muskegon Country Club is in the process of planning our annual Independence Day Celebration on Tuesday, July 3, 2018. I am enclosing the fireworks permit, certificate of liability insurance and application fee of $75.00.

Please call me if you have any questions. I can be reached at 231-755-3737 or rebecca@muskegoncc.com

Most Sincerely,

Rebecca Harding
Banquet Coordinator

enc

APPLICATION FOR FIREWORKS DISPLAY PERMIT
Michigan Department of Energy, Labor, & Economic Growth
Bureau of Fire Services
P.O. Box 30700
Lansing, MI 48909
(517) 241-8847

2018

Authority: 1988 PA 358 Compliance: Voluntary Penalty: Permit will not be issued	The Department of Energy, Labor & Economic Growth will not discriminate against any individual or group because or race, sex, religion, age, national origin, color, material status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the American with Disabilities Ace, you may make your needs known to this agency.

☒ PUBLIC DISPLAY ☐ AGRICULTURAL PEST CONTROL Date of Application *03/5/18*

Name of Applicant
MELROSE PYROTECHNICS, INC.
Address
P.O. BOX 302, KINGSBURY, IN 46345
Age (18 or over)

If a Corporation, Name of President
MICHAEL CARTOLANO
Address
P.O. BOX 302, KINGSBURY, IN 46345

If a Non-resident Applicant: Name of MI Attorney or Resident Agent
MIKE VAN LOO
Address
P.O. BOX 123; 9019 W. BELDING RD. SUITE 3, BELDING, MI 48809
Phone No.
(616) 794-0205

Name of Pyrotechnic Operator
MIKE VAN LOO
Address
P.O. BOX 123, BELDING, MI 48809
Age (18 or over)
49

No. Years Experience No. Displays
30 YEARS 500+
Where
MICHIGAN, ILLINOIS, INDIANA

Name of Assistant:
MARIANNE NICKEL
Address
P.O. BOX 123, BELDING, MI 48809
Age
60

Name of Other Assistant:
LORI NICKEL
Address
P.O. BOX 123, BELDING, MI 48809
Age
40

Exact Location of Proposed Display
Muskegon Country Club Grounds

Date of Proposed Display *July 3, 2018*
Time of Proposed Display *Dusk*

No. Of Fireworks	Kind of Fireworks to be Displayed
Approximately 700	*Aerial display shells ranging in size from 1 1/4 inches to 4 inches in diameter.*

Manner & Place of Storage Prior to Display (Subject to Approval of Local Fire Authorities)

NO STORAGE NECESSARY. DELIVERED ON DATE OF DISPLAY

Amount of Bond of Insurance (to be set by local gov't)
$5,000,000.00

Name of Bonding Corporation or Insurance Company
BRITTON-GALLAGHER & ASSOCIATES

Address of Bonding Corporation or Insurance Company
ONE CLEVELAND CENTER, FLOOR 30; 1375 EAST 9TH STREET, CLEVELAND, OHIO 44114

Signature of Applicant

For Melrose Pyrotechnics, Inc.

SEE OTHER SIDE FOR INSTRUCTIONS

FIREWORKS DISPLAY PERMIT

Michigan Department of Energy, Labor, & Economic Growth
Bureau of Fire Services
P.O. Box 30700
Lansing, MI 48909
(517) 241-8847

2018

Authority: 1988 PA 358 Compliance: Voluntary Penalty: Permit will not be issued	The Department of Energy, Labor & Economic Growth will not discriminate against any individual or group because or race, sex, religion, age, national origin, color, material status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the American with Disabilities Ace, you may make your needs known to this agency.

This permit is not transferable. It authorizes the resident wholesale dealer or jobber named below to have in his or her possession fireworks of any type, for sale only to holders of permits for public display or agriculture control.

☒ PUBLIC DISPLAY ☐ AGRICULTURAL PEST CONTROL

Issued To *MELROSE PYROTECHNICS, INC.*		Age (18 or over)
Address *P.O. BOX 123; 9019 W. BELDING RD, SUITE 3, BELDING, MI 48809*		
Name of Organization, Group, Firm, or Corporation *Muskegon Country Club*		
Address *2801 Lakeshore Drive, Muskegon, Michigan 49441*		
Number and Types of Fireworks *Approximately 700 aerial display shells ranging in size from 1 1/4 inches to 4 inches in diameter.*		
Exact Location of Display *2801 Lakeshore Drive*		
City, Village, Township *Muskegon*	Date *July 3, 2018*	Time *Dusk*
Bond or Insurance Filed? ☒ Yes ☐ No		Amount *$5,000,000.00*

Issued by action of the ☐ council ☐ commission ☐ board of the

☐ city ☐ village ☐ township of _____
(Name of City, Village, Township)

on the _____ day of _____, _____

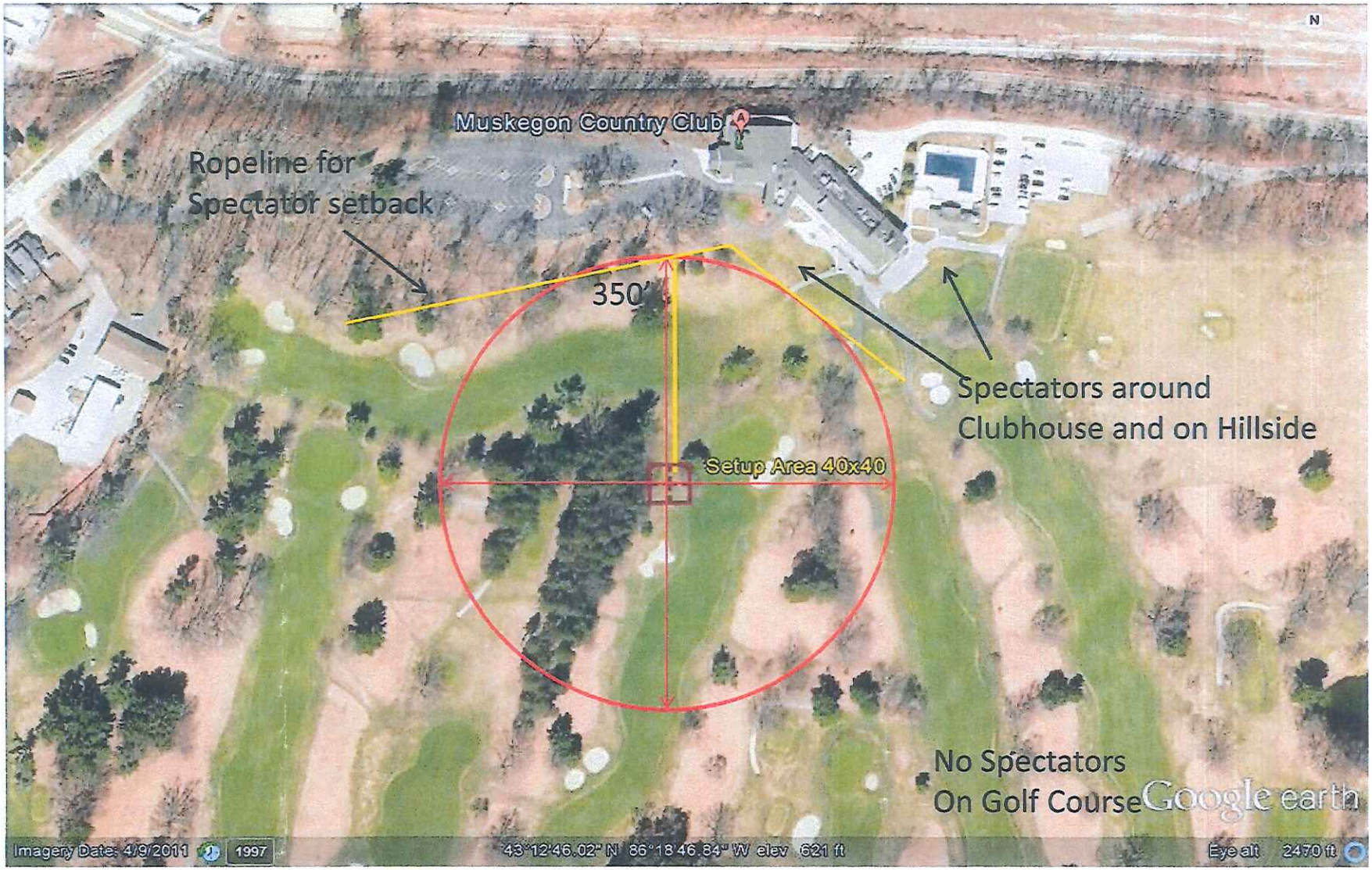
_____
(Signature and Title of Council/Commission/Board Representative)

Muskegon Country Club

5" Shells; up to 3" Angles

2801 Lakeshore Dr., Muskegon, MI

MVL 1/22/13



Operator: Center of setup area is 53' West of #18 fairway and 95' North of sand trap.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 3/2/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER	CONTACT NAME:
Britton Gallagher One Cleveland Center, Floor 30 1375 East 9th Street Cleveland OH 44114	PHONE (A/C, No, Ext): 216-658-7100 FAX (A/C, No):
	E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Everest Indemnity Insurance Co.	10851
INSURER B : Everest National Insurance Company	10120
INSURER C : Travelers Indemnity Co	25658
INSURER D : Maxum Indemnity Company	26743
INSURER E :	
INSURER F :	

INSURED

Melrose Pyrotechnics, Inc.
Kingsbury Industrial Parkway
Heinold Complex
Kingsbury IN 46345

COVERAGES **CERTIFICATE NUMBER:** 841330432 **REVISION NUMBER:**

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INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY	Y		SI8ML00042-181	1/15/2018	1/15/2019	EACH OCCURRENCE	$1,000,000
	[X] COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$500,000
	[ ] CLAIMS-MADE [X] OCCUR						MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$1,000,000
							GENERAL AGGREGATE	$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	$2,000,000
	[ ] POLICY [X] PRO-JECT [ ] LOC							$
B	AUTOMOBILE LIABILITY			SI8CA00025-181	1/15/2018	1/15/2019	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	[X] ANY AUTO						BODILY INJURY (Per person)	$
	[ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	[X] HIRED AUTOS [X] NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
D	[ ] UMBRELLA LIAB [X] OCCUR			EXC6017975	1/15/2018	1/15/2019	EACH OCCURRENCE	$4,000,000
	[X] EXCESS LIAB [ ] CLAIMS-MADE						AGGREGATE	$4,000,000
	[ ] DED [ ] RETENTION $							$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N			0323N491 (MI)	4/1/2018	4/1/2019	[X] WC STATU-TORY LIMITS [ ] OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] N / A						E.L. EACH ACCIDENT	$1,000,000
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Additional Insured extension of coverage is provided by above referenced General Liability policy where required by written agreement.
DISPLAY DATE: July 3, 2018
LOCATION: Muskegon Country Club - Muskegon, Michigan
ADDITIONAL INSURED: Muskegon Country Club; City of Muskegon, all elected & appointed officials, all employees & volunteers, all boards, commissions, and/or authorities & board members, including employees and volunteers thereof

CERTIFICATE HOLDER

Muskegon Country Club
2801 Lakeshore Drive
Muskegon MI 49441

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 3/2/2018

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PRODUCER
Britton Gallagher
One Cleveland Center, Floor 30
1375 East 9th Street
Cleveland OH 44114

CONTACT NAME:
PHONE (A/C, No, Ext): 216-658-7100 FAX (A/C, No):
E-MAIL ADDRESS:

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INSURER D : Maxum Indemnity Company	26743
INSURER E :	
INSURER F :	

INSURED
Melrose Pyrotechnics, Inc.
Kingsbury Industrial Parkway
Heinold Complex
Kingsbury IN 46345

COVERAGES **CERTIFICATE NUMBER:** 841330432 **REVISION NUMBER:**

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INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
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	[X] COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$500,000
	[ ] CLAIMS-MADE [X] OCCUR						MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	[ ] POLICY [X] PRO-JECT [ ] LOC						PRODUCTS - COMP/OP AGG	$2,000,000
								$
B	AUTOMOBILE LIABILITY			SI8CA00025-181	1/15/2018	1/15/2019	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	[X] ANY AUTO						BODILY INJURY (Per person)	$
	[ ] ALL OWNED AUTOS [ ] SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	[X] HIRED AUTOS [X] NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
D	[ ] UMBRELLA LIAB [X] OCCUR			EXC6017975	1/15/2018	1/15/2019	EACH OCCURRENCE	$4,000,000
	[X] EXCESS LIAB [ ] CLAIMS-MADE						AGGREGATE	$4,000,000
	[ ] DED [ ] RETENTION $							$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N	N/A		0323N491 (MI)	4/1/2018	4/1/2019	[X] WC STATU-TORY LIMITS [ ] OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] (Mandatory in NH)						E.L. EACH ACCIDENT	$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Additional Insured extension of coverage is provided by above referenced General Liability policy where required by written agreement.
DISPLAY DATE: July 3, 2018
LOCATION: Muskegon Country Club - Muskegon, Michigan
ADDITIONAL INSURED: Muskegon Country Club; City of Muskegon, all elected & appointed officials, all employees & volunteers, all boards, commissions, and/or authorities & board members, including employees and volunteers thereof

CERTIFICATE HOLDER

Muskegon Country Club
2801 Lakeshore Drive
Muskegon MI 49441

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Date: March 20, 2018

To: Honorable Mayor and City Commissioners

From: Engineering

RE: 123 Net – Unilateral METRO Act Permit

SUMMARY OF REQUEST: Approve the request for a permit from 123 Net and authorize the Mayor to sign the permit.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the permit and sign the documents.

METRO Act
Unilateral Form
Revised 12/06/02

RIGHT-OF-WAY
TELECOMMUNICATIONS PERMIT

This permit issued this ___ day of _____, 20__ by the City of Muskegon.

1 Definitions

1.1 Date of Issuance shall mean the date set forth above.

1.2 Manager shall mean Municipality's [Mayor/Manager/Supervisor/Village President] or his or her designee.

1.3 METRO Act shall mean the Metropolitan Extension Telecommunications Right-of Way oversight Act, Act No. 48 of the Public Acts of 2002, as amended.

1.4 Municipality shall mean the City of Muskegon, a Michigan municipal corporation.

1.5 Permit shall mean this document.

1.6 Permittee shall mean 123.Net, Inc. organized under the laws of the State of Michigan whose address is 24700 Northwestern Hwy., Ste. 700, Southfield, MI 48075.

1.7 Public Right-of-Way shall mean the area on, below, or above a public roadway, highway, street, alley, easement, or waterway, to the extent Municipality has the ability to grant the rights set forth herein. Public Right-of-Way does not include a federal, state, or private right-of-way.

1.8 Telecommunications Facilities or Facilities shall mean the Permittee's equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify or provide telecommunication services or signals. Telecommunication Facilities or Facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communications device.

1.9 Term shall have the meaning set forth in Part 7.

2 Grant

2.1 Municipality hereby issues a permit under the METRO Act to Permittee for access to and ongoing use of the Public Right-of-Way identified on Exhibit A to construct, install and maintain Telecommunication Facilities on the terms set forth herein.

2.1.1 Exhibit A may be modified by Manager upon written request by Permittee.

2.1.2 Any decision of Manager on a request by Permittee for a modification may be appealed by Permittee to Municipality's legislative body.

2.2 Overlashing. Permittee shall not allow the wires or any other facilities of a third party to be overlashed to the Telecommunication Facilities without Municipality's prior written consent. Municipality's right to withhold written consent is subject to the authority of the Michigan Public Service Commission under Section 361 of the Michigan Telecommunications Act, MCL § 484.2361.

2.3 Nonexclusive. The rights granted by this Permit are nonexclusive. Municipality reserves the right to approve, at any time, additional permits for access to and ongoing usage of the Public Right-of-Way by telecommunications providers and to enter into agreements for use of the Public Right-of-Way with and grant franchises for use of the Public Right-of-Way to telecommunications providers, cable companies, utilities and other providers.

3 Contacts, Maps and Plans

3.1 Permittee Contacts. The names, addresses and the like for engineering and construction related information for Permittee and its Telecommunication Facilities are as follows:

3.1.1 The address, e-mail address, phone number and contact person (title or name) at Permittee's local office (in or near Municipality) is **John Reynolds, Fiber System Designer, 24700 Northwestern Hwy., Ste 700, Southfield, MI 48075, (248) 228-8207, jreynolds@123.net.**

3.1.2 If Permittee's engineering drawings, as-built plans and related records for the Telecommunication Facilities will not be located at the preceding local office, the location address, phone number and contact person (title or department) for them is _____. [N/A]

3.1.3 The name, title, address, e-mail address and telephone numbers of Permittee's engineering contact person(s) with responsibility for the design, plans and construction of the Telecommunication Facilities is same as in 3.1.1.

3.1.4 The address, phone number and contact person (title or department) at Permittee's home office/regional office with responsibility for engineering and construction related aspects of the Telecommunication Facilities is same as in 3.1.1.

3.1.5 Permittee shall at all times provide Manager with the phone number at which a live representative of Permittee (not voice mail) can be reached 24 hours a day, seven (7) days a week, in the event of a public emergency.

3.1.6 Permittee shall immediately notify Municipality in writing as set forth in Part 12 of any inaccuracies or changes in the preceding information.

3.2 Route Maps. Within ninety (90) days after the substantial completion of new Facilities in a Municipality, a provider shall submit route maps showing the location of the Telecommunication Facilities to both the Michigan Public Service Commission and to the Municipality, as required under Section 6(7) of the METRO Act, MCLA 484.3106(7).

3.3 As-Built Records. Permittee, without expense to Municipality, shall, upon forty-eight (48) hours notice, give Municipality access to all "as-built" maps, records, plans and specifications showing the Telecommunication Facilities or portions thereof in the Public Right-of-Way. Upon request by Municipality, Permittee shall inform Municipality as soon as reasonably possible of any changes from previously supplied maps, records, or plans and shall mark up maps provided by Municipality so as to show the location of the Telecommunication Facilities.

4 Use of Public Right-of-Way

4.1 No Burden on Public Right-of-Way. Permittee, its contractors, subcontractors, and the Telecommunication Facilities shall not unduly burden or interfere with the present or future use of any of the Public Right-of-Way. Permittee's aerial cables and wires shall be suspended so as to not endanger or injure persons or property in or about the Public Right-of-Way. If Municipality reasonably determines that any portion of the Telecommunication Facilities constitutes an undue burden or interference, due to changed circumstances, Permittee, at its sole expense, shall modify the Telecommunication Facilities or take such other actions as Municipality may determine is in the public interest to remove or alleviate the burden, and Permittee shall do so within a reasonable time period. Municipality will attempt to require all occupants of a pole or conduit whose facilities are a burden to remove or alleviate the burden concurrently.

