# CITY OF MUSKEGON

## CITY COMMISSION MEETING

### MARCH 23, 2021 @ 5:30 P.M.

**MUSKEGON CITY COMMISSION CHAMBERS**
**933 TERRACE STREET, MUSKEGON, MI 49440**
**REMOTE MEETING**

## MINUTES

**The Regular Commission Meeting of the City of Muskegon was held electronically with the Mayor, Vice Mayor, and Commissioners participating via Zoom – a remote conferencing service, Clerk staff present at 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, March 23, 2021.**

**ROLL CALL FOR THE REGULAR COMMISSION MEETING:**

**Present: Mayor Stephen J. Gawron (Muskegon, MI), Vice Mayor Eric Hood (Muskegon, MI), Commissioners Ken Johnson (Muskegon, MI), Dan Rinsema-Sybenga (Muskegon, MI), Willie German, Jr. (Muskegon, MI), Teresa Emory (Muskegon, MI), and Michael Ramsey (Muskegon, MI), City Manager Frank Peterson, City Attorney John Schrier, and City Clerk Ann Meisch.**

**HONORS/AWARDS/PRESENTATIONS:**

**Placer.ai Presentation City Commissioners were provided information regarding Placer.ai software by Jim Walsh and Adam Peacock of Placer.ai. This product, a data analysis platform, can be used to help us answer some larger socioeconomic questions regarding our population and workforce and would allow departments to use anonymized GPS data from cell phones to determine critical information to better understand our local economy.**

**PUBLIC COMMENT ON AN AGENDA ITEM: Public comments were received.**

**2021-26 CONSENT AGENDA:**

**A. Approval of Minutes City Clerk**

**SUMMARY OF REQUEST: To approve the minutes of the January 29, 2021 Goal Setting Meeting, March 8, 2021 Worksession, and March 9, 2021 Regular Meeting.**

**STAFF RECOMMENDATION: To approve the minutes.**

**B. Fireworks City Clerk**

**SUMMARY OF REQUEST: Staff is recommending the city produce fireworks on July 3rd in downtown Muskegon. Rock Stock announced they are unable to have**

**an event this year and there will be no fireworks. With safety precautions in place and the roll-out of the vaccine, we believe we can have a safe Fourth of July fireworks. We are recommending July 3rd because July 4th falls on a Sunday. The decision to have fireworks needs to be made quickly as some deadlines have passed and/or are quickly upon us. We would like to have a large display for the community to enjoy. We will be attempting to offset the costs with sponsorship and event revenue.**

**AMOUNT REQUESTED: $60,000 - Parks Department**

**STAFF RECOMMENDATION: To authorize staff to expend up to $60,000 for a fireworks show.**

**C. <u>Request for Camping – Burning Foot</u> City Clerk**

**SUMMARY OF REQUEST: The organizers of Burning Foot are requesting to allow camping at their event on August 28th and authorize staff to charge a fee equal to 10% of their camping revenue. Burning Foot typically offers camping at their event each year and has been authorized in the past to pay 10% of their camping revenue as a fee. Currently the policy indicates the Commission may choose to charge 10% of the camping revenue or $20 per campsite.**

**STAFF RECOMMENDATION: To authorize Burning Foot to provide camping at Pere Marquette Park on August 28, 2021 and pay a fee of 10% of their camping revenue as a fee to the City.**

**D. <u>Muskegon Park Place Provisionary</u> City Clerk – REMOVED PER APPLICANT REQUEST**

**E. <u>Extension of Temporary Modification to MERS Benefit Provisions</u> Finance**

**SUMMARY OF REQUEST: The City Finance department is requesting an extension of the Temporary Modification to the MERS Benefit Provisions for the Defined Benefit employees which was adopted on May 12, 2020. This provision would temporarily lower the number of hours an employee would have to work during the month to earn service credit to accommodate those employees taking part in the Work Share furloughs. Currently employees need to work 150 hours per month to receive service credit for their defined benefit pension. This modification would allow an employee to work 126 hours and still receive service credit for the month. The extension of the temporary provision would be in effect through 2021.**

**STAFF RECOMMENDATION: To approve the Extension of the Temporary Modifications to Benefit Provision as presented.**

**F. <u>Credit Card Processor Change</u> Treasurer**

**SUMMARY OF REQUEST: We received notice that our software provider, BS&A will no longer be compatible with Official Payments, the provider we are**

