CITY OF MUSKEGON

CITY COMMISSION MEETING

MARCH 23, 2004

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, March 23, 2004.

Mayor Warmington opened the meeting with a prayer from Reverend Nana Kratochvil of Harbor Unitarium Universalist Church after which the Commission and Public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Bill Larson, Commissioners Chris Carter, Kevin Davis, Stephen Gawron and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier and City Clerk Gail Kundinger. Commissioner Clara Shepherd excused.

2004-29 CONSENT AGENDA:

a. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Goal Setting Session that was held on Friday, February 27, 2004; the Commission Worksession that was held on Monday, March 8, 2004; and the Regular Commission Meeting that was held on Tuesday, March 9, 2004.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

b. Sale of Marginal Lot at 712 Marquette Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of a vacant marginal lot (Parcel #24-405-001-0002-00) at 712 Marquette Avenue to Simons Development, LLC, owners of 720 Marquette Avenue and Patrick & Julie Stone, 704 Marquette Avenue, Muskegon, MI 49442. Approval of this sale will allow Simons Development, LLC to own a house located on a buildable lot, as well as allowing both property owners to expand their current yards. As is required by City policy, the subject parcel is being offered for $1, and will be split between

Simons Development, LLC and the Stones under the Dollar Lot Policy.

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

BUDGET ACTION REQUIRED: None

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

c. **Sale of Non-Buildable Lot at 214 Washington Avenue.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of a vacant non-buildable lot (Parcel #24-205-398-0010-00) at 214 Washington Avenue to Dante Agnew, owner of 222 Washington Ave., Muskegon, MI. Approval of this sale will allow Mr. Agnew to expand his current yard as well as have a buildable lot. The property owner to the east of this City-owned lot is a landlord with numerous outstanding invoices, and was therefore not considered as a candidate to purchase a portion of this lot. This lot is being offered to Mr. Agnew for $1 under the Dollar lot Marketing Policy.

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

BUDGET ACTION REQUIRED: None

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

d. **Sale of Non-Buildable Lot at 545 E. Forest Avenue.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of a vacant non-buildable lot (Parcel #24-205-102-0027-00) at 545 E. Forest Ave. to Donald Steele, of 539 E. Forest Ave., Muskegon, MI. Approval of this sale will allow the adjacent property owner to expand his current yard. The other adjacent property owner was offered a portion of this lot, but was not interested. This lot is being offered to Mr. Steele for $1 under the Dollar Lot Marketing Plan.

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

BUDGET ACTION REQUIRED: None

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

e. **Sale of Non-Buildable Lot at 1355 Leonard Avenue.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of a vacant non-buildable lot (Parcel #24-613-000-0827-00) at 1355 Leonard Ave., to Richard Finneman, owner of 1363 Leonard Ave., Muskegon, MI. Approval of this sale will allow the adjacent property owner to build a home on his current property, which will include this parcel. The other adjacent property owner was offered a portion of this lot, but didn't respond. This lot is being offered to Mr. Finneman for $1 under the Dollar Lot Marketing Plan.

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

BUDGET ACTION REQUIRED: None

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

f. <u>FIRST READING: Zoning Ordinance Amendment for Permits.</u> PLANNING & ECONOMIC DEVELOPMENT

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

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

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

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

g. <u>Resolution of Commitment and Cooperation from the City of Muskegon for the Mainstreet Program.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The Neighborhood Investment Corporation (NIC) currently has a local Mainstreet designation. Funding has come from both the Downtown Arts and Entertainment District and NIC. The opportunity is now available to apply for a State Mainstreet designation. This would allow for direct training and other benefits from the National Trust for Historic Preservation Mainstreet program. NIC will be making application to the State for this designation. The resolution lends the commitment and cooperation of the City of Muskegon in this effort.

FINANCIAL IMPACT: No direct impact, although the City would commit to in-kind services through the Planning and Economic Development staff (e.g. mapping, printing).

BUDGET ACTION REQUIRED: None

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

h. Beverage Vending Contract for Parks. LEISURE SERVICES

SUMMARY OF REQUEST: To award a contract to Pepsi to provide vending service throughout the City Parks.