4.2 No Priority. This Permit does not establish any priority of use of the Public Right-of-Way by Permittee over any present or future permittees or parties having agreements with Municipality or franchises for such use. In the event of any dispute as to the priority of use of the Public Right-of-Way, the first priority shall be to the public generally, the second priority to Municipality, the third priority to the State of Michigan and its political subdivisions in the performance of their various functions, and thereafter as between other permit, agreement or franchise holders, as determined by Municipality in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.

4.3 Restoration of Property. Permittee, its contractors and subcontractors shall immediately (subject to seasonal work restrictions) restore, at Permittee's sole expense, in a manner approved by Municipality, any portion of the Public Right-of-Way that is in any way disturbed, damaged, or injured by the construction, installation, operation, maintenance or removal of the Telecommunication Facilities to a reasonably equivalent (or, at Permittee's option, better) condition as that which existed prior to the disturbance. In the event that Permittee, its contractors or subcontractors fail to make such repair within a reasonable time, Municipality may make the repair and Permittee shall pay the costs Municipality incurred for such repair.

4.4 Marking. Permittee shall mark the Telecommunication Facilities as follows: Aerial portions of the Telecommunication Facilities shall be marked with a marker on Permittee's lines on alternate poles which shall state Permittee's name and provide a toll-free number to call for assistance. Direct buried underground portions of the Telecommunication Facilities shall have (1) a conducting wire placed in the ground at least several inches above Permittee's cable (if such cable is nonconductive); (2) at least several inches above that, a continuous colored tape with a statement to the effect that there is buried cable beneath; and (3) stakes or other appropriate above ground markers with Permittee's name and a toll-free number indicating that there is buried telephone cable below. Bored underground portions of the Telecommunication Facilities shall have a conducting wire at the same depth as the cable and shall not be required to provide the continuous colored tape. Portions of the Telecommunication Facilities located in conduit, including conduit of others used by Permittee, shall be marked at its entrance into and exit from each manhole and handhole with Permittee's name and a toll-free telephone number.

4.5 Tree Trimming. Permittee may trim trees upon and overhanging the Public Right-of-Way so as to prevent the branches of such trees from coming into contact with the Telecommunication Facilities, consistent with any standards adopted by Municipality. Permittee shall dispose of all trimmed materials. Permittee shall minimize the trimming of trees to that essential to maintain the

integrity of the Telecommunication Facilities. Except in emergencies, all trimming of trees in the Public Right-of-Way shall have the advance approval of Manager.

4.6 Installation and Maintenance. The construction and installation of the Telecommunication Facilities shall be performed pursuant to plans approved by Municipality. The open cut of any Public Right-of-Way shall be coordinated with the Manager or his designee. Permittee shall install and maintain the Telecommunication Facilities in a reasonably safe condition. If the existing poles in the Public Right-of-Way are overburdened or unavailable for Permittee's use, or the facilities of all users of the poles are required to go underground then Permittee shall, at its expense, place such portion of its Telecommunication Facilities underground, unless Municipality approves an alternate location. Permittee may perform maintenance on the Telecommunication Facilities without prior approval of Municipality, provided that Permittee shall obtain any and all permits required by Municipality in the event that any maintenance will disturb or block vehicular traffic or are otherwise required by Municipality.

4.7 Pavement Cut Coordination. Permittee shall coordinate its construction and all other work in the Public Right-of-Way with Municipality's program for street construction and rebuilding (collectively "Street Construction") and its program for street repaving and resurfacing (except seal coating and patching) (collectively, "Street Resurfacing").

4.7.1 The goals of such coordination shall be to encourage Permittee to conduct all work in the Public Right-of-Way in conjunction with or immediately prior to any Street Construction or Street Resurfacing planned by Municipality.

4.8 Compliance with Laws. Permittee shall comply with all laws, statutes, ordinances, rules and regulations regarding the construction, installation, and maintenance of its Telecommunication Facilities, whether federal, state or local, now in force or which hereafter may be promulgated. Before any installation is commenced, Permittee shall secure all necessary permits, licenses and approvals from Municipality or other governmental entity as may be required by law, including, without limitation, all utility line permits and highway permits. Permittee shall comply in all respects with applicable codes and industry standards, including but not limited to the National Electrical Safety Code (latest edition adopted by Michigan Public Service Commission) and the National Electric Code (latest edition). Permittee shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended.

4.9 Street Vacation. If Municipality vacates or consents to the vacation of Public Right-of-Way within its jurisdiction, and such vacation necessitates the removal

and relocation of Permittee's Facilities in the vacated Public Right-of-Way, Permittee shall, as a condition of this Permit, consent to the vacation and remove its Facilities at its sole cost and expense when ordered to do so by Municipality or a court of competent jurisdiction. Permittee shall relocate its Facilities to such alternate route as Municipality, applying reasonable engineering standards, shall specify.

4.10 Relocation. If Municipality requests Permittee to relocate, protect, support, disconnect, or remove its Facilities because of street or utility work, or other public projects, Permittee shall relocate, protect, support, disconnect, or remove its Facilities, at its sole cost and expense, including where necessary to such alternate route as Municipality, applying reasonable engineering standards, shall specify. The work shall be completed within a reasonable time period.

4.11 Public Emergency. Municipality shall have the right to sever, disrupt, dig-up or otherwise destroy Facilities of Permittee if such action is necessary because of a public emergency. If reasonable to do so under the circumstances, Municipality will attempt to provide notice to Permittee. Public emergency shall be any condition which poses an immediate threat to life, health, or property caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire, accidents, explosions, water main breaks, hazardous material spills, etc. Permittee shall be responsible for repair at its sole cost and expense of any of its Facilities damaged pursuant to any such action taken by Municipality.

4.12 Miss Dig. If eligible to join, Permittee shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 53 of the Public Acts of 1974, as amended, MCL § 460.701 et seq., and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.

4.13 Underground Relocation. If Permittee has its Facilities on poles of Consumers Energy, Detroit Edison or another electric or telecommunications provider and Consumers Energy, Detroit Edison or such other electric or telecommunications provider relocates its system underground, then Permittee shall relocate its Facilities underground in the same location at Permittee's sole cost and expense.

4.14 Identification. All personnel of Permittee and its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing Permittee's name, their name and photograph. Permittee shall account for all identification cards at all times. Every service vehicle of Permittee and its contractors or subcontractors shall be clearly identified as such to the public, such as by a magnetic sign with Permittee's name and telephone number.

5 Indemnification

5.1 Indemnity. Permittee shall defend, indemnify, protect, and hold harmless Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, and expenses of any nature (collectively "claim" for this Part 5) (including, without limitation, attorneys' fees) arising out of or resulting from the acts or omissions of Permittee, its officers, agents, employees, contractors, successors, or assigns, but only to the extent such acts or omissions are related to the Permittee's use of or installation of facilities in the Public Right-of-Way and only to the extent of the fault or responsibility of Permittee, its officers, agents, employees, contractors, successors and assigns.

5.2 Notice, Cooperation. Municipality will notify Permittee promptly in writing of any such claim and the method and means proposed by Municipality for defending or satisfying such claim. Municipality will cooperate with Permittee in every reasonable way to facilitate the defense of any such claim. Municipality will consult with Permittee respecting the defense and satisfaction of such claim, including the selection and direction of legal counsel.

5.3 Settlement. Municipality will not settle any claim subject to indemnification under this Part 5 without the advance written consent of Permittee, which consent shall not be unreasonably withheld. Permittee shall have the right to defend or settle, at its own expense, any claim against Municipality for which Permittee is responsible hereunder.

6 Insurance

6.1 Coverage Required. Prior to beginning any construction in or installation of the Telecommunication Facilities in the Public Right-of-Way, Permittee shall obtain insurance as set forth below and file certificates evidencing same with Municipality. Such insurance shall be maintained in full force and effect until the end of the Term. In the alternative, Permittee may satisfy this requirement through a program of self-insurance, acceptable to Municipality, by providing reasonable evidence of its financial resources to Municipality. Municipality's acceptance of such self-insurance shall not be unreasonably withheld.

6.1.1 Commercial general liability insurance, including Completed Operations Liability, Independent Contractors Liability, Contractual Liability coverage, railroad protective coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, in an amount not less than Five Million Dollars ($5,000,000).

6.1.2 Liability insurance for sudden and accidental environmental

contamination with minimum limits of Five Hundred Thousand Dollars ($500,000) and providing coverage for claims discovered within three (3) years after the term of the policy.

6.1.3 Automobile liability insurance in an amount not less than One Million Dollars ($1,000,000).

6.1.4 Workers' compensation and employer's liability insurance with statutory limits, and any applicable Federal insurance of a similar nature.

6.1.5 The coverage amounts set forth above may be met by a combination of underlying (primary) and umbrella policies so long as in combination the limits equal or exceed those stated. If more than one insurance policy is purchased to provide the coverage amounts set forth above, then all policies providing coverage limits excess to the primary policy shall provide drop down coverage to the first dollar of coverage and other contractual obligations of the primary policy, should the primary policy carrier not be able to perform any of its contractual obligations or not be collectible for any of its coverages for any reason during the Term, or (when longer) for as long as coverage could have been available pursuant to the terms and conditions of the primary policy.

6.2 Additional Insured. Municipality shall be named as an additional insured on all policies (other than worker's compensation and employer's liability). All insurance policies shall provide that they shall not be canceled, modified or not renewed unless the insurance carrier provides thirty (30) days prior written notice to Municipality. Permittee shall annually provide Municipality with a certificate of insurance evidencing such coverage. All insurance policies (other than environmental contamination, workers' compensation and employer's liability insurance) shall be written on an occurrence basis and not on a claims made basis.

6.3 Qualified Insurers. All insurance shall be issued by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A.M. Best Company.

6.4 Deductibles. If the insurance policies required by this Part 6 are written with retainages or deductibles in excess of $50,000, they shall be approved by Manager in advance in writing. Permittee shall indemnify and save harmless Municipality from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished hereunder.

6.5 Contractors. Permittee's contractors and subcontractors working in the Public Right-of-Way shall carry in full force and effect commercial general liability,

environmental contamination liability, automobile liability and workers' compensation and employer liability insurance which complies with all terms of this Part 6. In the alternative, Permittee, at its expense, may provide such coverages for any or all its contractors or subcontractors (such as by adding them to Permittee's policies).

6.6 Insurance Primary. Permittee's insurance coverage shall be primary insurance with respect to Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions (collectively "them"). Any insurance or self-insurance maintained by any of them shall be in excess of Permittee's insurance and shall not contribute to it (where "insurance or self-insurance maintained by any of them" includes any contract or agreement providing any type of indemnification or defense obligation provided to, or for the benefit of them, from any source, and includes any self-insurance program or policy, or self-insured retention or deductible by, for or on behalf of them).

7 Term

7.1 Term. The term ("Term") of this Permit shall be until the earlier of:

7.1.1 Five years or less from the Date of Issuance; or

7.1.2 When the Telecommunication Facilities has not been used to provide telecommunications services for a period of one hundred and eighty (180) days by Permittee or a successor or an assignee of Permittee; or

7.1.3 When Permittee, at its election and with or without cause, delivers written notice of termination to Municipality at least one-hundred and eighty (180) days prior to the date of such termination; or

7.1.4 Upon either Permittee or Municipality giving written notice to the other of the occurrence or existence of a default by the other party under Sections 4.8, 6, 8 or 9 of this Permit and such defaulting party failing to cure, or commence good faith efforts to cure, such default within sixty (60) days (or such shorter period of time provided elsewhere in this Permit) after delivery of such notice; or

7.1.5 Unless Manager grants a written extension, one year from the Date of Issuance if prior thereto Permittee has not started the construction and installation of the Telecommunication Facilities within the Public Right-of-Way and two years from the Date of Issuance if by such time construction and installation of the Telecommunication Facilities is not complete.

8 Performance Bond or Letter of Credit

8.1 Municipal Requirement. Municipality may require Permittee to post a bond (or letter of credit) as provided in Section 15(3) of the METRO Act, as amended [MCL § 484.3115(3)].

9 Fees

9.1 Establishment; Reservation. The METRO Act shall control the establishment of right-of-way fees. The parties reserve their respective rights regarding the nature and amount of any fees which may be charged by Municipality in connection with the Public Right-of-Way.

10 Removal

10.1 Removal; Underground. As soon as practicable after the Term, Permittee or its successors and assigns shall remove any underground cable or other portions of the Telecommunication Facilities from the Public Right-of-Way which has been installed in such a manner that it can be removed without trenching or other opening of the Public Right-of-Way. Permittee shall not remove any underground cable or other portions of the Telecommunication Facilities which requires trenching or other opening of the Public Right-of-Way except with the prior written approval of Manager. All removals shall be at Permittee's sole cost and expense.

10.1.1 For purposes of this Part 10, "cable" means any wire, coaxial cable, fiber optic cable, feed wire or pull wire.

10.2 Removal; Above Ground. As soon as practicable after the Term, Permittee, or its successor or assigns at its sole cost and expense, shall, unless waived in writing by Manager, remove from the Public Right-of-Way all above ground elements of its Telecommunication Facilities, including but not limited to poles, pedestal mounted terminal boxes, and lines attached to or suspended from poles.

10.3 Schedule. The schedule and timing of removal shall be subject to approval by Manager. Unless extended by Manager, removal shall be completed not later than twelve (12) months following the Term. Portions of the Telecommunication Facilities in the Public Right-of-Way which are not removed within such time period shall be deemed abandoned and, at the option of Municipality exercised by written notice to Permittee as set forth in Part 12, title to the portions described in such notice shall vest in Municipality.

11 Assignment. Permittee may assign or transfer its rights under this Permit, or the persons or entities controlling Permittee may change, in whole or in part, voluntarily, involuntarily, or by operation of law, including by merger or consolidation, change in the

ownership or control of Permittee's business, or by other means, subject to the following:

11.1 No such transfer or assignment or change in the control of Permittee shall be effective under this Permit, without Municipality's prior approval (not to be unreasonably withheld), during the time period from the Date of Issuance until the completion of the construction of the Telecommunication Facilities in those portions of the Public Right-of-Way identified on Exhibit A.

11.2 After the completion of such construction, Permittee must provide notice to Municipality of such transfer, assignment or change in control no later than thirty (30) days after such occurrence; provided, however,

11.2.1 Any transferee or assignee of this Permit shall be qualified to perform under its terms and conditions and comply with applicable law; shall be subject to the obligations of this Permit, including responsibility for any defaults which occurred prior to the transfer or assignment; shall supply Municipality with the information required under Section 3.1; and shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary, and

11.2.2 In the event of a change in control, it shall not be to an entity lacking the qualifications to assure Permittee's ability to perform under the terms and conditions of this Permit and comply with applicable law; and Permittee shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary.

11.3 Permittee may grant a security interest in this Permit, its rights thereunder or the Telecommunication Facilities at any time without notifying Municipality.

12 Notices

12.1 Notices. All notices under this Permit shall be given as follows:

12.1.1 If to Municipality, to _____.

12.1.2 If to Permittee, to **John Reynolds at 24700 Northwestern Hwy., Ste. 700, Southfield, MI 48075, with a copy to jreynolds@123.net**.

12.2 Change of Address. Permittee and Municipality may change its address or personnel for the receipt of notices at any time by giving notice thereof to the other as set forth above.

13 Other items

13.1 No Cable, OVS. This Permit does not authorize Permittee to provide commercial cable type services to the public, such as "cable service" or the services of an "open video system operator" (as such terms are defined in the Federal Communications Act of 1934 and implementing regulations, currently 47 U.S.C. §§ 522 (6), 573 and 47 CFR § 76.1500).

13.2 Effectiveness. This Permit shall become effective when Permittee has provided any insurance certificates and bonds required in Parts 6 and 8, and signed the acknowledgement of receipt, below.

13.3 Authority. This Permit satisfies the requirement for a permit under Section 5 of the METRO Act [MCL 484.3105].

13.4 Interpretation and Severability. The provisions of this Permit shall be liberally construed to protect and preserve the peace, health, safety and welfare of the public, and should any provision or section of this Permit be held unconstitutional, invalid, overbroad or otherwise unenforceable, such determination/holding shall not be construed as affecting the validity of any of the remaining conditions of this Permit. If any provision in this Permit is found to be partially overbroad, unenforceable, or invalid, Permittee and Municipality may nevertheless enforce such provision to the extent permitted under applicable law.

13.5 Governing Law. This Permit shall be governed by the laws of the State of Michigan.

City of Muskegon

By:_____
Its:_____
Date:_____

Acknowledgement of Receipt: Permittee acknowledges receipt of this Permit granted by Municipality.

123.Net, Inc.

By:_____
Its:_____
Date:_____

Exhibit A

Public Right-of-Way to be Used by Telecommunication Facilities

Exhibit B

Bond

::ODMA\PCDOCS\GRR\764521\3

METRO Act Permit Application Form
Revised April 6, 2012

City of Muskegon

APPLICATION FOR ACCESS TO AND ONGOING USE OF PUBLIC WAYS BY TELECOMMUNICATIONS PROVIDERS UNDER METROPOLITAN EXTENSION TELECOMMUNICATIONS RIGHTS-OF-WAY OVERSIGHT ACT 2002 PA 48 MCL SECTIONS 484.3101 TO 484.3120

BY

123.Net, Inc.

Unfamiliar with METRO Act?--Assistance: Municipalities unfamiliar with Michigan Metropolitan Extension Telecommunications Rights-of-Way Oversight Act ("METRO Act") permits for telecommunications providers should seek assistance, such as by contacting the Telecommunications Division of the Michigan Public Service Commission at 517-241-6200 or via its web site at http://www.michigan.gov/mpsc/0,4639,7-159-16372_22707---,00.html.

45 Days to Act—Fines for Failure to Act: The METRO Act states that "A municipality shall approve or deny access under this section within 45 days from the date a provider files an application for a permit for access to a public right-of-way." MCL 484.3115(3). The Michigan Public Service Commission can impose fines of up to $40,000 per day for violations of the METRO Act. It has imposed fines under the Michigan Telecommunications Act where it found providers or municipalities violated the statute.

Where to File: Applicants should file copies as follows [municipalities should adapt as appropriate—unless otherwise specified service should be as follows]:

-- Three (3) copies (one of which shall be marked and designated as the master copy) with the Clerk at:

City of Muskegon
Attn: City Clerk
Ann Meisch
933 Terrace St.
Muskegon, MI 49440

City of Muskegon
Name of local unit of government

APPLICATION FOR
ACCESS TO AND ONGOING USE OF PUBLIC WAYS BY
TELECOMMUNICATIONS PROVIDERS

By
123.Net, Inc.

This is an application pursuant to Sections 5 and 6 of the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, 2002 PA 48 (the "METRO Act") for access to and ongoing usage of the public right-of-way, including public roadways, highways, streets, alleys, easements, and waterways ("Public Ways") in the Municipality for a telecommunications system. The METRO Act states that "A municipality shall approve or deny access under this section within 45 days from the date a provider files an application for a permit for access to a public right-of-way." MCL 484.3115(3).