**currently using for online utility and tax payments as of 7/6/2021. BS&A has two payment providers they will integrate with: Point and Pay or Invoice Cloud Solutions. We have chosen to partner with Point and Pay for our credit card services.**

**We have many customers that utilize the online payment system, particularly for utility bills. Since we were notified that BS&A would no longer work with Official Payments, our current credit card provider, we have looked into the two credit card processing options BS&A will partner with. A majority of the municipalities in Michigan have chosen to use Point and Pay based on feedback from municipalities that have utilized Invoice Cloud Solutions, it did not seem to be a good fit for us.**

**Point and Pay presents significant benefits over the old system. Their payment system is fully integrated with our software; when a customer makes a payment online or at the counter, their account is immediately updated. We will no longer need to import payments into our system the day after they are made online. Point and Pay offers additional online payment options, including e-checks at a lower cost than credit card transactions. There is no implementation fee or support costs charged to the city in order to accept payment through Point and Pay, and the processing fees charged to the city and residents are lower than our current processor.**

**STAFF RECOMMENDATION: To approve the treasurer to sign the agreement with Point and Pay to provide credit card processing services for the city.**

**G. <u>Marina Parking Ordinance/Increase Launch Ramp Fines</u> Public Safety**

**SUMMARY OF REQUEST: To amend the current Marina Parking ordinance 92-74(1)(a) to include parking restrictions and enforcements form marina parking. Adding (1)(a) no parking on grass/unimproved area in city parking launch ramp area and fines that go along with that addition.**

**STAFF RECOMMENDATION: Approval to amend Parking Ordinance 92-74(1)(a) and Chapter 58-3a for fines associated with this ordinance.**

**J. <u>Parking Kiosk Purchase</u> Planning**

**SUMMARY OF REQUEST: Staff recommends the purchase of three new parking kiosks at the beach along with another kiosk for the boat launch at Hartshorn Marina.**

**Staff is proposing to install two kiosks in the new parking addition and an additional kiosk south of the water filtration plant. The three beach kiosks would accept coins and credit cards. The boat launch kiosk would only accept credit cards. The total for the three beach kiosks after installation fees would be $23,793. The total for the boat launch kiosk after installation would be $6,545.**

**STAFF RECOMMENDATION:** **To direct staff to purchase three parking kiosks for the beach and one kiosk for the launch ramp.**

**Motion by Commissioner Johnson, second by Commissioner German, to approve the consent agenda as presented, minus item H, I, K, L, and M.**

**ROLL VOTE: Ayes: Gawron, Hood, Ramsey, German, Rinsema-Sybenga, Emory, and Johnson**

**Nays: None**

***MOTION PASSES***

**2021-27 REMOVED FROM CONSENT AGENDA:**

**H. <u>MATS Micro-transit Funding</u> Development Services**

**SUMMARY OF REQUEST: Staff is seeking approval to assist the Muskegon Area Transit System in funding micro-transit services for our residents.**

**As part of the route study and comprehensive operational analysis conducted by Muskegon County, one key recommendation was to offer a new type of service often called micro-transit. This type of service uses smaller vehicles and new technologies for efficient same-day rides on demand. It is an accessible general public shared-ride transportation service supported and overseen by MATS and delivered through a qualified contractor. The service more effectively serves certain geographic areas and times of the day, offering a new option where fixed-route and GoBus services are reduced or eliminated.**

**Muskegon County conducted an RFP process to choose a micro transit vendor. The process took many months, and City manager Peterson participated in the recommendation committee. A vendor was selected based on rankings in six criteria described in the original RFP. Micro-transit is important to residents that do not live within reasonable walking distance to a fixed bus route. The program works similarly to ride share companies like Uber and Lyft. Residents can request transportation via a mobile application, a computer, or telephone. Local communities are expected to cover their prorated share of the total contract. Based on our population, Muskegon's share in year-one would be $6,009 per month through March 2022, then $5,889 through June 2022. Residents of the City of Muskegon are expected to utilize 49% of the service's capacity – accordingly, our payment represents 49% of the anticipated monthly costs.**