FINANCIAL IMPACT: Approximately $5,000 in revenue.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve

COMMITTEE RECOMMENDATION: The Leisure Services Board recommends that a contract be awarded to Pepsi.

j. Approval of Conveyance Application to the State of Michigan. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the Community and Neighborhood Services office request to obtain 407 Catherine from the State of Michigan which is currently an attractive nuisance in the Community. After the CNS office obtains 407 Catherine the remaining structure will be demolished and the sale will be redeveloped.

FINANCIAL IMPACT: CNS office will supply three hundred dollars for the application from available HOME funding. The cost of demolition, which will be approximately $8,500 will also be covered by HOME funds from a prior year allocation.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the request and have the Mayor sign the application to the State of Michigan.

k. Consideration of Bids - Austin Street, Barney to Delano. ENGINEERING

SUMMARY OF REQUEST: The contract to reconstruct Austin St. (H-1544) between Barney and Delano be awarded to Grant Tower Excavating out of Grant Tower was the lowest bid tabulation, responsible bidder with a bid price of $169,440.81.

FINANCIAL IMPACT: The construction cost of $169,440.81 plus related engineering expenses.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Award the contract to Grant Tower Excavating.

l. Beach Leveling Bids. LEISURE SERVICES

SUMMARY OF REQUEST: To award a contract with Felco Contractors to level Pere Marquette Beach and remove the snow fence.

FINANCIAL IMPACT: Contract Price $57,100 which represents about a $9,500 saving from having City workers do the work.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the Consent Agenda as read minus item i.

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

Nays: None

Excused: Shepherd

MOTION PASSED

2004-30 ITEMS REMOVED FROM CONSENT AGENDA

i. **SECOND READING: Public Safety Administration Ordinances.** CITY MANAGER

SUMMARY OF REQUEST: To adopt three ordinances to implement the proposed Public Safety Administrative Consolidation.

FINANCIAL IMPACT: First year savings of over $100,000.

BUDGET ACTION REQUIRED: The savings will be accounted for in a future quarterly budget update.

STAFF RECOMMENDATION: To approve the ordinances.

Motion by Commissioner Spataro, second by Vice Mayor Larson to adopt the three ordinances to implement the proposed Public Safety Administrative Consolidation.

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

Nays: None

Excused: Shepherd

MOTION PASSED

2004-31 PUBLIC HEARINGS:

a. **Resolution Revoking an Industrial Development Certificate - Hardwoods, Inc.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974 as amended, the City of Muskegon requests that Industrial Development Certificate (IFT) No. 00-491 issued to Hardwoods, Inc., 1885 E. Laketon Ave. be revoked. The certificate was originally requested August 8, 2000. Hardwoods, Inc. ceased operations March 15, 2004.

FINANCIAL IMPACT: None, since the business never really got into production.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To hold the public hearing and authorize the Mayor and Clerk to sign the resolution revoking IFT certificate No. 00-491.

The Public Hearing opened at 5:43pm to hear comments from the public. No comments were heard at this time.

Motion by Vice Mayor Larson, second by Commissioner Davis to close the Public Hearing at 5:44pm and to revoke the IFT Certificate, No 00-491 issued to Hardwoods, Inc and authorize the Mayor and Clerk to sign the resolution.

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

Nays: None

Excused: Shepherd

MOTION PASSED

b. **Create a Special Assessment District for Millard Avenue, Lake Dunes Drive to End.** ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the proposed special assessment of the Millard from Lake Dunes Dr. to West End project, and to create the special assessment district and appoint two City Commissioners to the Board of Assessors if it is determined to proceed with the project.

FINANCIAL IMPACT: Constriction cost plus related engineering cost.

BUDGET ACTION REQUIRED: None at this time.

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

The Public Hearing opened at 5:45pm to hear comments from the public. Comments in opposition were heard from Gary Dill of 3335 Millard and Susan Lyne of 3340 Millard.

Motion by Vice Mayor Larson, second by Commissioner Davis to close the Public Hearing at 6:01pm and to deny creation of special assessment district for the Millard from Lake Dunes Dr., to West End project.