This application must be accompanied by a one-time application fee of $500, unless the applicant is exempt from this requirement under Section 5(3) of the METRO Act, MCL 484.3105(3).

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1 GENERAL INFORMATION:

1.1 Date: **March 5, 2018**

1.2 Applicant's legal name: **123.Net, Inc.**
Mailing Address: **24700 Northwestern Highway**
Suite 700
Southfield, MI 48075

Telephone Number: **(248) 228-8214**
Fax Number: _____
Corporate website: **123.net**

Name and title of Applicant's local manager (and if different) contact person regarding this application:
John Reynolds – Fiber System Designer
Mailing Address: **24700 Northwestern Highway**
Suite 700
Southfield, MI 48075
Telephone Number: **(248) 228-8207**
Fax Number: **(248) 849-9333**
E-mail Address: **jreynolds@123.net**

1.3 Type of Entity: (Check one of the following)

__X__ Corporation
_____ General Partnership
_____ Limited Partnership
_____ Limited Liability Company
_____ Individual
_____ Other, please describe: _____

1.4 Assumed name for doing business, if any: _____
1.5 Description of Entity:

1.5.1 Jurisdiction of incorporation/formation; **Michigan**

1.5.2 Date of incorporation/formation; **8-16-1996**

1.5.3 If a subsidiary, name of ultimate parent company;

1.5.4 Chairperson, President/CEO, Secretary and Treasurer (and equivalent officials for non-corporate entities).

James Kandler
Dan Irvin
Stefania Gradinaru
Simona Anton

1.6 Attach copies of Applicant's most recent annual report (with state ID number) filed with the Michigan Department of Licensing and Regulatory Affairs and certificate of good standing with the State of Michigan. For entities in existence for less than one year and for non-corporate entities, provide equivalent information.
Please see attached.

1.7 Is Applicant aware of any present or potential conflicts of interest between Applicant and Municipality? If yes, describe: **None.**

_____.

1.8 In the past three (3) years, has Applicant had a permit to install telecommunications facilities in the public right of way revoked by any Michigan municipality?

Circle: Yes (No)

If "yes," please describe the circumstances.

1.9 In the past three (3) years, has an adverse finding been made or an adverse final action been taken by any Michigan court or administrative body against Applicant under any law or regulation related to the following:

1.9.1 A felony; or

1.9.2 A revocation or suspension of any authorization (including cable franchises) to provide telecommunications or video programming services?

Circle: Yes (*No*)

If "yes," please attach a full description of the parties and matters involved, including an identification of the court or administrative body and any proceedings (by dates and file numbers, if applicable), and the disposition of such proceedings.

1.10 [If Applicant has been granted and currently holds a license to provide basic local exchange service, no financial information needs to be supplied.] If publicly held, provide Applicant's most recent financial statements. If financial statements of a parent company of Applicant (or other affiliate of Applicant) are provided in lieu of those of Applicant, please explain. **N/A, Applicant is a CLEC**

1.10.1 If privately held, and if Municipality requests the information within 10 days of the date of this Application, the Applicant and the Municipality should make arrangements for the Municipality to review the financial statements.

If no financial statements are provided, please explain and provide particulars.

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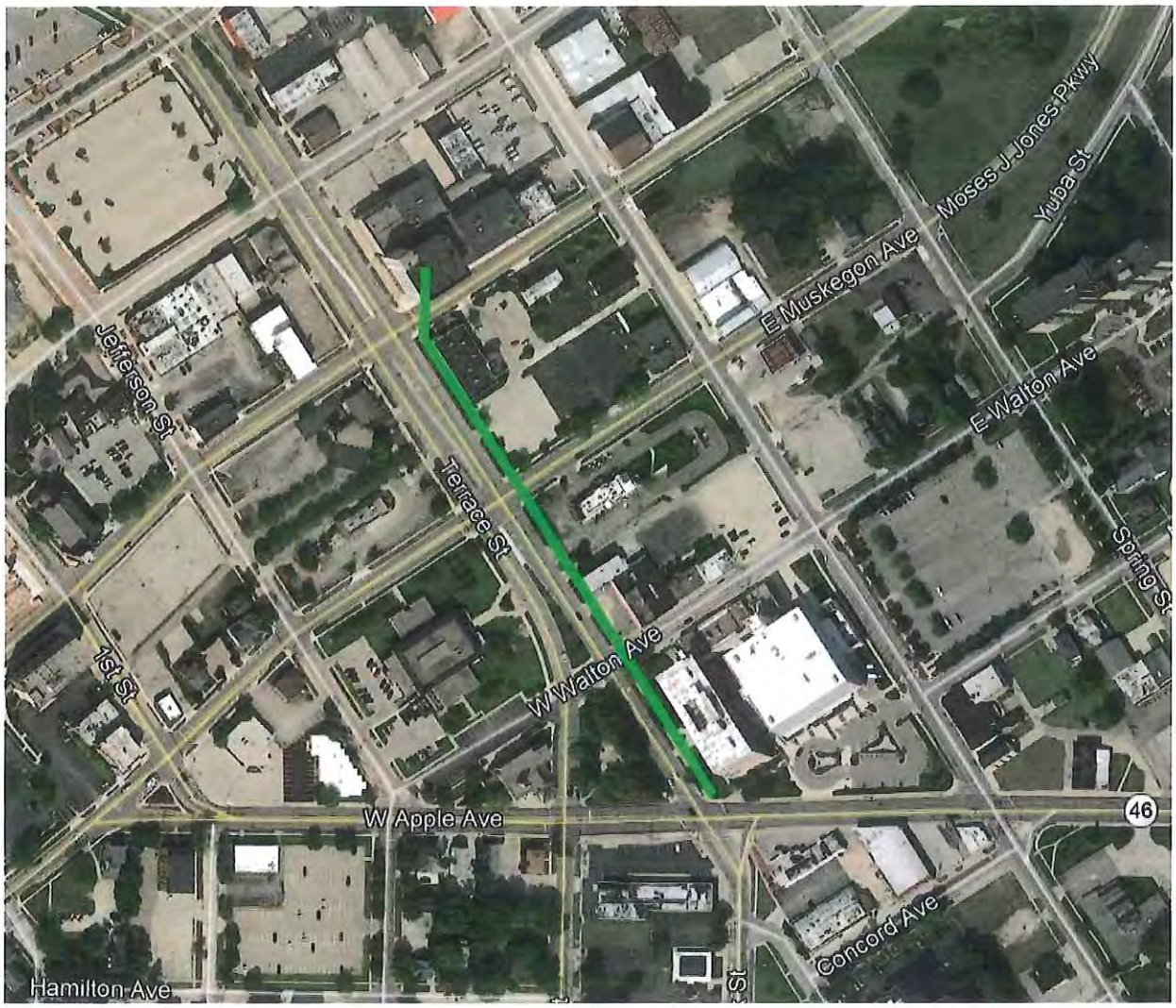
2 DESCRIPTION OF PROJECT:

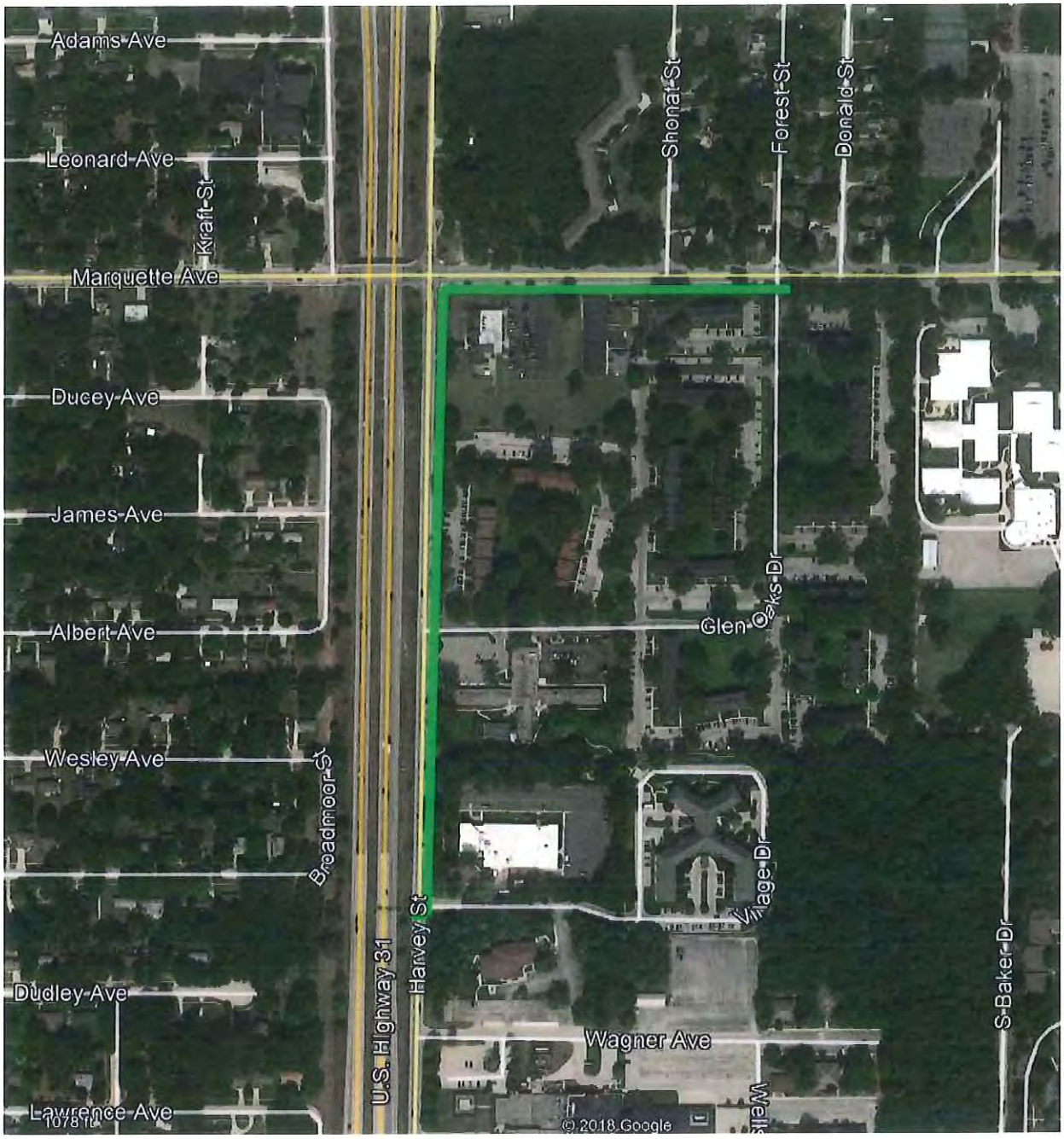
2.1 Provide a copy of authorizations, if applicable, Applicant holds to provide telecommunications services in Municipality. If no authorizations are applicable, please explain.

2.2 Describe in plain English how Municipality should describe to the public the telecommunications services to be provided by Applicant and the telecommunications facilities to be installed by Applicant in the Public Ways.

Proposed project involves underground installation of fiber optic cable inside 1.25" HPDE conduit using either methods as directional boring or trenching. We will be installing 2 separate routes within your jurisdiction. The first route begins at the (NE) corner of E Apple Ave and Terrace St. We will be building (NW) along the (NE) side of Terrace St, until entering our connection point (N) of the intersection of Seaway Dr, and Terrace St. Our second route will begin (SE) of the intersection of Marquette Ave and Glen Oaks Dr. We will build (W) along the (S) side of Marquette Ave until reaching the (SE) corner of the intersection of Marquette Ave and Harvey St where we will build (S) until reaching a utility pole and risering up to a splice point.

2.3 Attach route maps showing the location (including whether overhead or underground) of Applicant's existing and proposed facilities in the public right-of-way. To the extent known, please identify the side of the street on which the facilities will be located. (If construction approval is sought at this time, provide engineering drawings, if available, showing location and depth, if applicable, of facilities to be installed in the public right-of-way).





The proposed routes will be on the (NE) side of Terrace Ave, the (S) side of Marquette Ave and the (E) side of Harvey St. We will be installing underground routes, with the exception of the (S) side of both routes and the (E) side of the (E) route where we will riser up to a splice point.

2.4 Please provide an anticipated or actual construction schedule.

Would like to begin construction as soon as possible. Construction will take less than two weeks, including restoration.

2.5 Please list all organizations and entities which will have any ownership interest in the facilities proposed to be installed in the Public Ways.

123.Net, Inc.

2.6 Who will be responsible for maintaining the facilities Applicant places in the Public Ways and how are they to be promptly contacted? If Applicant's facilities are to be installed on or in existing facilities in the Public Ways of existing public utilities or incumbent telecommunications providers, describe the facilities to be used, and provide verification of their consent to such usage by Applicant.

123.Net, Inc.
(866) 460-3503
NOC@123.NET

3 TELECOMMUNICATION PROVIDER ADMINISTRATIVE MATTERS:

Please provide the following or attach an appropriate exhibit.

3.1 Address of Applicant's nearest local office;

24700 Northwestern Highway
Suite 700
Southfield, MI 48075

3.2 Location of all records and engineering drawings, if not at local office;

3.3 Names, titles, addresses, e-mail addresses and telephone numbers of contact person(s) for Applicant's engineer or engineers and their responsibilities for the telecommunications system;

John Reynolds
Fiber System Designer
24700 Northwestern Highway
Suite 700
Southfield, MI 48075

3.4 Provide evidence of self-insurance or a certificate of insurance showing Applicant's insurance coverage, carrier and limits of liability for the following:

3.4.1 Worker's compensation;

3.4.2 Commercial general liability, including at least:

3.4.2.1 Combined overall limits;

3.4.2.2 Combined single limit for each occurrence of bodily injury;

3.4.2.3 Personal injury;

3.4.2.4 Property damage;

3.4.2.5 Blanket contractual liability for written contracts, products, and completed operations;

3.4.2.6 Independent contractor liability;

3.4.2.7 For any non-aerial installations, coverage for property damage from perils of explosives, collapse, or damage to underground utilities (known as XCU coverage);

3.4.2.8 Environmental contamination;

3.4.3 Automobile liability covering all owned, hired, and non-owned vehicles used by Applicant, its employee, or agents.

Please see attached.

3.5 Names of all anticipated contractors and subcontractors involved in the construction, maintenance and operation of Applicant's facilities in the Public Ways.

N/A

4 CERTIFICATION:

All the statements made in the application and attached exhibits are true and correct to the best of my knowledge and belief.

123.Net, Inc.

3/5/18
Date

By: _____
John Reynolds
Fiber Systems Designer

S:\metroapplicationform.doc

ACORD®

INSURANCE BINDER

DATE (MM/DD/YYYY): 8/29/2017

THIS BINDER IS A TEMPORARY INSURANCE CONTRACT, SUBJECT TO THE CONDITIONS SHOWN ON PAGE 2 OF THIS FORM.

AGENCY	COMPANY	BINDER #
VTC Insurance Group Troy Office 1175 W. Long Lake Ste. 200 Troy MI 48098-4960	Hanover Insurance Co.	B1782966777

EFFECTIVE DATE	TIME			EXPIRATION DATE	TIME		
8/30/2017	12:01	X	AM	10/30/2017	X	12:01 AM	
			PM			NOON	

PHONE (A/C, No, Ext): (248) 828-3377 | FAX (A/C, No): (248) 828-3741

CODE: 02-1008 | SUB CODE:

AGENCY CUSTOMER ID: 00133839

☐ THIS BINDER IS ISSUED TO EXTEND COVERAGE IN THE ABOVE NAMED COMPANY PER EXPIRING POLICY #:

INSURED AND MAILING ADDRESS

123.NET, INC., DBA: 123NET, INC.
24700 Northwestern Hwy Suite 700

Southfield MI 48075

DESCRIPTION OF OPERATIONS / VEHICLES / PROPERTY (Including Location)

Per Proposal

COVERAGES

TYPE OF INSURANCE	COVERAGE / FORMS	DEDUCTIBLE	COINS %	LIMITS AMOUNT
PROPERTY — CAUSES OF LOSS: ☐ BASIC ☐ BROAD ☒ SPECIAL	Blanket Building, Special form	2,500		24,525,000
	Business Income & Extra Expense, Special form	24		ALS
	Blanket Business Personal Property, Special form	2,500		7,375,000
GENERAL LIABILITY				
☒ COMMERCIAL GENERAL LIABILITY		EACH OCCURRENCE		$ 1,000,000
☐ CLAIMS MADE ☒ OCCUR		DAMAGE TO RENTED PREMISES		$ 100,000
		MED EXP (Any one person)		$ 10,000
		PERSONAL & ADV INJURY		$ 1,000,000
		GENERAL AGGREGATE		$ 2,000,000
	RETRO DATE FOR CLAIMS MADE:	PRODUCTS - COMP/OP AGG		$ 2,000,000
VEHICLE LIABILITY	Combined single limit	COMBINED SINGLE LIMIT		$ 1,000,000
☒ ANY AUTO		BODILY INJURY (Per person)		$
☒ ALL OWNED AUTOS		BODILY INJURY (Per accident)		$
☐ SCHEDULED AUTOS	Property Damage Buy Back	PROPERTY DAMAGE		$ 1,000
☐ HIRED AUTOS		MEDICAL PAYMENTS		$
☐ NON-OWNED AUTOS		PERSONAL INJURY PROT		$
	Uninsured motorist combined single limit	UNINSURED MOTORIST		$ 1,000,000
		Underinsured		$ 1,000,000
VEHICLE PHYSICAL DAMAGE — DED	☐ ALL VEHICLES ☒ SCHEDULED VEHICLES	☒ ACTUAL CASH VALUE		
☒ COLLISION: $500 Broad		☐ STATED AMOUNT		$
☒ OTHER THAN COL: $250				
GARAGE LIABILITY		AUTO ONLY - EA ACCIDENT		$
☐ ANY AUTO		OTHER THAN AUTO ONLY:		
		EACH ACCIDENT		$
		AGGREGATE		$
EXCESS LIABILITY	Umbrella(C)	EACH OCCURRENCE		$ 6,000,000
☒ UMBRELLA FORM		AGGREGATE		$ 6,000,000
☐ OTHER THAN UMBRELLA FORM	RETRO DATE FOR CLAIMS MADE:	SELF-INSURED RETENTION		$ 0
WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY	WC & Employer's liability	☒ PER STATUTE		
		E.L. EACH ACCIDENT		$ 1,000,000
		E.L. DISEASE - EA EMPLOYEE		$ 1,000,000
		E.L. DISEASE - POLICY LIMIT		$ 1,000,000
SPECIAL CONDITIONS / OTHER COVERAGES		FEES		$
		TAXES		$
		ESTIMATED TOTAL PREMIUM		$

NAME & ADDRESS

☐ MORTGAGEE ☐ LOSS PAYEE ☐ ADDITIONAL INSURED

LOAN #:

AUTHORIZED REPRESENTATIVE

Alan Chandler/V412

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AGENDA ITEM NO. _____

CITY COMMISSION MEETING __

TO: Honorable Mayor and City Commission

FROM: Department of Public Works

DATE: March 27, 2018

SUBJECT: Aggregates, Highway Maintenance Materials and Concrete

SUMMARY OF REQUEST:

Award supply of Calcium Chloride 38% (road brine) and 32% (winter salting) to Great Lakes Chloride

Award bid to supply bituminous products (Base and Top) to Asphalt Paving, Inc.