**AMOUNT REQUESTED: $71,748 Will be included with FY2021/22 Budget**

**FUND OR ACCOUT: 101-10875-5371**

**STAFF RECOMMENDATION: Approve the financial support for the MATS micro-transit starting in fiscal year 2021-22 with an estimated expenditure of $71,748.**

**Motion by Vice Mayor Hood, second by Commissioner Rinsema-Sybenga, to**

**approve the financial support for the MATS micro-transit starting in fiscal year 2021-22 with an estimated expenditure of $71,748.**

**ROLL VOTE: Ayes: Ramsey, Rinsema-Sybenga, Emory, Johnson, and Gawron**

**Nays: Hood and German**

***MOTION PASSES***

**I. <u>Beach Street Expanded Parking</u> Public Works**

**SUMMARY OF REQUEST: Staff is requesting authorization to approve the pricing on Bulletin #3 with Hallack Contracting to the existing Muskegon County/City of Muskegon contract for water main and street reconstruction on Beach Street between Wilcox and Simpson.**

**Bulletin #3 includes the updated project design and contract pricing related to our previous discussion on expanded parking at Pere Marquette Park.**

**The proposed design matches very closely with the previously reviewed iterations a few items of note are as follows:**

- **We were unable to save the existing trees. During final layout the trees were found located in a position relative to the parking that did not allow for them to be saved by simply gapping parking spaces. We further consulted with our staff horticulturist who advised that the trees were in a state of decline given the harsh environment which they have lived. Our staff horticulturist recommended replacement of the trees with a variety of plantings along the beach side of the board walk and within the small sand areas that serve as pedestrian crossings. If approved we intend to partner with Muskegon Conservation District and our staff horticulturist to develop a replanting strategy for the area that includes plantings along the boardwalk and within the pedestrian crossing islands. These are not included in the plans before you and are intended to be completed by staff in the fall of 2021 or spring of 2022 as nursery availability provides.**
- **We retained the angled parking along Beach Street. Staff has reviewed and believes that angle parking is the best option for this area. Parallel parking would have a lower capacity and is generally an equal or greater impediment to thru traffic. As an alternative and a short-term cost saving measure all of the angled parking along Beach Street could be removed from the project and have that area remain as a sand buffer between Beach Street and the Parking area. This would eliminate 68 parking spaces from the plans as drawn and reduce the construction cost pricing by and estimated $50,000. We could add the angled parking along Beach Street at a later date if there was sufficient demand.**

**Staff anticipates being able to utilize funding from the City of Muskegon ARP Act allocation in addition to beach parking revenue to be able to support this**

**project.**

**If approved staff will need to present an amendment to the engineering services agreement with DLZ to cover the additional engineering and construction administration costs. This is estimated at approximately $35K and would be brought back for consideration at one of the April meetings, presuming this request is approved.**

**If approved staff would need to immediately begin procuring the necessary permits for this work to ensure the schedule could remain intact and allow for completion of this project prior to the 2021 Beach Season.**

**AMOUNT REQUESTED: $798,070.71 AMOUNT BUDGETED: $0**

**FUND OR ACCOUNT: 101-91917-5346 – Parks Capital Improvements – ARPA Funds will be used to offset the cost.**

**STAFF RECOMMENDATION: Authorize staff to approve Bulletin #3 with Hallack Contracting in the amount of $789,070.71 and proceed with the construction of the expanded parking lot at Pere Marquette Park.**

**Motion by Commissioner Emory, second by Commissioner Rinsema-Sybenga, to authorize staff to approve Bulletin #3 with Hallack Contacting in the amount of $798,070.71 and proceed with the construction of the expanded parking lot at Pere Marquette Park.**

> **Motion by Commissioner Rinsema-Sybenga, second by Commissioner Ramsey to modify the motion to approve without the 3rd row of angled parking.**
>
> **ROLL VOTE: Ayes: German, Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, and Ramsey**
>
> **Nays: None**
>
> ***MOTION PASSES***

**ROLL VOTE ON UNDERLYING MOTION: Ayes: Ramsey, German, Rinsema-Sybenga, Gawron, and Hood**

**Nays: Emory and Johnson**

***MOTION PASSES***

**K. Amity Avenue Bridge Public Works**

**SUMMARY OF REQUEST: Staff is requesting authorization to apply for State of Michigan FY2024 local bridge funds for a project to remove the Amity Avenue Bridge and rebuild an at-grade road through the area. A resolution of support is required to include with the application.**