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

Nays: None

Excused: Shepherd

MOTION PASSED

c. **Create a Special Assessment District for Western Avenue, Pine to Terrace.** ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the proposed special assessment of the Western Ave., Pine to Terrace project, and to create the special assessment district and appoint two City Commissioners to the Board of Assessors if it is determined to proceed with the project.

Furthermore, should the district be created, your permission is requested to add this project onto the Shoreline Dr. project with Milbocker & Sons as a change order utilizing all applicable unit prices on said project.

FINANCIAL IMPACT: Constriction cost plus related engineering cost.

BUDGET ACTION REQUIRED: None at this time.

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

The Public Hearing opened at 6:02pm to hear comments from the public. No comments were heard at this time.

Motion by Commissioner Spataro, second by Commissioner Gawron to close the Public Hearing at 6:07pm and to approve the special assessment district for Western Ave., Pine to Terrace project and assign Commissioner Shepherd and Mayor Warmington to the Board of Assessors, and to also add this project onto the Shoreline Dr. project with Milbocker and Sons.

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

Nays: None

Excused: Shepherd

MOTION PASSED

d. <u>Create a Special Assessment District for Yuba Street, Eastern to Sumner.</u> ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the proposed special assessment of the Yuba St., Eastern to Sumner project, and to create the special assessment district and appoint two City Commissioners to the Board of Assessors if it is determined to proceed with the project.

FINANCIAL IMPACT: Constriction cost plus related engineering cost.

BUDGET ACTION REQUIRED: None at this time.

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

The Public Hearing opened at 6:07pm to hear comments from the public. Comments in opposition were heard from Kenneth Martin, 505 Yuba, Roland Jones, 595 Yuba, and Frank Williams, 516 Yuba.

Motion by Commissioner Davis, second by Commissioner Spataro to close the Public Hearing at 6:31pm.

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

Nays: None

Excused: Shepherd

MOTION PASSED

Motion by Commissioner Spataro, second by Commissioner Gawron to create

the special assessment district for Yuba St., Eastern to Sumner project.

ROLL VOTE: Ayes: Gawron, Spataro

Nays: Warmington, Carter, Davis, Larson

Excused: Shepherd

MOTION FAILS

2004-32 NEW BUSINESS:

a. **2004 - 2005 CDBG/HOME Allocations.** COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To accept the administrations and Citizens District Councils recommendation in regards to the 2004-2005 CDBG/HOME anticipated entitlement and to make the Commissions preliminary allocation decision. The Commission is scheduled to make their final decision regarding the 2004-2005 CDBG/HOME allocation entitlement during the Public Hearing scheduled for April 13, 2004.

FINANCIAL IMPACT: Uncertain at this time.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the administration recommendation.

Motion by Vice Mayor Larson, second by Commissioner Davis to accept the administrations and Citizens District Councils recommendation in regards to the 2004-2005 CDBG/HOME anticipated entitlement and to make the Commissions preliminary allocation decision.

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

Nays: None

Excused: Shepherd

MOTION PASSED

b. **FIRST READING: Rezoning Request for Property Located at 955 W. Laketon.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone property located at 955 W. Laketon from B-4 General Business to RT, Two Family Residential.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends denial of the request due to lack of compliance with the future land use map and Master Land Use Plan.

COMMITTEE RECOMMENDATION: The Planning Commission voted to deny the request at their 3/11 meeting and recommended that the City Commission ask the ZBA to reconsider the hardship application for this property. The denial request was approved with S. Warmington, B. Smith and T. Michalski voting nay. T. Johnson was absent.

Motion by Vice Mayor Larson, second by Commissioner Carter to table the request to rezone property located at 955 W. Laketon and refer it back to Zoning Board of Appeals for reconsideration of hardship status and pay no additional fees.

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

Nays: None

Excused: Shepherd

MOTION PASSED

c. <u>Public Safety Position Salary Ranges.</u> CITY MANAGER

SUMMARY OF REQUEST: To approve the salary ranges for the Director of Public Safety and the Deputy Director of Public Safety for Fire Services.

FINANCIAL IMPACT: Included in the net savings of $100,000 for Public Safety Administrative consolidation.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the salary ranges.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the salary ranges for the Director of Public Safety and the Deputy Director of Public Safety for Fire Services.