Award bid to supply Sylvax patching material to Unique Paving Materials

Award bid to supply AE-90 Asphalt Emulsions to Michigan Paving Materials

Award bid for crack sealant to Sherwin Industries.

Award bid to supply H1/32FA limestone chip blend to Verplank Trucking Company

Award bid to supply road slag to Yellow Rose Transport

Award bid to supply road gravel to Yellow Rose Transport

Award bid to supply 2NS sand to Yellow Rose Transport

Award bid to supply screened top soil to Accurate Excavators

Award bid to supply Fill Sand to Accurate Excavators

Award bid to supply 7-sack mix concrete to Port City Redi-Mix

FINANCIAL IMPACT:

$472,397.00

BUDGET ACTION REQUIRED:

None; funds appropriated in several budgets.

STAFF RECOMMENDATION:

Recommend approval of bids as outlined in Summary of Request.

To: The City Commission
From: LeighAnn Mikesell, Municipal Services Director
Date: March 27, 2018
Subject: 2018 Aggregates, Highway Maintenance Materials, and Concrete

Purchases will be made from recommended bidder (in bold), contingent upon product availability, timely deliveries, and prices as quoted.

85,000 gallons Calcium Chloride 38% (road brine) ($53,550.00)

Great Lakes Chloride	**P.O. Box 634, Grand Haven, MI 49417**	**$0.63 per gallon, spread**

15,000 gallons Calcium Chloride 32% (winter salting) ($7,500.00)

Great Lakes Chloride	**P.O. Box 634, Grand Haven, MI 49417**	**$0.50 per gallon, storage**

200 ton Bituminous Asphalt Base ($12,700.00)

Asphalt Paving, Inc.	**1000 E. Sherman Boulevard, Muskegon MI 49444-0190**	**$63.50 per ton, picked up**
Michigan Paving Mat	1100 Market Ave. SW, Grand Rapids, MI 49503	$65.50 per ton, picked up

1,000 ton Bituminous Asphalt Top ($64,500.00)

Asphalt Paving, Inc.	**1000 E. Sherman Boulevard, Muskegon MI 49444-0190**	**$64.50 per ton, picked up**
Michigan Paving Mat	1100 Market Ave. SW, Grand Rapids, MI 49503	$66.50 per ton, picked up

500 tons Sylvax Patching Materials – UPM-CP-7, or ASTM Specification C-136 #9 or Statite CP-6, or similar product ($53,925.00)

Unique Paving Materials	**3993 E. 93rd Street, Cleveland, OH 44105**	**$107.85 per ton, delivered**
Asphalt Paving, Inc.	1000 E. Sherman Boulevard, Muskegon MI 49444-0190	$110.00 per ton, picked up

30,000 gallons AE-90 Asphalt Emulsions ($58,500.00)

Bit-Mat Products	401 Tiernan Rd, Bay City, MI 48706	$2.00 per gallon, delivered
Michigan Paving Mat	**1100 Market Ave. SW, Grand Rapids, MI 49503**	**$1.95 per gallon, delivered**

50,000 pounds Crack Sealant (block form) ($19,500.00)

Sherwin Industries, Inc	**2129 West Morgan Ave., Milwaukee, WI 53221**	**$0.39 per pound, delivered**
Surface Coatings, Co.	2280 Auburn Rd, Auburn Hills, MI 48326	$0.41 per pound, delivered

500 ton H1/32FA Limestone Chip Blend ($10,600.00)

Verplank Trucking Co.	**PO Box 8, Ferrysburg, MI 49409**	**$21.20 per ton, delivered**
Yellow Rose Transport	3531 Busch Dr., Grandville, MI 49418	$21.57 per ton, delivered

5,000 ton Road Slag 22-A Natural ($66,250.00)

Verplank Trucking Co.	PO Box 8, Ferrysburg, MI 49409	$13.45 per ton, delivered
Yellow Rose Transport	**3531 Busch Dr., Grandville, MI 49418**	**$13.25 per ton, delivered**

500 ton Road Gravel 22-A ($5,925.00)

Verplank Trucking Co.	PO Box 8, Ferrysburg, MI 49409	$11.95 per ton, delivered
Yellow Rose Transport	**3531 Busch Dr., Grandville, MI 49418**	**$11.85 per ton, delivered**
Top Grade Aggregates`	3407 58th Street, Hamilton, MI 49419	$15.60 per ton, delivered

500 ton 2NS Sand ($4,625.00)

Yellow Rose Transport	**3531 Busch Dr., Grandville, MI 49418**	**$9.25 per ton, delivered**
Verplank Trucking Co.	PO Box 8, Ferrysburg, MI 49409	$9.30 per ton, delivered
Top Grade Aggregates`	3407 58th Street, Hamilton, MI 49419	$15.00 per ton, delivered

500 yards Screened Top Soil ($3,975.00)

Accurate Excavators	**2821 Central Rd, Muskegon, MI 49445**	**$7.95 per cubic yard, delivered**
Verplank	P.O. Box 8, Ferrysburg, Muskegon, MI 49409	$8.00 per cubic yard, delivered
Yellow Rose Transport	3531 Busch Dr., Grandville, MI 49418	$13.00 per ton, delivered
Top Grade Aggregates`	3407 58th Street, Hamilton, MI 49419	$18.75 per cubic yard, delivered

500 ton Fill Sand ($2,875.00)

Accurate Excavators	**2821 Central Rd, Muskegon, MI 49445**	**$5.75 per cubic yard, delivered**
Verplank Trucking Co.	PO Box 8, Ferrysburg, MI 49409	$6.00 per cubic yard, delivered
Yellow Rose Transport	3531 Busch Dr., Grandville, MI 49418	$7.50 per cubic yard, delivered
Top Grade Aggregates`	3407 58th Street, Hamilton, MI 49419	$8.37 per cubic yard, delivered

Concrete mix as needed ($107,972.00 using 2017 quantities)

Port City Redi-Mix 1780 Sheridan Road, Muskegon, MI 49442	**$109.00 per cubic yard, 7 Sack Mix, delivered***
Consumers Concrete 4400 E. Evanston Avenue, Muskegon MI 49442	$113.00 per cubic yard, 7 Sack Mix, delivered

**The 7-sack mix is the most commonly used product. Low bid based on inclusion of other charges for "multiple drop locations" and "small load charges". It should also be noted that concrete purchases may include several miscellaneous charges, including, but not limited to, hot water, chloride, winter price, and extra unload time.*

Date: 3/20/2018

To: Honorable Mayor and City Commissioners

From: Department of Public Works

RE: Lakeshore Drive Preliminary and Construction Engineering

SUMMARY OF REQUEST:

Authorize staff to enter into an agreement with Prein & Newhof for preliminary and construction engineering services related to the reconstruction and street-scaping of Lakeshore Drive from McCracken to Laketon.

A request for proposals was advertised on February 16, 2018, with evaluation criteria as follows: understanding of the project and challenges, method of approach to the project, applicable experience, time and effort, and accessibility of the firm to City staff. Our intent is to select a consultant based on qualifications and negotiate the cost for work. Six proposals were received and reviewed independently by an engineering staff member and the director. Both reviewers selected Prein & Newhof as the top ranked firm.

FINANCIAL IMPACT:

$390,000 for engineering services to be covered by the major street fund

BUDGET ACTION REQUIRED:

Adjust engineering costs in third quarter reforecast

STAFF RECOMMENDATION:

Authorize staff to enter into an agreement with Prein & Newhof for engineering services related to the reconstruction and street-scaping of Lakeshore Drive from McCracken to Laketon.

COMMISSION MEETING DATE: March 27, 2018

TO: Honorable Mayor and Commissioners

FROM: Jeffrey Lewis, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN1715626 – 425 Octavius St.

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 **425 Octavius St** is unsafe, substandard, a public nuisance and that it be demolished within thirty (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 or staff may issue civil infraction citations to the owner, agent or responsible party if they do not demolish the structure.

Location and ownership: This structure is located on Octavius St. between Jackson Ave and Wood St. The property is located in the Jackson Hill Neighborhood. The structure is owned by Anthony & Angel Neuman, 2715 Peck St apt 6, Muskegon Hts., MI 49444.

Staff Correspondence: The complaint notice was sent on October 10, 2017.
The Notice & Order was sent on December 6, 2017
A ten day notice was sent on December 22, 2017 for the January 4, 2018 HBA hearing.
A ten day notice was sent on January 23, 2018 for the February 1, 2018 HBA hearing.
A ten day notice was sent on February 20, 2018 for the March 1, 2018 HBA hearing.
All notices are sent First Class and Certified Mail and posted on the property in question.
On March 1, 2018, the HBA declared the structure substandard, dangerous and a nuisance.

Financial Impact: General Funds

Budget action required: None

State Equalized value: $14,100

Estimated cost to repair: $24,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish all structures on the property

Owner Contact: Owner came into the inspections the week of December 4, 2017 and said they were finishing another house in the City and were planning on keeping the house. I informed the owner she must have an approved plan of abatement before the January 4, 2018 hearing. No further contact from owner. On January 4, 2018, the day of the HBA hearing, the owner provided a hand written plan of abatement. The plan did not address all of the noted violations in the inspection report, provide a time table or estimated cost of repairs. Staff requested the HBA table the case for 30 days.
On January 26, 2018 the owner requested an interior inspection.
At the February 1, 2018 HBA hearing, the owner requested additional 30 days to provide the plan of abatement. The HBA granted her request for additional 30 days and required the owner to pay all outstanding fees, fines, and taxes on the property. No further contact from the owner.

Permits obtained: None

DANGEROUS BUILDING INSPECTION REPORT

Owner NEUMAN ANTHONY/ANGEL
2715 PECK ST APT 6
MUSKEGON HEIGHTS, MI 49444

Enforcement # EN1715626
Property Address: 425 OCTAVIUS ST
Parcel # 24-205-140-0014-00

Date completed: October 10, 2017

EXTERIOR DEFICENCIES:

1. Siding: Siding is rotted, missing, has holes and peeling paint
2. Windows: Windows are boarded, rotted, missing or broken
3. Soffits & fascia is rotted or missing and with peeling or no paint
4. The “weather head” where the electrical service enters the home is missing
5. The rear porch / addition roofing needs to be replaced
6. The porch or deck that was removed from the side of the home must have steps at the doorway
7. New doors installed without permits
8. Front porch entry door needs to be trimmed
9. Front cement block flower box needs to be repaired or removed
10. The gas meter has been removed from the home and the gas piping is not secured to the home

11. An interior inspection conducted on 4-6-2016, indicates much of the plaster/drywall has fallen from the ceiling and walls and must be replaced
12. Any exposed exterior walls must be insulated to meet code requirements before any drywall/plaster is installed (with the necessary permits)

Date completed: January 26, 2018

INTERIOR DEFICENCIES:

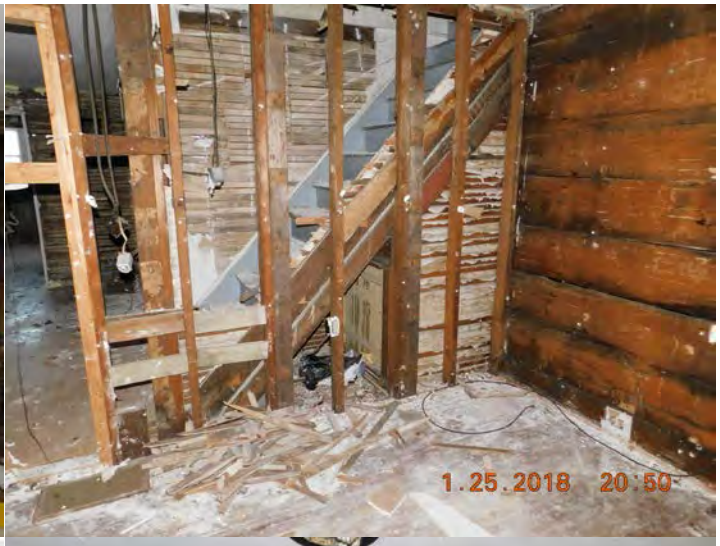
1. Living Room: Room has gutted. New drywall, wiring and insulation required
2. Kitchen: Room has been gutted. A drawing of the cabinet location will be required. New drywall, wiring and insulation required. Plumbing must be updated and replaced
3. Rear entryway: Water has damaged much of the roof rafters. Rafters must be repaired and insulation added. Wiring and drywall must be replaced.
4. Center floor support of the home has collapsed approx. 6" to 8". Floor must be jacked, leveled and properly supported.
5. Main floor Circuit panel has been removed. Note: The entire home must be rewired to code to include hardwired smoke detection throughout the home in all required locations.
6. Upper Floor Circuit sub panel: Panel has damaged and must be replaced
7. Lower & Upper Bathrooms: Bathroom has been gutted. A complete remodel is required to include drawings of the proposed locations of all fixtures, plumbing and electrical fixtures. You are required to add a bath ventilation fans.
8. Window: Many window are damaged beyond repair. New windows must meet energy and building code requirements.
9. Upper floor: All walls with OSB wood panels must be removed and replaced with drywall or plaster.
10. Handrails to upper floor are missing
11. Furnace & duct work has been removed and must be replaced
12. Plumbing: Plumbing is a combination of CPVC, PVC, PEX, galvanized and cast iron pipe. All plumbing must be repaired to code.
13. Floor covering are rotted, missing, damaged or not complete. All floor coverings must be repaired or replaced
14. Note: The two walls you desire to remove would require a structural engineer or an architect to design the correct supports as both walls are load bearing walls.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

If you disagree with the decision of the City Commission, you have the right to file a petition for superintending control in the Circuit Court for the County of Muskegon within 21 days after the City Commission concurs.

PHOTOS of 425 OCTAVIUS St

1.25.2018 20:50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1.25.2018 20:56

COMMISSION MEETING DATE: March 27, 2018

TO: Honorable Mayor and Commissioners

FROM: Jeffrey Lewis, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN1715358 – 609 Mulder St.

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 **609 Mulder St** is unsafe, substandard, a public nuisance and that it be demolished within thirty (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 or staff may issue civil infraction citations to the owner, agent or responsible party if they do not demolish the structure.

Location and ownership: This structure is located on Mulder Street between Wesley Ave and Marcoux Ave. The property is located in the Jackson Hill Neighborhood. The structure is owned by Herbert Childers, 7222 Crenshaw Blvd Apt 3, Los Angeles, CA 90043 and Gregory Childers, 431 Orchard Ave, Muskegon MI 49442.

Staff Correspondence:
The complaint notice was sent on September 25, 2017 with no response.
The final complaint notice was sent on October 9, 2017. On October 18, 2017, Herbert called and said he was trying to obtain the finances to repair the home.
The first Notice & Order was sent on November 6, 2017 for the December 7, 2017 HBA hearing. On December 4, 2017, Herbert called and asked for a 60 extension due to health reasons. Herbert was granted the 60 days extension.
On second Notice & Order was sent on January 31, 2018 for the March 1, 2018 HBA hearing.
A ten day notice was on February 20, 2018 for the March 1, 2018 HBA hearing.
On March 1, 2018, the HBA declared the structure as dangerous, substandard and a public nuisance.

Financial Impact: General Funds

Budget action required: None

State Equalized value: $9,600

Estimated cost to repair: $19,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish all structures on the property

Owner Contact: On October 18, 2017 Herbert called and said he lives out of state and does not have the finances to repair the home. I referred the owner to the City's CNS department for assistance. On December 4, 2017 Herbert called and said he was "dealing with some medical issues" and needed extra time. The owner was granted additional 60 days. On February 5, 2018, Herbert called and said he would like to keep the home but his having a hard time financing the work. The owner asked for the CNS department for assistance. I asked Herbert to keep us informed on his progress with the home.
On February 21, 2018, we met with Gregory at the home to complete an interior inspection. Due to the amount of debris inside blocking the doors, we were unable to enter the home. Gregory said if he demolishes the home, he would keep the lot. No further contact from owner(s).

Permits obtained: None

DANGEROUS BUILDING INSPECTION REPORT
11/07/2017

Owner CHILDERS GREGORY ET AL
7222 CRENSHAW BLVD APT 3
LOS ANGELES, CA 90043

Enforcement # EN1715358
Property Address: 609 MULDER ST
Parcel # 24-767-000-0006-00

Date completed: September 25, 2017

DEFICENCIES:

1) Siding is falling from the home
2) Roof has deteriorated and must be replaced
3) Soffits and fascia is rotted, missing or damaged
4) Windows are broken, missing or boarded
5) Basement windows are broken, missing or boarded
6) Electrical service is missing from the home
7) Gas service meter is missing from the home
8) Front entry ramp has rotted or missing boards

NOTE: These violations depict an exterior only inspection

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

If you disagree with the decision of the City Commission, you have the right to file a petition for superintending control in the Circuit Court for the County of Muskegon within 21 days after the City Commission concurs.