**Staff applied for this same project during the last two cycles and have both times been just outside the fundable range. Staff feels that resubmitting the project for**

**consideration is still our best option within this program. Staff plans to take an extra step and lobby directly at the selection meeting to have this project considered.**

**Costs are estimated at approximately $444,000 for the project, with the city requesting to provide matching funds of $90,000 towards the construction costs and also an estimated $100,000 in engineering costs for a total city commitment of $190,000. The costs for this project would be borne in future fiscal years and only if the project is selected for funding.**

**AMOUNT REQUESTED: $190,000 AMOUNT BUDGETED: $190,000**

**FUND OR ACCOUNT: 203-TBD-5346/5355**

**STAFF RECOMMENDATION: Approve the resolution of support and authorize the Mayor and Clerk to sign and commit to funding the required match and engineering costs in future fiscal years if the project is selected.**

**Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to approve the resolution of support and authorize the Mayor and Clerk to sign and commit to funding the require match and engineering costs in future fiscal years if the project is selected.**

**ROLL VOTE: Ayes: Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, Ramsey, and German**

**Nays: None**

*MOTION PASSES*

**L. <u>Concession Agreement with Lake Effect Sport</u> Public Works**

**SUMMARY OF REQUEST: Staff is requesting permission to enter into a 1-year contractual business/concession agreement with Andrea Chambers of Lake Effect Sport, Bike Rentals at Pere Marquette Park for the 2021 season.**

**The business will be renting out various bikes per their proposal. Commission is $1,000 and 5% gross receipts annually.**

**STAFF RECOMMENDATION: Authorize staff to enter into a 1-year contractual business/concession agreement with Andrea Chambers of Lake Effect Sport Bike Rentals at Pere Marquette Park for the 2021 season.**

**Motion by Commissioner Emory, second by Commissioner Rinsema-Sybenga, to authorize staff to enter into a 1-year contractual business/concession agreement with Andrea Chambers of Lake Effect Sport Bike Rentals at Pere Marquette Park for the 2021 season.**

**ROLL VOTE: Ayes: Emory, Johnson, Gawron, Hood, Ramsey, German, and Rinsema-Sybenga**

**Nays: None**

*MOTION PASSES*

**M. <u>Chalet Lease with Mac Kites</u> Public Works**

**SUMMARY OF REQUEST: Staff is requesting permission to enter into a 1-year contractual lease agreement with Steve Negen of MacKite for Pere Marquette Park Chalet for the 2021 season. The business will be giving lessons on Wing Foil and Efoil equipment per their proposal. MacKite is proposing for retail of the chalet, $2,000 and 5% gross receipts annually.**

**STAFF RECOMMENDATION: Authorize staff to enter into a 1-year contractual lease agreement with Steve Negen of MacKite for the PM Park Chalet for 2021.**

**Motion by Commissioner Emory, second by Commissioner Rinsema-Sybenga, to authorize staff to enter into a 1-year contractual lease agreement with Steve Negen of MacKite for the Pere Marquette Park Chalet for 2021.**

**ROLL VOTE: Ayes: Johnson, Gawron, Hood, Ramsey, German, Rinsema-Sybenga, and Emory**

**Nays: None**

*MOTION PASSES*

**2021-28 PUBLIC HEARINGS:**

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

**SUMMARY OF REQUEST: To adopt a resolution recommending the State withhold 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 23, 2021, they will be removed from this resolution.**

**STAFF RECOMMENDATION: To adopt the resolution.**

**PUBLIC HEARING COMMENCED: No public comments were received.**

**Motion by Commissioner Ramsey, second by Commissioner Rinsema-Sybenga, close the public hearing and approve the resolution.**

**ROLL VOTE: Ayes: Gawron, Hood, Ramsey, German, Rinsema-Sybenga, Emory, and Johnson**

**Nays: None**

*MOTION PASSES*

**2021-29 UNFINISHED BUSINESS:**

**A. <u>Amendment to the Marihuana Facilities Overlay District – 885 E Apple Avenue</u> Planning – TABLED FROM 1/26/2021 TO 2/9/2021 AND FROM**