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

Nays: None

Excused: Shepherd

MOTION PASSED

d. <u>Termination of Purchase Agreement for Seaway Industrial Park.</u> CITY MANAGER

SUMMARY OF REQUEST: To terminate the Real Estate Purchase Agreement and Development Agreement with Seaway Industrial Park, L.C. (Grooters).

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the termination of the agreements.

Motion by Vice Mayor Larson, second by Commissioner Gawron to approve the termination of the Real Estate Purchase Agreement and Development Agreement with Seaway Industrial Park, L.C. (Grooters)

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

Nays: None

Excused: Shepherd

MOTION PASSED

e. <u>Fire Grant Application Request.</u> CITY MANAGER

SUMMARY OF REQUEST: The Fire Department is requesting City Commission permission to apply for 2004 United States Fire administration "Assistance to Firefighters Grant Program" to provide firefighter equipment to enhance operational safety.

FINANCIAL IMPACT: $10,000 match through department capital funds.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of grant application to USFA for fire equipment acquisition.

Motion by Commissioner Carter, second by Commissioner Spataro to approve the grant application for 2004 United States Fire Administration "Assistance to Firefighters Grant Program" to provide firefighter equipment to enhance operational safety.

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

Nays: None

Excused: Shepherd

MOTION PASSED

f. <u>Concurrence with the Housing Board of Appeals Notice and Order to Demolish 483 W. Muskegon.</u> INSPECTION SERVICES

SUMMARY OF REQUEST: This is to request City Commission concurrence with the findings of the Housing Board of Appeals that the structure located at 483 W. Muskegon Ave., - Area 10 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.

CASE & PROJECT ADDRESS: #EN-030163 Address; 483 W. Muskegon Ave.

LOCATION AND OWNERSHIP: This structure is located on W. Muskegon between 5th and 6th Streets and is owned by Anthony and Terrson Bethea of Muskegon.

STAFF CORRESPONDENCE: This case began with a police report of unsafe conditions and a break in of this vacant house. A dangerous building inspection was conducted on 10/9/03 and an interior inspection was conducted 10/22/03. The notice and order to repair or remove was issued 11/13/03. On 1/8/04 the

HBA declared the structure, with the Director of Inspections stating he would delay taking the case to City Commission for 60 days.

OWNER CONTACT: The owner contacted the Inspection after he purchased the house at the State auction 9/17/03. He was also present for the interior inspection and HBA meeting on 1/8/04. At that time he stated he was aware of the required repairs, but had a financial set back. He was working with NIC and getting estimates for repairs. On 12/8/03 he called the Inspection office and stated he was not getting help form NIC and asked for a 60-day extension to try to sell the house.

FINANCIAL IMPACT: The demolition will be paid with CDBG funds.

BUDGET ACTION REQUIRED: None

SEV: $10,600

ESTIMATED COST OF REPAIRS: $12,000

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

Motion by Commissioner Spataro, second by Commissioner Gawron to concur with the Housing Board of Appeals to demolish the structure located at 483 W. Muskegon Ave. and to direct administration to obtain bids for the demolition.

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

Nays: None

Excused: Shepherd

MOTION PASSED

g. <u>City Commission 2004/2005 Vision, Value, Mission Statements.</u>
ASSISTANT CITY MANAGER

SUMMARY OF REQUEST: On February 27, 2004 the City Commission and staff participated in their annual goal setting session. The Vision, Value and Mission statements, along with a set of prioritized issues/projects are the result of that undertaking. Staff is requesting approval of both documents.

FINANCIAL IMPACT: None

BUDGET ACTION: None

STAFF RECOMMENDATION: Staff recommends approval.

Motion by Vice Mayor Larson, second by Commissioner Spataro to approve the Vision, Value and Mission document and the Issues/Projects Ratings document.

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

Nays: None

Excused: Shepherd

MOTION PASSED

2004-33 ANY OTHER BUSINESS:

Motion by Commissioner Carter, second by Commissioner Spataro to approve the resolution for Mr. Enous Lee.

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

Nays: None

Excused: Shepherd

MOTION PASSED

The Regular Commission meeting for the City of Muskegon was adjourned at 7:40pm.

Respectfully submitted,

Gail A. Kundinger, MMC

City Clerk