PHOTOS of 609 Mulder St

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2 18 2018 22:48

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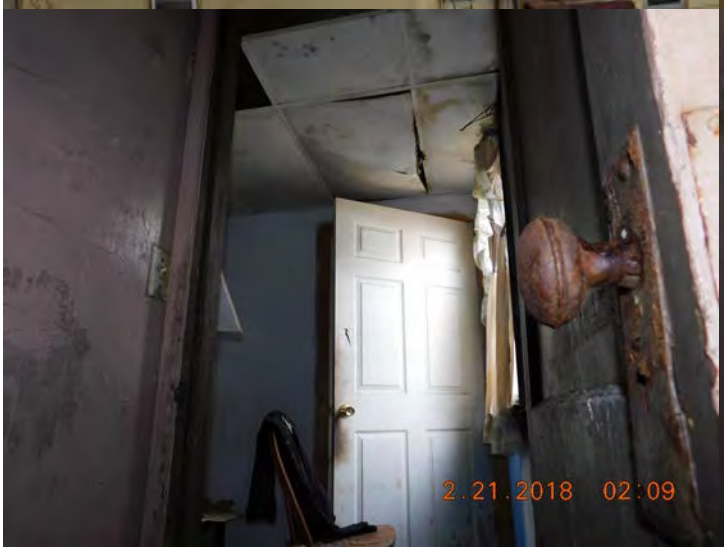
2 18 2018 22:50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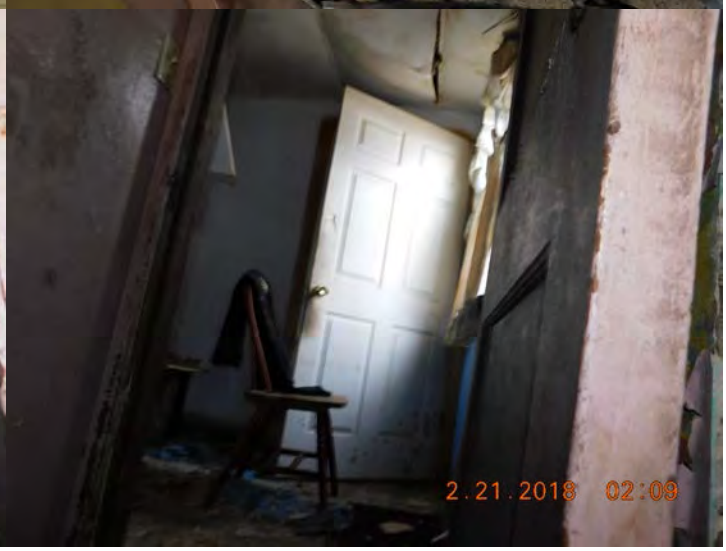
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COMMISSION MEETING DATE: March 27, 2018

TO: Honorable Mayor and Commissioners

FROM: Jeffrey Lewis, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish.
Dangerous Building Case #: EN1716062 – 955 Turner Ave (commercial storage building)

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the **commercial storage building** located at **955 Turner Ave** is unsafe, substandard, a public nuisance and that it be demolished within thirty (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 or staff may issue civil infraction citations to the owner, agent or responsible party if they do not demolish the structure.

Location and ownership: This structure is located on Turner Ave between Getty and the dead end in the East Muskegon Neighborhood. The structure is owned by Superior 3 LLC, 4265 Grand Haven Rd Suite 100, Muskegon MI 49441 (Greg Wilkinson & David Medendorp)

Staff Correspondence: A notice to repair or remove the structure was sent on November 8, 2017. The owner scheduled an interior inspection for December 6, 2017. The Notice & Order was sent on December 6, 2017.
A ten notice was sent on December 22, 2017.
On January 4, 2018, the HBA granted the owner(s) 60 days to provide an approved plan of abatement.
On March 1, 2018, the HBA declared the garage structure substandard, dangerous and a public nuisance.

Financial Impact: General Funds

Budget action required: None

State Equalized value: $18,300 (entire property)

Estimated cost to repair garage: $39,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish the **commercial storage building** on the property.

Owner Contact:
David Medendorp represented the ownership of the property. Mr. Medendorp presented his case at the January HBA meeting and he was granted 60 days to develop a plan of abatement.
March 1, 2018, the day of the HBA meeting, Mr. Medendorp, came into the office with a cement mason and offered a plan to repair the cement block walls of the structure. Mr. Medendorp did not address the roof collapse issue. Upon further investigation of the roof structure, Mr. Medendorp stated he would demolish the structure. Mr. Medendorp did not attend the HBA meeting.

Permits obtained: None

DANGEROUS BUILDING INSPECTION

Owner SUPERIOR 3 LLC
4265 GRAND HAVEN RD SUITE 100
MUSKEGON, MI 49442

Enforcement # EN1716062
Property Address: 955 TURNER AVE
Parcel # 24-595-000-0025-00

Date completed: November 8, 2017

DEFICENCIES:

1. Roof shows signs of collapse
2. Fascia and soffits are rotted, missing or need of repair
3. Block wall on north side of structure has a large separation crack
4. Block wall on south east corner of the structure has a large separation crack
5. Loading dock has a rotted deck surface with holes near the entry door
6. Loading dock has only one support post/beam. Additional supports must be added
7. Service door is rotted and has peeling paint
8. Wiring to outdoor light has bare conductors & wire. Light & wire must be repaired or removed
9. Several outdoor lights are damaged
10. Siding has holes or is missing
11. Ridge ventilation opening must have a cover

Note: The listed violation depict an exterior only inspection

Date completed: December 6, 2017 Interior Inspection

DEFICENCIES:

Interior inspection reveals a partial collapse of the rafter style roof. Historic pictures from the County Treasurer office indicate the roof has lifted off the wall in excess of 12 inches in some areas as a result of the partial collapse on the east side of the complex. Rafters have failed and are now supported by several vertical beams. Several of the rafters have been "sistered" together with incorrect materials. Rafter ties have failed causing the walls to bow out.

You are required to provide architectural drawings of proposed repairs. Code requires all commercial buildings to have stamped architectural drawings indicating the necessary repairs to the roof structure.

Please provide your plan of abatement no later than January 3, 2018 or your case will be brought to the Housing Board of appeals for further consideration.

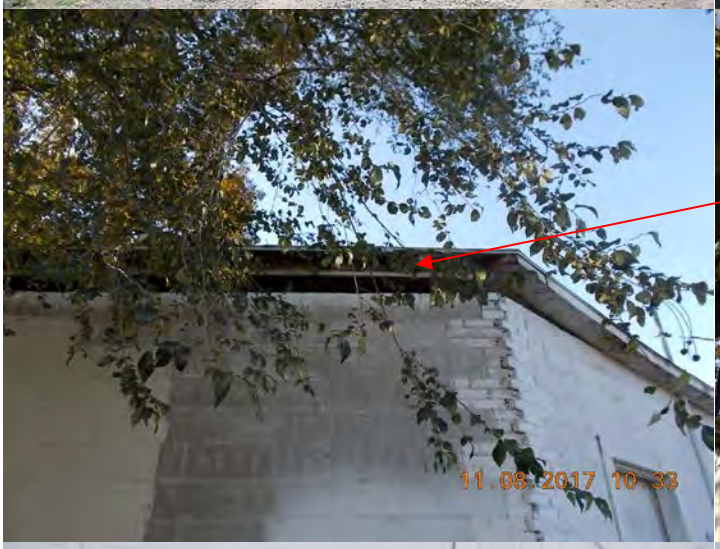
Jay Paulson, Inspector

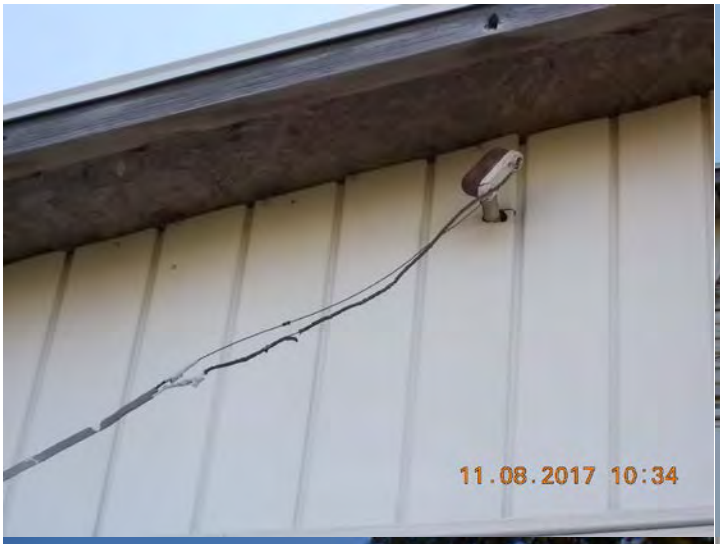
Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

SECTION 116.3 Notice (UNSAFE STRUCTURES AND EQUIPMENT)
If an unsafe condition is found, the *building official* shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the *building official* acceptance or rejection of the terms of the order.

If you disagree with the decision of the City Commission, you have the right to file a petition for superintending control in the Circuit Court for the County of Muskegon within 21 days after the City Commission concurs.

PHOTOS OF THE 955 TURNER AVE

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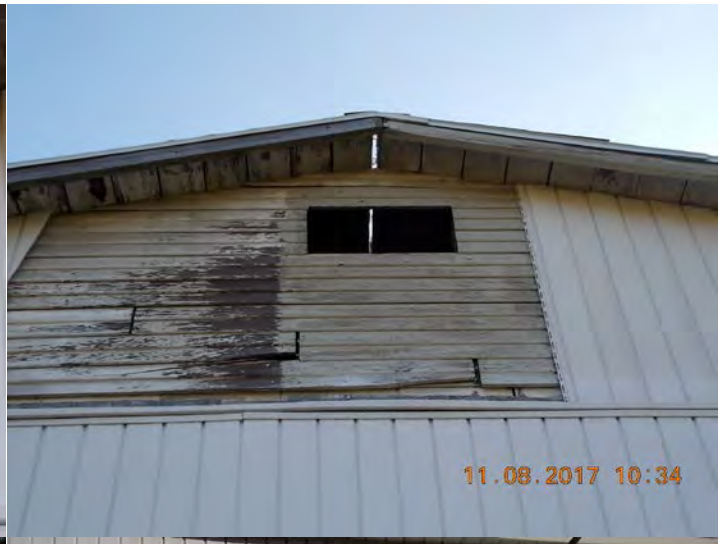
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11.08.2017 10:35

11.08.2017 10:35

11.08.2017 10:35

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11.08.2017 10:36

11.08.2017 10:36

12.06.2017 09:45

12.06.2017 09:45

Rafter failure
12.06.2017 09:46

12.06.2017 09:47

12.06.2017 09:48

12.06.2017 09:48

COMMISSION MEETING DATE: March 27, 2018

TO: Honorable Mayor and Commissioners

FROM: Jeffrey Lewis, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN1715809 – 1317 7th St.

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 **1317 7th St.** is unsafe, substandard, a public nuisance and that it be demolished within thirty (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 or staff may issue civil infraction citations to the owner, agent or responsible party if they do not demolish the structure.

Location and ownership: This structure is located on 7thSt between Houston Ave and Monroe in the Nelson Neighborhood. The property is owned by Iluka Family Properties, 7848 W. Sahara Ave, Las Vegas, NV 89117.

Staff Correspondence: Fire occurred on October 21, 2017.
The "Notice & Order" was sent and posted on January 30, 2018.
A ten day notice was sent and posted on February 19, 2018.
On March 1, 2018, the HBA declared the structure substandard, dangerous and a nuisance.

Financial Impact: Fire Escrow Funds of $2,500 received

Budget action required: None

State Equalized value: $13,300

Estimated cost to repair: $29,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish all structures on the property

Owner Contact:
No contact with the owner throughout the process. Local property management company contracted by the owner stated the owner has no intention on repairing the structure and is selling the property "as is".

Permits obtained: None

FIRE INSPECTION REPORT

Owner ILUKA FAMILY PROPERTIES LLC
7848 W SAHARA AVE
LAS VEGAS, NV 89117

Property Address: 1317 7TH ST
Parcel # 24-205-371-0012-00

Inspector(s): Kirk Briggs, Building Official
Bob Massey, Plumbing and Mechanical
Ken Murar, Electrical

Date completed: 1/25/18

DEFICENCIES:

Building Inspector:
1) House needs the plaster and insulation removed and replaced
2) All the smoke damaged wood must be cleaned & sealed or replaced
3) All doors must be replaced
4) All windows must be replaced
5) Replace all floor coverings
6) All window, door and floor trim must be replaced
7) The entire interior must be painted

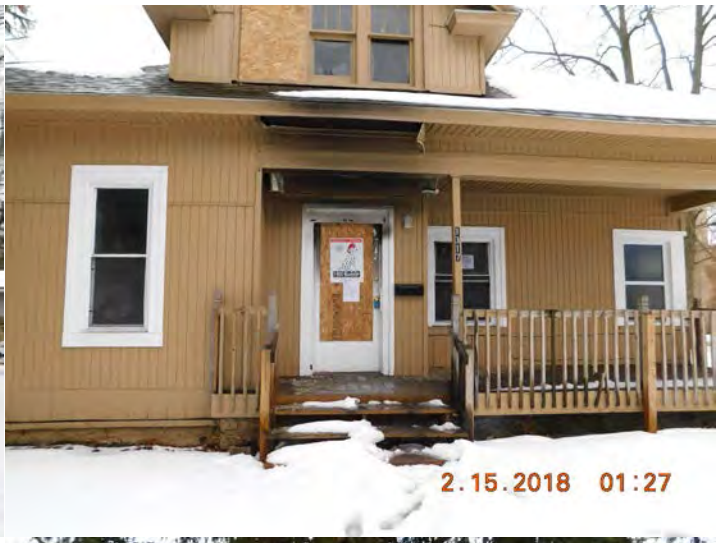
Plumbing / Mechanical Inspector:
1) All fire damaged plumbing fixtures must be replaced
2) All fire damaged piping must be replaced
3) The furnace must be inspected and certified safe or replace
4) Clean all ducts and vent covers

Electrical Inspector:
1) Rewired entire house to code.
2) Electrical service must be relocated to code
3) Hardwired smoke detectors must be added to entire home, to code

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

If you disagree with the decision of the City Commission, you have the right to file a petition for superintending control in the Circuit Court for the County of Muskegon within 21 days after the City Commission concurs.

PHOTOS OF 1317 7th ST



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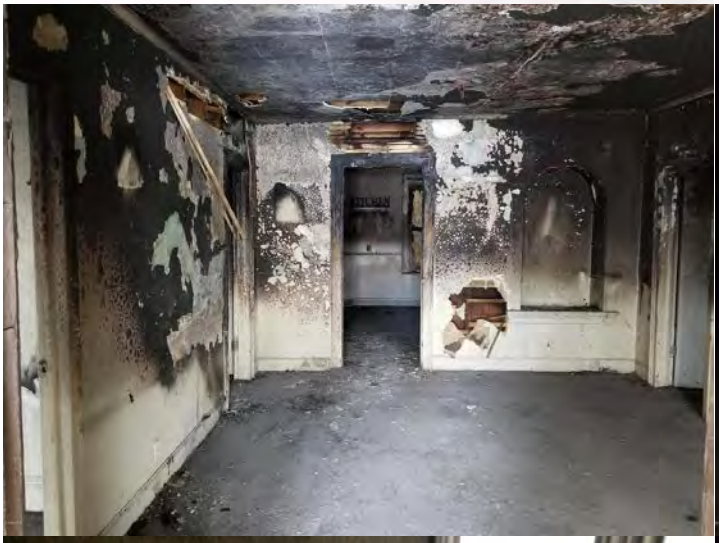
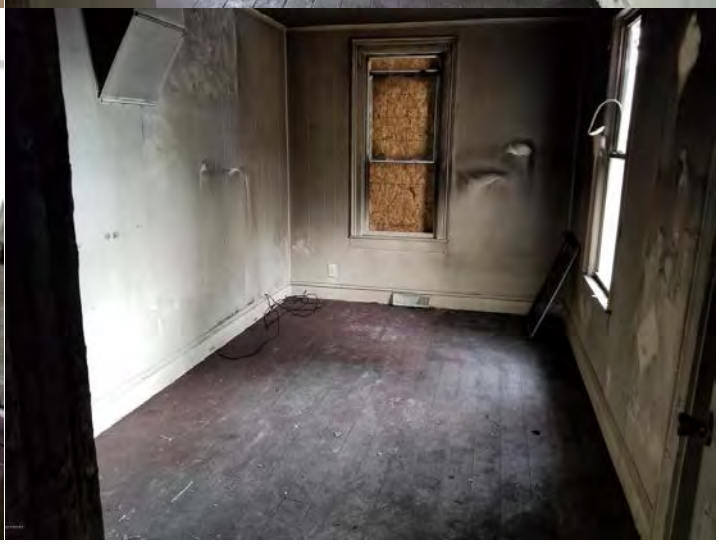
2 15 2018 01:28





COMMISSION MEETING DATE: March 27, 2018

TO: Honorable Mayor and Commissioners

FROM: Jeffrey Lewis, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN1800479 – 1768 Wood St.

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 **1768 Wood St** is unsafe, substandard, a public nuisance and that it be demolished.

Location and ownership: This structure is located on Wood St between East Larch Ave and East Laketon Ave in the Marsh Field Neighborhood. The structure is owned by the Muskegon County Land Bank, 173 E. Apple Ave, Muskegon, MI 49442.

Staff Correspondence. On March 1, 2018 the HBA declared the structure substandard, dangerous and a nuisance.
This property is slated for demolition by the Muskegon County Land Bank using funds from their "Hardest Hit 2" grant.

Financial Impact: None

Budget action required: None

State Equalized value: $13,300

Estimated cost to repair: $23,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish all structures on the property.

DANGEROUS BUILDING INSPECTION

Owner MUSKEGON COUNTY LAND BANK AUTHORITY
173 E APPLE AVE STE 104
MUSKEGON, MI 49442

Enforcement # EN1800479
Property Address: 1768 WOOD ST
Parcel # 24-185-120-0004-00

Date completed: Exterior: 2/23/2018 Interior: 2-27-18

DEFICENCIES:

1. Siding is rotted, missing and has holes
2. Windows are broken, missing, rotted and boarded shut
3. Electrical service is and currently a fuse type system. Entire electrical system needs to be upgraded.
4. Roof shingles are missing at the roof's edge
5. Rear porch roofing not flashed correctly
6. Soffits and fascia are rotted, missing or not attached
7. Entry doors are damaged, rotted and boarded shut
8. Note: Interior had a large amount of furniture, trash and debris
9. Interior ceilings have water damage in numerous areas
10. Kitchen cabinets are rotted, panels and doors are missing
11. Foundation walls are bowed inward
12. The furnace is rusted in numerous areas and must be replaced
13. Fresh water piping shows signs of damage from freezing
14. Basement steps are rotted and must be replaced

Jay Paulson, Inspector

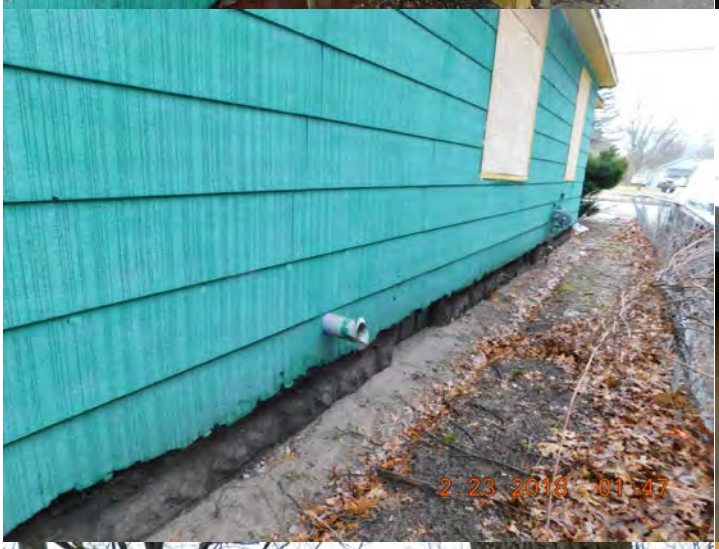
Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

If you disagree with the decision of the City Commission, you have the right to file a petition for superintending control in the Circuit Court for the County of Muskegon within 21 days after the City Commission concurs.