**2/9/2021 TO 3/23/2021**

**SUMMARY OF REQUEST: Request to amend section 2331 of the zoning ordinance to include 885 E Apple Avenue in the marihuana facilities overlay district by Khi Guy.**

**A motion was made that the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for Retail license types at 885 E Apple Avenue be recommended to the City Commission for approval. The motion passed with a 5-1 vote.**

**STAFF RECOMMENDATION: To approve the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for retail and provisioning license types at 885 E. Apple Avenue.**

**Motion by Commissioner German, second by Vice Mayor Hood, to table this item.**

**ROLL VOTE: Ayes: German**

**Nays: Hood, Ramsey, Rinsema-Sybenga, Emory, Johnson, and Gawron**

***MOTION FAILS***

**2nd Motion: Motion by Commissioner Johnson, second by Commissioner Ramsey, to approve the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for retail and provisioning license types at 885 E Apple Avenue.**

**3rd Motion: Motion by Commissioner Ramsey, second by Commissioner Rinsema-Sybenga, to call the question.**

**ROLL VOTE: Ayes: Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, and Ramsey**

**Nays: German**

***MOTION PASSES***

**VOTE ON 2ND MOTION**

**ROLL VOTE: Ayes: Rinsema-Sybenga, Johnson, and Gawron**

**Nays: Ramsey, German, Emory, and Hood**

***MOTION FAILS***

**2021-30 NEW BUSINESS:**

**A. <u>Rezoning of 420 S Harvey Street</u> Planning**

**SUMMARY OF REQUEST: Request to amend Section 2331 of the zoning ordinance to allow the following marihuana related license types at 420 S Harvey Street, by Corey Roberts: Recreational Class B growing, processing,**

**retail, designated consumption establishments and special events.**

**The Planning Commission will make a recommendation on this agenda item at their special meeting on Thursday, March 18.**

**STAFF RECOMMENDATION: To (approve/deny) the request to amend Section 2331 of the zoning ordinance to allow the following marihuana related license types at 420 S Harvey Street, by Corey Roberts: Recreational Class B growing, processing, retail, designated consumption establishments and special events.**

**Motion by Commissioner Ramsey, second by Commissioner Rinsema-Sybenga, to approve the request to amend Section 2331 of zoning ordinance to allow the following marihuana related license types at 420 S Harvey Street, by Corey Roberts: Recreational Class B Growing, Processing, retail, designated consumption establishments and special events.**

**ROLL VOTE: Ayes: Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, Ramsey, and German**

**Nays: None**

***MOTION PASSES***

**B. <u>Rezoning Requests – Dowd/Hudson</u> Planning**

**SUMMARY OF REQUEST: Request to rezone 2172 Dowd Street, 2184 Dowd Street, 2157 Hudson Street, 2169 Hudson Street and 2171 Hudson Street from R-1, Low Density Single Family Residential to Form Based Code, Urban Residential by Stephen Benedict.**

**The Planning Commission will make a recommendation to this request at their special meeting on Thursday, March 17.**

**STAFF RECOMMENDATION: To approve the request to rezone 2172 Dowd Street, 2184 Dowd Street, 2157 Hudson Street, 2169 Hudson Street and 2171 Hudson Street from R-1, Low Density Single Family Residential to Form Based Code.**

**Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to approve the request to rezone 2172 Dowd Street, 2184 Dowd Street, 2169 Hudson Street and 2171 Hudson Street from R-1, Low Density Single Family Residential to Form Based Code.**

**ROLL VOTE: Ayes: Johnson, Gawron, Hood, Ramsey, German, and Rinsema-Sybenga**

**Nays: Emory**

***MOTION PASSES***

**ANY OTHER BUSINESS:**

**Commissioner Ramsey raised the question of curbside service at marihuana**

**shops in the City. City Manager, Frank Peterson, explained that the Planning Department has been in contact with all of the affected businesses and they have been advised to bring in site-plans for approval for this temporary alternative to inside service during the pandemic.**

**PUBLIC COMMENT:** **Public comments were received.**

**ADJOURNMENT: The City Commission meeting adjourned at 10:02 p.m.**

**Respectfully Submitted,**

**Ann Marie Meisch, MMC – City Clerk**