PHOTOS of 1768 Wood St

2.23.2018 01:47

2.23.2018 01:47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2.23.2018 01:46

2.23.2018 01:45

2.26.2018 21:38

2.26.2018 21:33

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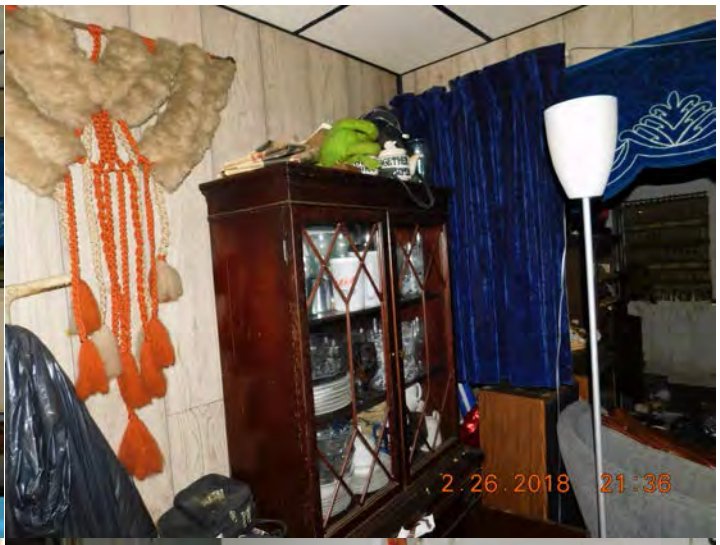
YOU'RE THE
GREATEST
2.26.2018 21:36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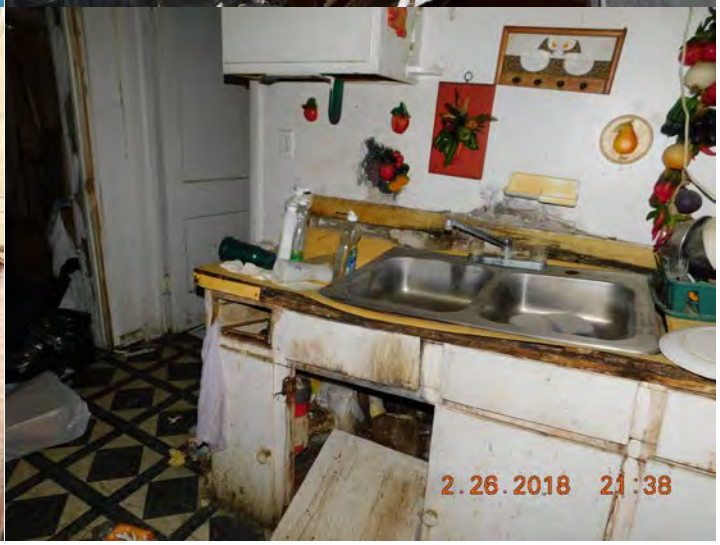
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COMMISSION MEETING DATE: March 27, 2018

TO: Honorable Mayor and Commissioners

FROM: Jeffrey Lewis, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN1716511 – 1814 Dyson St

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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 **1814 Dyson St** is unsafe, substandard, a public nuisance and that it be demolished.

Location and ownership: This structure is located on Dyson St between East Laketon Ave and East Holbrook Ave in the Marsh Field Neighborhood. The structure is owned by the Muskegon County Land Bank, 173 E. Apple Ave, Muskegon, MI 49442.

Staff Correspondence. On March 1, 2018 the HBA declared the structure substandard, dangerous and a nuisance.
This property is slated for demolition by the Muskegon County Land Bank using funds from their "Hardest Hit 2" grant.

Financial Impact: None

Budget action required: None

State Equalized value: $18,600 (2017)

Estimated cost to repair: $41,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish all structures on the property.

DANGEROUS BUILDING INSPECTION

DANGEROUS BUILDING INSPECTION REPORT
12/28/2017

Owner MUSKEGON COUNTY LAND BANK AUTHORITY
173 E. APPLE AVE STE. 104
MUSKEGON, MI 49442

Enforcement # EN1716511
Property Address: 1814 DYSON ST
Parcel # 24-255-005-0002-00

Date completed: Exterior: 12-28-17 Interior: 2-27-18

Exterior Deficiencies:

1. Roof most of the asphalt roof covering is missing. Several tarps on the roof are now torn, damaged or not attached. Remaining roof shingles are deteriorated. The roof deck material is rotted and must be replaced
2. Siding on the rear of the home is missing
3. Soffits and fascia are rotted, missing or not attached
4. Exterior doors are damaged, missing hardware or boarded shut
5. Electrical service to home is 60 amp and must be upgraded to a 100 amp service
6. Chimney is leaning and must be removed

Interior Deficiencies:

1. The interior of the structure has been completely gutted to the stud walls and subfloor. Because the roofing material has been completely removed, the subflooring through the entire home is water damaged, rotted and must be removed
2. All interior doors, insulation, wiring, drywall, trim and floor coverings must be replaced
3. Kitchen cabinets have been removed and must be replaced
4. Bath fixtures have been removed and must be replaced
5. The furnace and water heater are missing and must be replaced
6. Most windows are cracked, broken, missing or are not egress compliant

Jay Paulson, Inspector

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

If you disagree with the decision of the City Commission, you have the right to file a petition for superintending control in the Circuit Court for the County of Muskegon within 21 days after the City Commission concurs.

PHOTOS of 1814 Dyson St

2.23.2018 01:52

2.26.2018 21:51

2.26.2018 21:51

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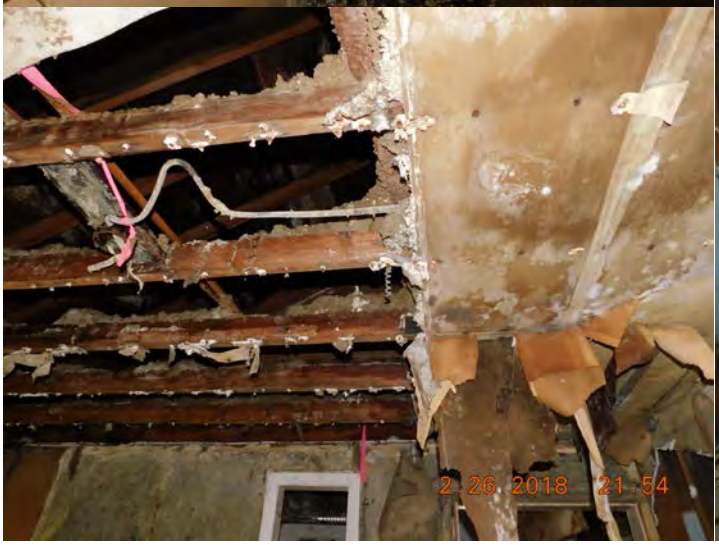
2.26.2018 21:52

2.26.2018 21:52

2.26.2018 21:53


2.26.2018 21:54

2.26.2018 21:54

COMMISSION MEETING DATE: March 27, 2018

TO: Honorable Mayor and Commissioners

FROM: Jeffrey Lewis, Director of Public Safety

RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN1800097 – 1699 Pine St.

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 **1699 Pine St** is unsafe, substandard, a public nuisance and that it be demolished.

Location and ownership: This structure is located on Pine St between East Larch Ave and East Dale Ave in the McLaughlin Neighborhood. The structure is owned by the Muskegon County Land Bank, 173 E. Apple Ave, Muskegon, MI 49442.

Staff Correspondence. On March 1, 2018 the HBA declared the structure substandard, dangerous and a nuisance.
This property is slated for demolition by the Muskegon County Land Bank using funds from their "Hardest Hit 2" grant.

Financial Impact: None

Budget action required: None

State Equalized value: $15,400 (2015 last year listed SEV value)

Estimated cost to repair: $31,000

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish all structures on the property.

DANGEROUS BUILDING INSPECTION

DANGEROUS BUILDING INSPECTION REPORT
12/28/2017

Owner MUSKEGON COUNTY LAND BANK AUTHORITY
173 E. APPLE AVE STE. 104
MUSKEGON, MI 49442

Enforcement # EN1800097
Property Address: 1699 PINE ST
Parcel # 24-205-298-0023-00

Date completed: January 31, 2018

DEFICENCIES:

1. Soffits and fascia are missing in several areas
2. The roof is completely deteriorated
3. The roof has collapsed in southwest corner of the home
4. Plaster/Drywall has collapsed in the bath and bedrooms
5. Water damaged walls and flooring in the bath, bedrooms and dining room
6. Walls and flooring throughout the home have signs of black mold
7. Basement has standing water from the roof leaks
8. Basement windows are broken or missing
9. Furnace is damaged and must be replaced
10. Windows are broken, rotted or missing and boarded closed
11. Doors are broken, rotted or not attached
12. Electrical and gas services are removed from the home
13. Siding is rotted, missing or has peeling paint
14. Kitchen cabinets are rotted, damaged or missing
15. Flooring throughout the home water damaged, missing, damaged or not attached
16. Garage doors are missing, boarded or not attached

Jay Paulson, Inspector

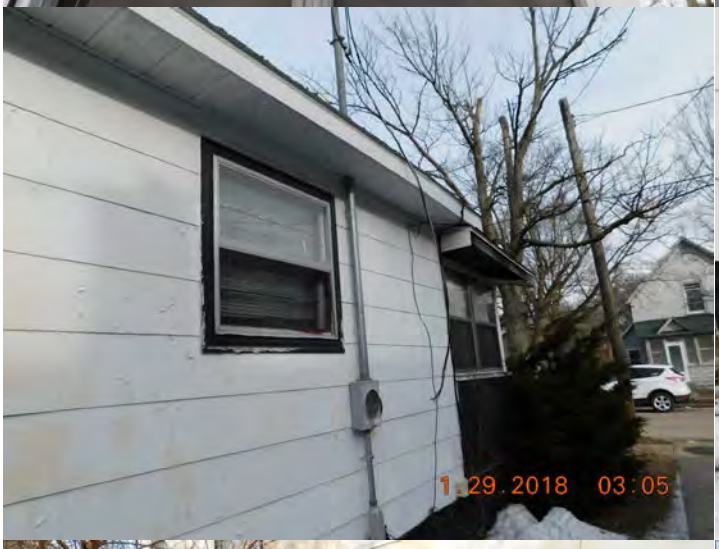
Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

If you disagree with the decision of the City Commission, you have the right to file a petition for superintending control in the Circuit Court for the County of Muskegon within 21 days after the City Commission concurs.

PHOTOS of 1699 Pine St

1.29.2018 03:04

1.29.2018 03:04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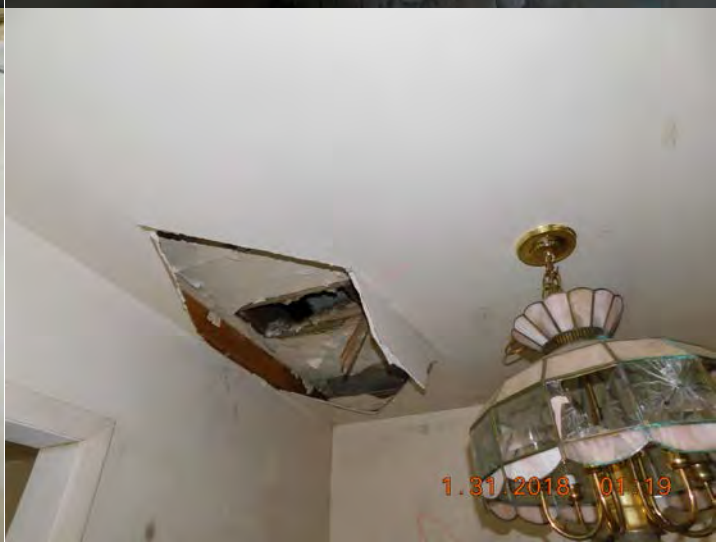
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Commission Meeting Date: March 27, 2018

Date: March 22, 2018

To: Honorable Mayor and City Commissioners

From: Planning & Economic Development

RE: Request to amend the Planned Unit Development (PUD) at 1161 W Southern Ave

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SUMMARY OF REQUEST:

Request to amend the PUD at 1161 W Southern Ave to demo the former gymnasium and to expand the parking lot, by Avasure Properties, LLC. The project also includes moving the playground at the corner of Davis/Southern to south of the building, next to the new urban farm to be located on site.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the PUD amendment with the condition that all future parking expansions be approved by staff, with up to 93 spaces allowed on site.

COMMITTEE RECOMMENDATION:

The Planning Commission approved a motion to amend the PUD, with the condition that all future parking expansions be approved by staff, with up to 93 spaces allowed on site. The motion was approved 8-0, with one member absent.

PLANNING COMMISSION STAFF REPORT EXCERPT

FEBRUARY 15, 2018

Hearing, Case 2018-06: Request to amend the Planned Unit Development at 1161 W Southern Ave to demo a portion of the building and to expand the parking lot, by Avasure Properties, LLC.

SUMMARY

1. The property is zoned R-1, Low Density Single Family Residential; however, a PUD to allow office/research and development was approved in 2017.
2. The approved PUD included the usage of the former school gymnasium and 57 parking spaces. This request is to demo the gymnasium and to add parking in different phases, as needed. They are also planning to move the playground at the corner of Southern/Davis to behind the southern portion of the building. An urban garden will be located just to the east of the new playground. Staff is currently in the process of approving the relocation of the playground and the addition of the urban farm, both of which do not require any board approval.
3. The dumpster and generator on the east side of the building appear to be fenced, but the plan must show that it is screened and at least 5 feet tall.
4. There is an existing parking lot east of the current gymnasium. The plan shows a few different parking options, with some listed as future parking. After discussions with the applicant, it appears that the plan does not properly depict what they are requesting. They are requesting to keep a portion of the parking lot near the corner of Southern/Barclay (33 spaces). The area where the gymnasium currently stands will be seeded for grass after demo. An access drive to the building will be maintained to the south of the new grass area. They are requesting a total of 93 spaces when the building is fully occupied. Staff believes there may be a more efficient way to design the future parking and there also needs to be more detail on stormwater management. Staff is asking the Planning Commission to recommend approval of the gymnasium demo and the reconfiguration of the parking lot for 33 spaces. Also to approve the addition of up to 93 parking spaces on site, as long as each phase is reviewed and approved by staff.
5. Notice was sent to all property owners/tenants within 300 feet of this property. At the time of this writing, staff has not received any comments from the public.

Looking south at gymnasium to be demolished and seeded. Parking lot to remain pictured in front.

Playground to be moved. Avasure to purchase City-owned lot after relocation.

Location of new urban farm and playground (south of the building).

CITY OF MUSKEGON

RESOLUTION #2018-

RESOLUTION TO AMEND THE FINAL PLANNED UNIT DEVELOPMENT FOR 1161 W SOUTHERN AVE

WHEREAS, a petition to amend the Planned Unit Development at 1161 W Southern Ave was received; and,

WHEREAS, the applicant is requesting to demo the former gymnasium and to add parking to accommodate up to 93 spaces; and,

WHEREAS, any additional parking lot expansions must be approved by staff, with the ability to add up to 93 spaces on site;

WHEREAS, proper notice was given by mail and publication and public hearings were held by the City Planning Commission and by the City Commission to consider said petition, during which all interested persons were given an opportunity to be heard in accordance with provisions of the Zoning Ordinance and State Law; and

WHEREAS, the Planning Commission and staff have recommended approval of the Final Planned Unit Development and associated site plan; and

NOW, THEREFORE, BE IT RESOLVED that the recommendation by staff and the Planning Commission be accepted and the final Planned Unit Development is hereby approved.

Adopted this 27th day of March, 2018

Ayes:

Nays:

Absent:

By:_____
Stephen J. Gawron
Mayor

Attest:_____
Ann Meisch
Clerk, City of Muskegon

CERTIFICATE (Final PUD 1161 W Southern Ave)

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 27th day of March, 2018, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2018.

_____
Ann Meisch
Clerk, City of Muskegon

Commission Meeting Date: March 27, 2018

Date: March 22, 2018

To: Honorable Mayor and City Commissioners

From: Planning & Economic Development

RE: Request to amend the Planned Unit Development (PUD) at 1670 E Sherman Blvd

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SUMMARY OF REQUEST:

Request to amend the Planned Unit Development at 1670 E Sherman Blvd to utilize the building as a medical office that provides urgent care, occupational medicine and radiology, by Mercy Health Partners.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the PUD with the condition that a stop sign and bar be installed at the end of the Panera Bread drive thru.

COMMITTEE RECOMMENDATION:

The Planning Commission approved a motion to amend the PUD as proposed, with the condition that a stop sign and bar be installed at the end of the Panera Bread drive thru. The motion was approved 8-0, with one member absent.

PLANNING COMMISSION STAFF REPORT EXCERPT

FEBRUARY 15, 2018

Hearing, Case 2018-08: Request to amend the Planned Unit Development at 1670 E Sherman Blvd to utilize the building as a medical office that provides urgent care, occupational medicine and radiology, by Mercy Health Partners.

SUMMARY

1. The property is part of the PUD that was approved for retail. The building was formerly an Old Country Buffet and then briefly a Chinese buffet.
2. The applicant is requesting to utilize the building for medical uses, specifically for urgent care, occupational medicine and radiology. The PUD must be amended to allow this type of use in this location of the plan.
3. There is adequate parking at the entire development to support this type of use.
4. Staff recommends that traffic improvements be made where the traffic lane intersects the drive-thru at Panera Bread. Customers exiting the drive-thru often conflict with the cars driving east towards the exit. Staff observed several near crashes at this intersection, which will only become more dangerous once the building at 1670 E Sherman is reutilized. More details are needed, but staff recommends either a stop sign in the eastbound travel lane or a curb that would direct drive-thru customers east after receiving their food.
5. Notice was sent to all property owners/tenants within 300 feet of this property. At the time of this writing, staff had not received any comments from the public.

1670 E Sherman Blvd looking southwest from the parking lot traffic lane

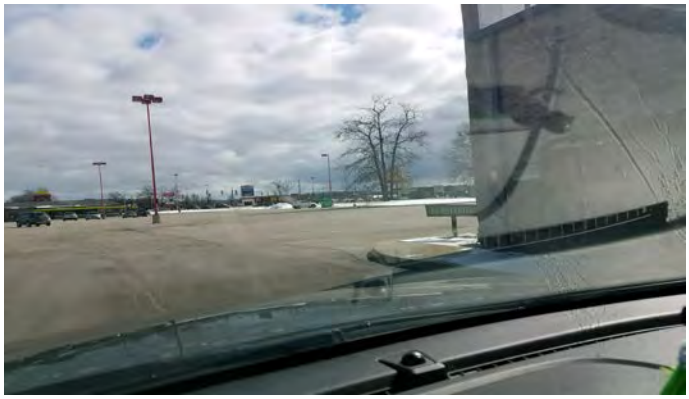
Driving west towards Panera Bread (front) and 1670 E Sherman (back)

Driving east towards 1670 E Sherman from Panera Bread

Driving west towards Panera Bread from 1670 E Sherman

Trash gates impeding vision near intersection

Panera Bread drive-thru intersection from traveling lane



Drive-thru intersection leaving Panera Bread

Aerial of intersection. Please note that this is an old picture and the traffic lane has been modified. Note the new traffic lane and landscaping islands on the previous pictures.

CITY OF MUSKEGON

RESOLUTION #2018-

RESOLUTION TO AMEND THE FINAL PLANNED UNIT DEVELOPMENT FOR 1670 E SHERMAN BLVD

WHEREAS, a petition to amend the Planned Unit Development at 1670 E Sherman Blvd was received; and,

WHEREAS, the applicant is requesting to utilize the building at 1670 E Sherman Blvd for a medical office that provides urgent care, occupational medicine and radiology; and,

WHEREAS, proper notice was given by mail and publication and public hearings were held by the City Planning Commission and by the City Commission to consider said petition, during which all interested persons were given an opportunity to be heard in accordance with provisions of the Zoning Ordinance and State Law; and

WHEREAS, the Planning Commission and staff have recommended approval of the Final Planned Unit Development and associated site plan, with the condition that a stop sign and bar are placed at the end of the Panera Bread drive-thru; and

NOW, THEREFORE, BE IT RESOLVED that the recommendation by staff and the Planning Commission be accepted and the final Planned Unit Development is hereby approved, contingent upon staff approving a stop sign and bar at the end of the Panera Bread drive-thru

Adopted this 27th day of March, 2018

Ayes:

Nays:

Absent:

By:_____
Stephen J. Gawron
Mayor

Attest:_____
Ann Meisch
Clerk, City of Muskegon

CERTIFICATE (Final PUD 1760 E Sherman Blvd)

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 27th day of March, 2018, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2018.

_____
Ann Meisch
Clerk, City of Muskegon

Commission Meeting Date: March 27, 2018

Date: March 27, 2018

To: Honorable Mayor and City Commissioners

From: Planning & Economic Development

RE: Rezoning Several Properties

SUMMARY OF REQUEST:

Staff-initiated request to rezone 1814 Dyson St, 1824 Dyson St, 1831 Dyson St and 1828 Jarman St from B-2, Convenience and Comparison Business District to R-2, Medium Density Single Family Residential District. Also to rezone 1813 Dyson St from R-1, Low Density Single Family Residential District to R-2, Medium Density Residential District. Also to rezone 1808 McIlwrath St, 1814 McIlwrath St, and 1825 Jarman St from B-4, General Business District to R-2, Medium Density Single Family Residential District.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the rezonings.

COMMITTEE RECOMMENDATION:

The Planning Commission voted 8-0 in favor of recommending approval of the rezonings.

PLANNING COMMISSION PACKET EXCERPT

FEBRUARY 15, 2018

SUMMARY

1. The Muskegon County Land Bank owns the home at 1814 Dyson St, which is improperly zoned for business uses. They have requested a rezoning to residential so that they can use grant funding to demo the house. Staff also noted several other properties in the area that appear to be improperly zoned. All of these properties are either used as residential homes or are vacant residential lots. Having them zoned as business can make it difficult the home difficult to sell, refinance or rebuild in the event of a disaster.
2. Notice was sent to all property owners/tenants within 300 feet of all of these properties. At the time of this writing, staff had received several calls from neighbors who had questions about the rezoning's, but were all in favor after discussions.

Properties to be Rezoned

1824 Dyson

1814 Dyson

1828 Jarman

1831 Dyson

1825 Jarman

1814 McIlwrath

1808 McIlwrath

1813 Dyson

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO._____

An ordinance to amend the zoning map of the City to provide for a zone change for several properties

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

The zoning map of the City of Muskegon is hereby amended to change the zoning for several properties (see map).

This ordinance adopted:

Ayes:_____

Nayes:_____

Adoption Date:_____

Effective Date:_____

First Reading:_____

Second Reading:_____

CITY OF MUSKEGON

By: _____
Ann Meisch, MMC
City Clerk

CERTIFICATE (Rezoning of several properties)

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 27th day of March, 2018, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2006, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2018 _____

Ann Meisch, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

CITY OF MUSKEGON
NOTICE OF ADOPTION

Please take notice that on March 27, 2018, the City Commission of the City of Muskegon adopted an ordinance amending the zoning map to provide for the change of zoning for several properties (see map).

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten days from the date of this publication.

Published _____, 2018 CITY OF MUSKEGON

By _____
Ann Meisch, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE.

Account No. 101-80400-5354

Commission Meeting Date: March 27, 2018

Date: March 22, 2018

To: Honorable Mayor and City Commissioners

From: Planning & Economic Development

RE: Amendment to the Zoning Ordinance – Wireless Communication Service Facilities

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SUMMARY OF REQUEST:

Staff-initiated request to amend Section 2321 of the zoning ordinance to expand the overlay district to allow Wireless Communication Service Facilities at 1800 Peck St (Marsh Field) and 2375 Beach St (Water Filtration Plant). Staff has prepared two options for the Water Filtration Plant location and is requesting that the Commission select one of them.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the zoning ordinance amendment, with option 1 for the Water Filtration Plant location.

COMMITTEE RECOMMENDATION:

The Planning Commission tabled the request at their December 14, 2017 meeting over concerns about the Water Filtration Plant location. At their March 15, 2018 meeting, they approved a motion 8-0 to recommend approval of the request to expand the overlay district as presented, with option 1 for the Water Filtration Plant site.

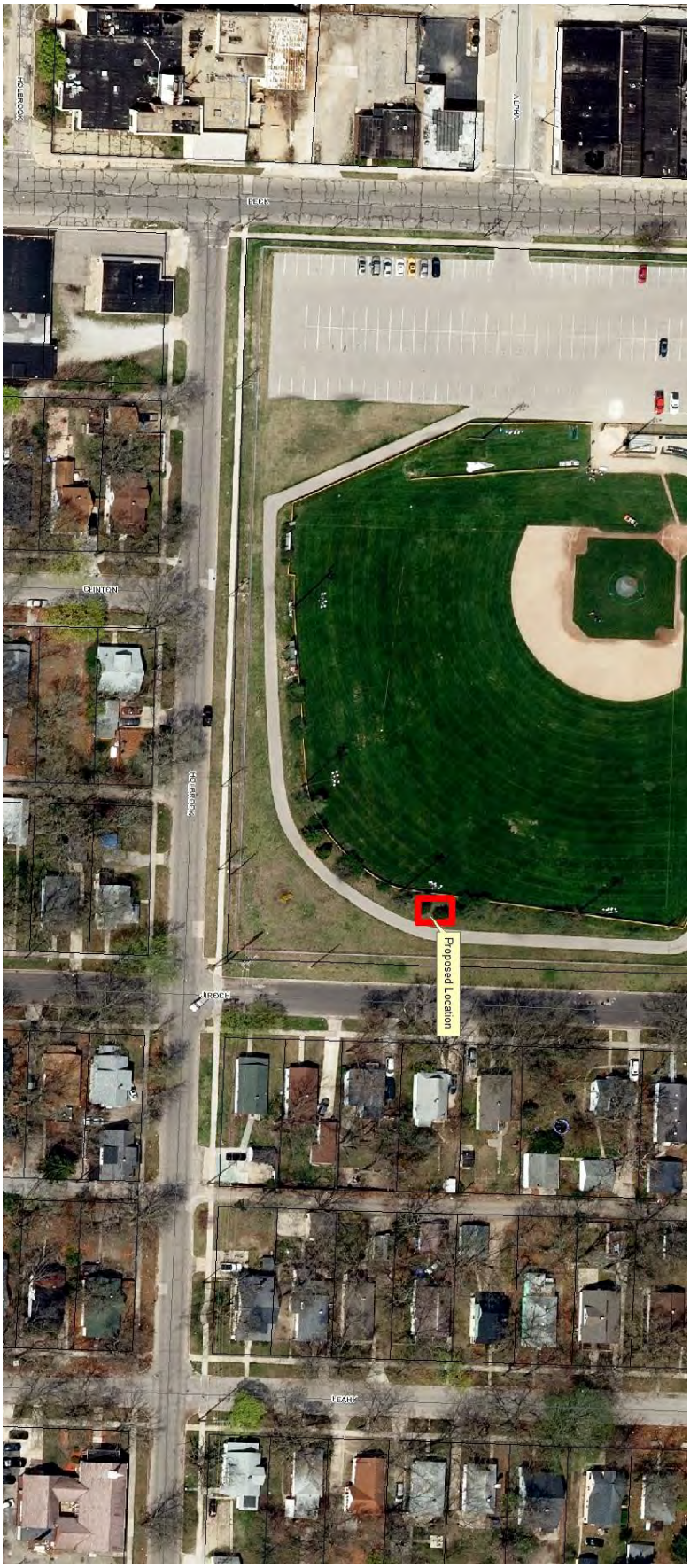
PLANNING COMMISSION EXCERPT
STAFF REPORT
March 15, 2018

Hearing, Case 2017-33: Staff-initiated request to amend Section 2321 of the zoning ordinance to expand the overlay district and allow Wireless Communication Service Facilities at 1800 Peck St (Marsh Field) and 2375 Beach St (Water Filtration Plant).

SUMMARY

1. Cell phone towers are regulated by Section 2321 (Wireless Communication Service Facilities) of the zoning ordinance. Please see the enclosed ordinance excerpt.
2. An overlay district allows these facilities in four different locations in the City.
3. Staff is requesting to expand the overlay district with two new locations, one at Marsh Field and the other at the Water Filtration Plant. This would be to increase cell phone coverage throughout the City. This request is just to expand the overlay district and allow companies to apply for a Special Land Use Permit to construct a new facility.
4. There were some concerns from citizens at the December Planning Commission meeting about the Water Filtration location. They recommended that the proposed location be moved 200 feet to the south along the bike path. Staff has prepared that as Option 2 on the aerial map. Option 1 would be in the area inside the Water Filtration parcel where there are already two existing antennas.
5. If Option 1 is selected, the existing antennas could be relocated onto the new facility. It may not be possible to relocate them to Option 2 because of the cost laying new wires.
6. Staff sent out a notice to everyone in the block near the Marsh Field location and there were no comments. Staff sent out two notice letters to everyone within 300 feet of the Water Filtration Plant. At the time of this writing, staff had received calls from Susan Newton at 3444 Keaton Ct and Herb Hooker at 3443 Keaton Ct, who were both in favor of Option 1 so that they would only have to see one cell tower poll instead of two antennas.

Marsh Field Location



Water Filtration Plant Site

CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO._____

An ordinance to amend Section 2321 of the zoning ordinance to expand the overlay district and allow Wireless Communication Service Facilities at 1800 Peck St (Marsh Field) and 2375 Beach St (Water Filtration Plant).

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

NEW LANGUAGE
Additions in **bold**.

SECTION 2321: WIRELESS COMMUNICATION SERVICE FACILITIES [amended 12/97]

Overlay District Established for Wireless Communication Support Facilities [amended 6/06]

Intent: An overly zone is hereby created for the siting of wireless communication facilities (WCF) and wireless communication antenna (WCA). The zone is identified as:

1. The Pulaski Lodge, 871 Pulaski Avenue described as:
   W 589 ft of E 757 ft of N 10 acres of SE ¼ of SE ¼ exc N 25 ft thereof Sec 37 T10N R17W.
2. City of Muskegon That Part of NE 1/4 of SE 1/4 Sec 33 T10N R16W Lying S of Consumers Power Co 100 Ft R/W W Of US 31 State Hwy E Of Relocated C & O R R R/W & N Of Little Black Creek
3. City property near the terminus of Yuba Street, described as:
   Lot 1 Blk 1 & that part of Lot 3 Blk 1 & N ½ of SE ½ Sec 17 T10N R16W lying Sly & Ely of Muskegon River & Nly of US 31 business rte and Lots 1, 2 & 3 Blk 121.
4. A portion of the Muskegon Community College campus, 221 S. Quarterline Road, described as:
   Commencing at the S ¼ corner of Section 15, T10N, R16W, City of Muskegon, Muskegon County, Michigan, thence N 01°04'25" E 815.71 feet along the N-S ¼ line of said Section 15 and the centerline of Quarterline Road (66 feet wide); thence N 88°56'41" W 1035.89 feet to the Point of Beginning; thence continuing N 88°56'41" W 60.00 feet; thence N 01°03'19" E 60.00 feet; thence S 88°56'41" E 60.00 feet; thence S 01°03'19" W 60.00 feet along the West face of an existing building to the point of beginning being a part of the SW ¼ of Section 15, T10N, R16W, City of Muskegon, Muskegon County, Michigan, and containing 0.083 acres or 3600 sq. ft. of land, more or less, subject to easements and restrictions of record, if any. [amended 11/00]
5. **Marsh Field described as (to be described after survey completion)**
6. **Water Filtration Plant described as (to be described after survey completion)**

This ordinance adopted:

Ayes:_____

Nayes:_____

Adoption Date:_____

Effective Date:_____

First Reading:_____

Second Reading:_____

CITY OF MUSKEGON

By: _____
Ann Meisch, MMC, City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 27th day of March, 2018, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2006, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2018.

_____
Ann Meisch, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

CITY OF MUSKEGON
NOTICE OF ADOPTION

Please take notice that on March 27, 2018, the City Commission of the City of Muskegon adopted an ordinance to amend Section 2321 of the zoning ordinance to include two more locations in the overlay district that allows Wireless Communication Support Facilities.

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten days from the date of this publication.

Published _____, 2018.

CITY OF MUSKEGON

By _____
Ann Meisch, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE.

Account No. 101-80400-5354

Wireless Communication and the City of Muskegon

The City of Muskegon regulates wireless communication towers in its zoning ordinance through the use of an overlay zone. The City recognizes that siting towers is more dependent on topography and proximity to major transportation routes than a particular zoning district. The City has established several sites where cellular towers may be placed under Special Use Permit. Collocation is required. A special use permit is issued by the Planning Commission.

The second, more preferred scenario is placement of wireless antenna as an accessory use. These are permitted in any zoning district on structures over 5 stories in height and on existing utility or light poles.

See attached ordinance language for more details.

For further Information:

Zoning questions: Contact the Zoning Administrator, 231-724-6702

Building permit questions: Contact the Building Inspector, 231-724-6715

Towers and antenna on City Property: Contact the DPW Director, 231-724-4100

Cellular Tower Regulations

Adopted December 9th, 1997

Definitions

Colocation: The use of a wireless telecommunication support facilities by more than one wireless telecommunication provider

Lattice tower: A support structure constructed of vertical metal struts and cross braces, forming a triangular or square structure which often tapers from the foundation to the top.

Monopole: A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

Wireless Communication Antenna (WCA**)**: Any antenna used for the transmission or reception of wireless communication signals excluding those used exclusively for dispatch communications by public emergency agencies, ham radio antennas, satellite antennas, those which receive video programming services via multipoint distribution services which are one meter (39 inches) or less in diameter and those which receive television broadcast signals.

Wireless Communication Equipment Shelter: The structure, shelter, cabinet or vault in which the electronic receiving and relay equipment necessary for processing wireless telecommunications is housed together with necessary related equipment such as radios, cable, conduit, connectors, air conditioning units and emergency generators.

Wireless Communication Facilities (WCF): All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals and may include, but is not limited to radio towers, television towers, telephone devices and exchanges, micro-wave towers, and commercial mobile radio service facilities. Citizen band radio facilities, short wave facilities, ham, amateur radio facilities, and satellite dishes, and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority are not included in this definition.

Wireless Communication Support Facilities (WCSF): A monopole, guyed, or lattice type tower designed for the attachment of or as support for wireless communication antennas or other antennas.

General Provisions

SECTION 2321: WIRELESS COMMUNICATION SERVICE FACILITIES [amended 12/97]

This section provides for appropriate areas for the siting of wireless communication antenna, support facilities and equipment shelters in recognition of the public need and demand for advanced telecommunication and information technologies and services balanced against the impacts such facilities may have on properties within the City. It is the further purpose and intent of these regulations to:

1. Provide for the appropriate location and development criteria for wireless communication support facilities and wireless communication antenna within the City

2. Allow and encourage the location of wireless communication support facilities in the overlay zoning district

3. Minimize the adverse effects of such facilities through careful design, siting and screening criteria

4. Maximize the use of existing and future wireless communication support facilities and encouraging multiple uses and co-location of such facilities

5. Protect the character of residential areas throughout the City from the effects of wireless communication facilities

6. Promote the public health, safety, and welfare.

Uses Permitted:

Wireless Communication Antenna (WCA) shall be considered a permitted accessory use in any zoning district when:

1. Placed on or attached to any existing structure at least five (5) stories in height which constitutes a principle use, including existing communication towers and water towers provided: [amended 4/02]

    a. In the case of a five (5) story building, that any WCA shall not extend more than thirty (30) feet above the roofline of the structure to which it is attached.

    b. In the case of a six (6) story building, that any WCA shall not extend more than forty (40) feet above the roofline of the structure to which it is attached.

    c. In the case of a seven (7) story building, that any WCA shall not extend more than fifty (50) feet above the roofline of the structure to which it is attached.

    d. In the case of an eight (8) story building, that any WCA shall not extend more than sixty (60) feet above the roofline of the structure to which it is attached.

e. In no case shall any WCA extend more than sixty (60) feet above the roofline of the structure to which it is attached.

2. Placed on an existing utility or light pole which will serve as a wireless telecommunications facility and where the height of said existing pole or other structure is not increased more than twenty (20) feet and the existing pole and other structure is not proposed to be modified in a manner which would materially alter the pole or structure and/or result in an impairment of sight lines or other safety interest.

Provided:

1. WCAs shall require no personnel on the premises except as necessary for maintenance and repair.

2. All WCAs shall be designed to blend into or meet the aesthetic character of the principal (primary) structure where reasonably practical taking into consideration the location of the WCA and the line of sight angle and distance from the right-of-way and neighboring uses.

3. A WCA proposed to be located on a historic landmark or in a designated historic district may be denied if the WCA would create an adverse impact on the historic character of the historic landmark or district.

4. Associated wireless telecommunication equipment shelters meet accessory use height and setback requirements of the district, and receive administrative approval.

5. This section shall not exempt the applicant from such other government review and permitting procedures of the Federal Communications Commission or Federal Aeronautics Administration.

Overlay District Established for Wireless Communication Support Facilities [amended 6/06]

Intent: An overly zone is hereby created for the siting of wireless communication facilities (WCF) and wireless communication antenna (WCA). The zone is identified as:

1. The Pulaski Lodge, 871 Pulaski Avenue described as:
   W 589 ft of E 757 ft of N 10 acres of SE ¼ of SE ¼ exc N 25 ft thereof Sec 37 T10N R17W.
2. City of Muskegon That Part of NE 1/4 of SE 1/4 Sec 33 T10N R16W Lying S of Consumers Power Co 100 Ft R/W W Of US 31 State Hwy E Of Relocated C & O R R R/W & N Of Little Black Creek
3. City property near the terminus of Yuba Street, described as:
   Lot 1 Blk 1 & that part of Lot 3 Blk 1 & N ½ of SE ½ Sec 17 T10N R16W lying Sly & Ely of Muskegon River & Nly of US 31 business rte and Lots 1, 2 & 3 Blk 121.
4. A portion of the Muskegon Community College campus, 221 S. Quarterline Road, described as:
   Commencing at the S ¼ corner of Section 15, T10N, R16W, City of Muskegon, Muskegon County, Michigan, thence N 01°04’25” E 815.71 feet along the N-S ¼ line of

said Section 15 and the centerline of Quarterline Road (66 feet wide); thence N 88°56'41" W 1035.89 feet to the Point of Beginning; thence continuing N 88°56'41" W 60.00 feet; thence N 01°03'19" E 60.00 feet; thence S 88°56'41" E 60.00 feet; thence S 01°03'19" W 60.00 feet along the West face of an existing building to the point of beginning being a part of the SW ¼ of Section 15, T10N, R16W, City of Muskegon, Muskegon County, Michigan, and containing 0.083 acres or 3600 sq. ft. of land, more or less, subject to easements and restrictions of record, if any. [amended 11/00]

Wireless communication support facilities are permitted as special land uses in the overlay zone and shall be permitted under the purview of Section 2332 after review and approval of the use by the Planning Commission, after public hearing, subject to the applicable conditions imposed by the Planning Commission:

1. The facility shall comply with all applicable Federal Aeronautics Administration and the Federal Communications Commission requirements.

2. All WCSF shall be constructed in compliance with all applicable construction codes, including, without limitation, the Electronic Industries Association/Telecommunications Industry Association (EIA/TIA) Structural Standards of Steel Antenna Towers and Antenna Supporting Structures and shall be certified as such by a licensed structural engineer.

3. Accessory equipment storage structures shall meet the setback and height requirements of the underlying zone. No accessory equipment or structure shall be allowed in any rights-of-way.

4. The WCSF shall not be used for advertising purposes and shall not contain any signage except which shall show the identity of the service provider and emergency telephone numbers. The sign or signs shall not exceed two square feet in size, and shall be easily readable from ground level.

5. The WCSF may be located on a zoning lot containing permitted other principal uses or approved special uses.

6. The WCSF may be located within an area smaller than the minimum lot size of the underlying zoning district. The area within which the WCSF is located shall be the area subject to the requirements of this section, rather than the entire zoning lot, unless otherwise provided herein, or reasonably required by the planning commission.

7. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible. The WCSF shall have a landscaped buffer so that the base of the WCSF and accessory equipment structure or storage area shall be screened from any right-of-way, residential use, or residential zoning district. Such landscaped buffer shall be placed on the site in a manner which will maximize the aesthetic and environmental effects, while at the same time providing the required visual buffer. The landscaped buffer shall consist of hedges planted leaf to leaf which shall reach a height of not less than six (6) feet at maturity and

conifer trees planted on fifteen (15) foot centers along the approved buffer. Requirements may be modified by the Planning Commission as appropriate for the specific site.

8. The application shall contain information showing the geographic search area within which the proposed WCSF must be located and shall also provide locations of all structures of similar height within and adjacent to the search area.

9. WCSFs shall not have a shiny or metallic finish.

10. The WCSF shall not exceed 200 (two-hundred) feet in height.

11. If located on the same zoning lot with another permitted use, the WCSF shall not be located in a front yard abutting a street.

12. Legal access to the WCSF shall be provided regardless of other developments that may take place on the property.

13. Towers shall not be artificially lighted unless required by the FAA. When lighting is required by the FAA or other federal or state authority, it shall be oriented inward so as not to project onto surrounding property or the site shall be landscaped to mitigate light impact.

14. All exterior building material shall be compatible with surrounding structures but in no case shall they be cinder or cement block, and metal, other than aluminum siding. Towers shall be enclosed by security fencing not less than six feet in height.

15. Monopoles may be required by the Planning Commission if it is deemed to be more aesthetically compatible with the area than a lattice pole.

16. Antenna and metal towers shall be grounded for protection against a direct strike by lightening and shall comply as to electrical wiring and connections with all applicable state and local statutes.

17. Tower owners shall provide maintenance and safety reports to the city's building official.

18. Proof of responsibilities in the case of abandonment shall be submitted with the application.

<u>Replacement of Existing WCSFs:</u>

1. The replacement WCSF shall not exceed a total height of 200 (two-hundred) feet or, if the existing WCSF has an approved height greater than 200 (two-hundred) feet, the replacement WCSF shall not exceed the approved height.

2. The replacement WCSF shall be located within the same zoning lot as the existing WCSF and shall be located to comply with existing minimum yard requirements.

3. The existing WCSF shall be removed within 90 days of completion of the replacement WCSF and the relocation or installation of the WCA.

4. If the location of the replacement WCSF is such that the existing WCSF must be moved before the replacement WCSF is constructed, temporary portable antennae support facilities may be used, but must be removed within 30 days of the completion of the replacement WCSF and the relocation or installation of the WCA.

Review Criteria for new WCSFs:

1. A new WCSF shall not be approved unless it can be demonstrated by the applicant that there is a need for the new WCSF which cannot be met by placing WCA on an existing WCSF or on other structures or replacement of an existing WSCF. Information concerning the following factors shall be considered in determining that such need exists:

    a. Insufficient structural capacity of existing WCSFs or other suitable structures and inability to reinforce or replace an existing WCSF

    b. Unavailability of suitable locations to accommodate system design or engineering on existing WCSF or other structures

    c. Radio frequency interference or other signal interference problems at existing WCSF or other structures

    d. The cost of using an existing WCSF or other structure exceeds the costs of permitting and constructing a new WCSF

    e. Other factors which demonstrate the reasonable need for the new WCSF.

Co-location Required:

1. The applicant must include in the application an affidavit stating space on a proposed tower will be made available to future users when technically possible.

2. The applicant shall send a written notice via certified mail to all potential users of the new WCSF offering an opportunity for co-location. The list of potential users shall include those entities that have requested approval of WSCF in the past, current FCC license holders, and any other entities requesting to be included on the list. Copies of the notice letters shall be provided to the City at the time the application is filed. If, during a period of 30 days after the notice letters are sent to potential users, a user or users request, in writing, to co-locate on the new WCSF, the applicant shall accommodate the request(s), unless co-location is not reasonably possible based on the criteria of this subsection.

Removal of Abandoned WCSFs:

All providers owning a wireless telecommunications support facility shall notify the zoning administrator when the use of said tower located in the municipality will be discontinued and the date it will cease. Any WCSF which is abandoned shall be removed or demolished within 90 days of abandonment. For the purposes of this section, abandoned shall mean that no WCA or other commercial antenna has been operational and located on the WCSF for 180 days or more. Where a WCSF is abandoned but not removed or demolished as required, the City may remove or secure the removal of the facility or required portions thereof, with its actual cost and reasonable administrative charge to be placed on the property. A lien on the property shall be superior to all other liens except taxes.

Mike Franzak

From: Mary Schutt <mary.schutt@hotmail.com>
Sent: Wednesday, March 07, 2018 11:14 AM
To: Mike Franzak
Subject: Water Filtration cell phone pole

Hello Mr. Franzak,
I am a property owner near the Water Filtration plant and received your letter dated Feb. 27. I think it will be great to have a new cell phone pole at the beach to enhance communication. More reliable cell service is needed in the beach area. I would prefer the "Option 1" location, but I can also support "Option 2", although I think it is important to preserve the peacefulness and beauty of the woods and the bike trail there. But we live with the power poles that cut through the same area on the opposite side of the trail. We will get used to a pole in either location. Thank you for your work on this project.
Respectfully,
Mary Schutt
3355 Lakeshore Dr.

RECEIVED
MAR 12 2018
CITY OF MUSKEGON
PLANNING DEPT

March 11, 2018

Dear Members of the Planning Commission,

You recently sent a letter to me and my husband Ed DeJong outlining the proposal for granting a zoning variance that would allow the construction of a cell tower on or near the Water Filtration Plant property. In that letter we were encouraged to attend the upcoming meeting of the Planning Commission or, if unable to attend, to express our concerns in a letter. Since both of us have previous, unbreakable commitments Thursday evening, I am sending you this letter in the hopes that you will give it a careful reading.

I have two major concerns about the proposal described in the letter—one of them personal, the other public.

Since my address is 3430 Whiskey Hollow Dr. I am a Bluffton Neighborhood resident. My home overlooks the Water Filtration Plant, the bike path and the beach. I pay $15.60 per day in taxes to the City of Muskegon for the privilege of living where I do and for the joy of treasuring the view that I have. Therefore, I have a great personal concern that the construction of a cell tower would be a profound detriment to that view and, therefore, to my property's value and to my quality of life. And I feel fairly confident that there would be no profound reduction in my taxes to compensate me for those losses.

But however strongly I feel about the inappropriateness of erecting a cell tower at the beach for myself personally, I feel even more strongly about it being the absolutely wrong thing to do for Muskegon publically. Muskegon has adopted the goal of recreating itself as a tourist destination. Some very exciting things are happening downtown and elsewhere to further Muskegon's new image. The slogan "Watch Muskegon Go" has been posted on billboards and buildings and tee shirts and TVs. I can't help but wonder…..how does the construction of an eyesore like a cell tower fit into that goal, into that slogan? How does something as visually invasive as a cell tower make Muskegon more desirable to tourists? Why would a community that watched and cheered as the smokestacks on the former Sappi property on Muskegon Lake came down want anything to do with having a cell tower go up…..alongside the Pere Marquette Park beach on Lake Michigan? Why would tourists coming to Muskegon on the high speed ferry or on the cruise ships want the first thing they see as they approach the natural beauty along the channel to be a huge, metallic, industrial-looking cell tower? Why would bike riders who come from all over to enjoy the natural beauty along our amazing bike path want to stare at a gigantic piece of man-made hardware? I cannot imagine that anyone who loves Muskegon as I do would want to "WATCH M US ke GO n" in the very wrong direction of putting a cell tower between the bike path and the lakeshore.

We as a lakeshore community have a unique and precious opportunity to do the transition from an industrial-based to a tourism-based economy right. We really need to make the very best decisions for the sake of our city's future. You have been entrusted with the job of helping to make those future-enhancing decisions. I trust that you will elect to maintain the zoning as it currently stands and keep our precious natural resources unspoiled and beautiful for us and for future generations to utilize and enjoy.

Thank you for reading about and considering my concerns.

Sincerely,

Diane Van Wesep

Diane Van Wesep

March 11, 2018

RECEIVED
MAR 12 2018
CITY OF MUSKEGON
PLANNING DEPT

Subject: Request to amend Section 2321 of the zoning ordinance at 2375 Beach St.

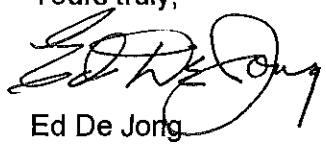
Dear Members of the Planning Commission:

I am an owner/resident of 3430 Whiskey Hollow Dr. directly across from the Water Filtration Plant. I am opposed to amending the zoning ordinance to allow Wireless Communication Service Facilities at 2375 Beach Street for the following reasons:

- The basic purpose and function of zoning is to divide a municipality into residential, commercial, and industrial districts that are separate from one another. Placing a cellular tower here injects an industrial look in the middle of a residential and recreational area.
    - The Beach Street property is the City of Muskegon's most beautiful property. The beach was listed as one of the 50 finest beaches in the US. This is our show piece not a place for an industrial tower. We need to take pride in our natural resources not desecrate them.
    - The Watch Muskegon campaign calls Muskegon the "Riviera of the Midwest." This location is exactly what they are talking about. Muskegon's greatest natural asset. Not a place for an industrial tower.
    - Muskegon has had to fight for years against a reputation as a dirty old industrial town. At one time the City logo showed smoke stacks. We are finally breaking free of these views. Putting an industrial tower at our beach would say that we really don't care about the quality of our natural resources.
- This proposal is in opposition to the intent of the zoning regulations.
    - Four overlay zoning districts have been set up for locations for these towers. These districts are set up to allow and encourage the location of these towers. This should not become an added location.
    - The regulations are set up to "Minimize the adverse effects of such facilities through careful design, siting and screening criteria." This industrial tower will adversely affect the beauty of this prime location in our city.
    - The regulations are set up to "Protect the character of residential areas throughout the City from the effects of wireless communication facilities." This would do the opposite.
- This amendment would be in violation of the zoning ordinance. The location, Option 1, would be placing a tower in a front yard abutting a street.
- This amendment in the location of Option 2 would set a dangerous precedent of using park property for other uses. This usage would also add a negative view to a beautiful natural area.
- This location is in the critical dune area that requires DNR approval of construction and the removal of trees.

We all want to "Watch Muskegon Go" in an upward direction not a downward direction.. Vote "no" on this proposed amendment. Thank you.

Yours truly,



Ed De Jong

Unapproved Planning Commission meeting minutes – March 15, 2018

Hearing, Case 2017-33: Staff-initiated request to amend Section 2321 of the zoning ordinance to expand the overlay district and allow Wireless Communication Service Facilities at 1800 Peck St (Marsh Field) and 2375 Beach St (Water Filtration Plant). M. Franzak presented the staff report. Cell phone towers are regulated by Section 2321 (Wireless Communication Service Facilities) of the zoning ordinance. An overlay district allows these facilities in four different locations in the City. A map was provided to the board members showing those locations. Staff is requesting to expand the overlay district with two new locations, one at Marsh Field and the other behind the Water Filtration Plant. This would increase cell phone coverage throughout the City. This request is only to expand the overlay districts and allow companies to apply for a Special Land Use Permit to construct a new facility. There were some concerns from citizens at the December Planning Commission meeting about the water filtration plant location. They recommended that the proposed location be moved 200 feet to the south along the bike path. Staff has prepared that as option 2 on the aerial map included in the staff report. Option 1 would be in the area inside the water filtration plant parcel where there are already two existing antennas. If option 1 is selected, the existing antennas could be relocated to the new facility. It may not be possible to relocate them to Option 2 due to the cost laying new wires. Staff sent out a notice letter for this hearing to everyone within 300 feet of the water filtration plant. At the time of this writing, staff had received calls from Susan Newton at 3444 Keaton Ct and Herb Hooker at 3443 Keaton Ct, who were both in favor of Option 1 which showed one cell tower pole instead of the two antennas currently there.
Staff recommends approval of the ordinance amendment with option 1 for the water filtration plant site. Staff received no opposition to the proposed Marsh Field location.

M. Franzak discussed comments he had received after the staff report was sent to board members. D. VanWesep and E. DeJong of 3430 Whiskey Hollow Dr both wrote letters opposing any cell tower location at the beach. D. VanWesep stated that it would negatively affect their view and believed it was bad for Muskegon's image as a tourist destination. E. DeJong was opposed due to having a cell tower or pole of an industrial nature obstructing the lake views. He also believed that it violated the zoning ordinance. M. Schutt of 3355 Lakeshore Dr wrote in support of Option 1, as better cell service was needed in the beach area. B. Mazade asked how tall the current towers were that were located on the property, and how tall the proposed cell pole would be. M. Franzak estimated the current towers to be 125 feet tall; a monopole like the one proposed was allowed to be up to 200 feet tall maximum. B. Mazade asked if a Special Use Permit would be required in order to erect the actual pole. M. Franzak stated that was correct. J. Doyle asked about the assertion in Mr. DeJong's letter about option 1 being in violation of the zoning ordinance. M. Franzak stated that the proposal did not violate the zoning ordinance for cell towers. He went on to discuss option 2's location, which was a less desirable option, as it was in a critical dune area as well as a city charter park.

D. Alexander of 3410 Whiskey Hollow stated that he was in favor of either option 1 or 2, depending on what the other neighbors decided. He asked if the City would get paid for use of the cell pole. F. Peterson stated that was correct. There was further discussion on whether any profits made from the tower would go toward the water department or the parks department. M. Franzak

stated that option 2 located in the charter park would complicate the leasing of pole space and could be an expensive, time-consuming legal process according to the City's counsel. K. Kolberg of 3414 Whiskey Hollow stated that he did not think the beach was the proper area for a tower or pole, and he was concerned that allowing one would lead to more. B. Mazade stated that city ordinance required co-location on the same pole, to eliminate the need for several poles or towers. L. Taunt owned property on Whiskey Hollow and stated that either option would be acceptable but it appeared that option 2 would be best for the neighbors. L. Page stated that he represented the Pigeon Hill Alliance, a non-profit group concerned with environmental issues in the area. He stated that he had made several cell phone calls from the area and was able to get through each time. Board members and other audience members stated that they regularly had calls dropped in the area of the beach. L. Page stated that he preferred option 1 over option 2, as option 2 was in a charter park and critical dune area.

A motion to close the public hearing was made by M. Hovey-Wright, supported by J. Doyle and unanimously approved.

A motion that the request to amend Section 2321 of the zoning ordinance to expand the overlay district for Wireless Communication Support Facilities be recommended to the City Commission for approval, with Option 1 being the recommended choice for the Water Filtration Plant site, was made by M. Hovey-Wright, supported by J. Doyle and unanimously approved, with T. Michalski, F. Peterson, B. Mazade, J. Doyle, M. Hovey-Wright, and E. Hood voting aye. F. Peterson confirmed that the motion included the Marsh Field site. M. Franzak stated that was correct.

Commission Meeting Date: March 27, 2018

Date: March 27, 2018

To: Honorable Mayor and City Commissioners

From: Planning & Economic Development

RE: Purchase of Property for Industrial Park Expansion

SUMMARY OF REQUEST: The City of Muskegon is in need of industrial development but lacks readily available land to meet the needs of today's industrial end users. Muskegon has been working very hard to attract new industrial end users to our community, however, because we are an older land-locked city, we lack in cohesive developable land beyond 2-3 acre sites. City staff have finalized terms to purchase approximately 22.7 acres of land adjacent to the Port City Industrial Park and are requesting authorization to purchase the land for economic development purposes (expansion of the industrial park).

FINANCIAL IMPACT: Total cost $340,500

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Authorize staff to execute purchase agreement for 2420 Remembrance Drive (PPN 24-134-300-0001-00) consisting of approximately 22 Acres.

COMMITTEE RECOMMENDATION: