

City of Muskegon
City Commission Meeting
Minutes

March 14, 2023, 5:30 pm
Muskegon City Hall
933 Terrace Street, Muskegon, MI 49440

Present: Mayor Ken Johnson
Commissioner Rachel Gorman
Commissioner Rebecca St.Clair
Commissioner Eric Hood
Vice Mayor Willie German, Jr.
Commissioner Michael Ramsey
Commissioner Teresa Emory

Staff Present: City Manager Jonathan Seyferth
City Clerk Ann Meisch
City Attorney John Schrier
Deputy City Clerk Kimberly Young

1. Call To Order

The Regular Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m. on Tuesday, March 14, 2023.

Confirm default minutes.

2. Prayer

Pastor Bennet from Mount Zion Church of God in Christ opened the meeting with a prayer.

3. Pledge of Allegiance

The Commission and public recited the Pledge of Allegiance to the Flag.

4. Roll Call

As recorded above

5. Honors, Awards, and Presentations

5.a Bring it to the Table - Muskegon Community College

Information regarding a film screening and dialogue will be provided to the City Commission and the public. Filmmaker Julie Winokur travels to diverse communities across the county to ask citizens to sit down and speak candidly about their political beliefs in a non-confrontational setting. The event is being held at the MCC Overbrook Theater on Wednesday, March 15, 2023 at 6:30 p.m.

George Maniates, Director of Center for Experiential Learning at Muskegon Community College. Mr. Maniates is also a history instructor and was in attendance at the City Commission meeting to inform everyone of the opportunity to attend and be involved in a training discussion about divisive politics and the disservice it does to democracy.

6. Public Comment on Agenda Items

No public comments were received.

7. Consent Agenda

Action No. 2023-41

Motion by: Commissioner Ramsey

Second by: Commissioner Emory

To accept the consent agenda as presented, minus item B & Q.

Ayes: (7): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

MOTION PASSES (7 to 0)

7.a Approval of Minutes - City Clerk

To approve the minutes of the February 13, 2023 Worksession, February 14, 2023 Special Meeting, and February 14, 2023 Regular Meeting.

STAFF RECOMMENDATION: To approve the minutes.

7.c Sale of 363 McLaughlin Avenue - City Manager's Office

Staff is requesting approval of a purchase agreement for 363 McLaughlin Avenue. 363 McLaughlin Avenue was constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding. The offer is for \$10,000 over the full listing price with \$10,000 in seller

concessions. The offer also includes costs to cover additional appliances and air conditioning.

STAFF RECOMMENDATION: To approve the purchase agreement for 363 McLaughlin Avenue.

7.d Sale of 304 McLaughlin Avenue - City Manager's Office

Staff is requesting approval of a purchase agreement for 304 McLaughlin Avenue. 304 McLaughlin Avenue was constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding. The offer is for \$5,278 over the full listing price with \$5,278 in seller concessions. The offer also includes costs to cover additional appliances and air conditioning.

STAFF RECOMMENDATION: To approve the purchase agreement for 304 McLaughlin Avenue.

7.e Sale of 269 Catherine Avenue - City Manager's Office

Staff is requesting approval of a purchase agreement for 269 Catherine Avenue. 269 Catherine Avenue was constructed through the agreement with Dave Dusendang to construct infill housing with ARPA funding. The offer is for the full listing price with no seller concessions. The offer also includes costs to cover air conditioning.

STAFF RECOMMENDATION: To approve the purchase agreement for 269 Catherine Avenue.

7.f Fire Truck Equipment - Public Safety

The new Fire Engine that was approved for purchase has additional equipment that is needed to be installed on the new Fire Engine. See attached list of equipment.

AMOUNT REQUESTED: \$266,836.00

AMOUNT BUDGETED: \$266,836.00

FUND OR ACCOUNT: Public Improvement -445

STAFF RECOMMENDATION: To approve the request for equipment for the new Fire Engine that was approved for purchase on February 28, 2023.

7.g Farmers Market Rates - City Clerk

Staff recommends increasing tier 1 – corner from \$678 to \$700, tier 1 regular from \$628 to \$650, and Tier 2 regular from \$528 to \$540, Saturday daily vendors from \$36 to \$40, and add a new fee of Tuesdays from July – Sept of \$30. The Farmers Market Advisory committee met on February 23, 2023 to review the proposed fees and recommended approval.

STAFF RECOMMENDATION: To approve the request to increase the vendor fees at the Farmers Market as outlined above.

7.h Amend Ordinance Chapter 6, Animals - City Manager's Office

The City Commission at their December 2022 LPC meeting directed staff to update the Animal Ordinance to remove all specific references to any one type of dog breed.

There were several references to “pit bull dog” in the ordinance. Those were all removed. The language that remains references “dangerous dogs” or “dangerous animals.”

Staff also updated the definitions of Dangerous Animal and Vicious Animal.

Staff believes this update achieves the directive of the Commission.

It should be noted, legal counsel reviewed the update. It was point out that by having “pit bull” in the ordinance it does make it more straight forward to enforce on that breed if there’s an issue (the burden of proof on the City is less because a specific breed is called out). This update could create another step in the process for that breed. However, it now becomes uniform for all breed types. This is simply bring provided for context and transparency.

STAFF RECOMMENDATION: To approve the amendment to the City Code of Ordinances for Chapter 6, Animals, as presented.

7.i Ordinance to Establish Parks & Recreation Advisory Committee - Department of Public Works - REMOVED PER STAFF REQUEST

7.j 1095 Third Street Termination of Purchase Agreement - Economic Development

The due-diligence and closing deadline for the purchase agreement between the City and Suburban Properties for the redevelopment of the former Catholic Charities site has expired, and staff recommends formally terminating the approved purchase agreement.

We have been in regular contact with Mr. Shaun Burket of Suburban Properties since the August 2022 approval of the purchase agreement by the City Commission. Unfortunately, the lending environment along with construction costs and delays with other active projects by Suburban Properties has caused us to reach a point of mutual separation. We are still working collaboratively with Suburban on a potential infill housing project, so we anticipate future partnerships are likely. We will consider proposals from other developers who have been waiting for a turn at this property most of the time it has been under option by Mr. Burket in another agenda item.

STAFF RECOMMENDATION: To approve the Termination of Purchase Agreement as presented and authorize the Mayor and Clerk to sign.

7.k On-Premise Tasting Room Permit for Rake Beer Project, LLC - City Clerk

To adopt a resolution approving a new On-Premise Tasting Room Permit for Rake Beer Project, LLC at 500 W. Western Avenue, Suite 200, Muskegon, MI 49440.

STAFF RECOMMENDATION: To adopt the resolution for a new On-Premises Tasting Room Permit for Rake Beer Project, LLC at 500 W. Western Avenue, Suite 200, Muskegon, MI 49440.

7.l USACE Right of Entry for Sewer Repair - Department of Public Works

The U.S. Army Corps of Engineers (USACE) has requested the City authorize their work on our property to repair a storm sewer serving the U.S. Army Reserve base in the City. The U.S. Army Corps of Engineers (USACE), on behalf of the U.S. Army Reserve base located at 1430 Parslow Drive, plans to repair a storm sewer outlet that has severely eroded the bank of Ruddiman Creek. The storm sewer passes through the City's property on it's way to the creek. The storm sewer sits in an easement; however, the scope of the repair is larger than the easement. The USACE has requested the City sign a Right of Entry (ROE) document authorizing them to work on the City's property to make the repair.

STAFF RECOMMENDATION: Grant Right of Entry to the U.S. Army Corps of Engineers and authorize the Mayor and Clerk to sign the Right of Entry documents and certification.

7.m McGraft Community Building Roof Replacement - Department of Public Works

Staff proposes to replace the roof at the McGraft Community Building due to leaks.

The current roof is beyond life expectancy and some minor leaking is occurring. Interior renovations done in 2021 and 2022 may be compromised if corrective action is not taken. Three bids have been obtained. Two were in excess of \$60,000 but the third from Schmidt Roofing for \$29,284.00 is recommended for acceptance.

Funding will be provided through the McGraft Endowment fund, which performed very well in the market last year and contributed approximately \$120,000 to fund improvements to the park this year and next.

AMOUNT REQUESTED: \$29,284

AMOUNT BUDGETED: \$100,000 (All Building Repair)

FUND OR ACCOUNT: McGraft Endowment - 101-757-986

STAFF RECOMMENDATION: Authorize staff to enter into a contract with Schmidt Roofing for \$29,284 to replace the roof at the McGraft Park Community Building.

7.n Consumers Easement at Water Filtration Plant - Department of Public Works

Consumers Energy has requested an easement for a utility pole support (guy wire) on the water filter plant property to allow for new electric service for 3421 Lakeshore Drive (a private residence).

Consumers Energy has requested an easement for a utility pole support (guy wire) on the water filter plant property (1900 Beach Street) to allow for new electric service for 3421 Lakeshore Drive (a private residence).

Joe Buthker, Water Filter Plant Superintendent, has reviewed the easement and is confident that the easement and pole support will not impact the water filter plant operations nor stand in the way of any future planned improvements.

STAFF RECOMMENDATION: To grant an easement to Consumers Energy on the City's property at 1900 Beach Street and authorize the Mayor to sign the easement documents.

7.o Aggregates, Maintenance Materials & Concrete - Department of Public Works

Award supply of aggregates, highway maintenance materials and ready-mixed concrete for 2023 to selected bidders. Bids were solicited for aggregates, highway maintenance materials and ready-mixed concrete for purchase in 2022. Purchases will be made from the recommended bidders highlighted in yellow on the attached bid tabs. Purchases are contingent upon product availability, timely deliveries, and prices as quoted.

FUND OR ACCOUNT: 101, 202, 203, 590, 591

STAFF RECOMMENDATION: To award bids for aggregates, highway maintenance materials and ready-mixed concrete purchases for 2023 as presented.

7.p Olthoff Drive Grant Agreement - Department of Public Works

Staff is requesting approval of a contract with MDOT for a grant for the construction of Olthoff Drive from its east end extended 1,400 feet into the former prison industrial park, and approval of a resolution authorizing the DPW Director and Clerk to sign the contract. This is the standard contract that governs construction contracts that use federal funds and/or are administered through MDOT. The estimated cost of the project is \$1,600,000, with \$630,000 of that being Category A Transportation Economic Development Fund (TEDF) grant dollars. The remainder of \$970,000 is accounted for in the City's planned distribution of the remaining MEDC grant used to prepare the industrial park for development. \$320,000 will be used to provide the match for this TEDF grant, and \$650,000 will be used for the construction of the water and sewer lines. Of the project budget, \$53,875 has been spent on design engineering services, and \$62,600 is planned for construction engineering services. These were awarded to HRC by Commission on May 11, 2021. The project has been bid, but award to the contractor cannot be made until MDOT has approved the grant agreement and issued a notice to proceed. The construction contract will be brought to the Commission in late March or early April for award.

AMOUNT REQUESTED: \$950,000 Road - \$650,000 Utilities/ \$1,600,000 Total

AMOUNT BUDGETED: \$630,000 MDOT TEDF - \$970,000 MEDC/ \$1,600,000 Total

FUND OR ACCOUNT: Varies (100% Grant)

STAFF RECOMMENDATION: To approve the Olthoff Drive MDOT Contract and a resolution authorizing the DPW Director and Clerk to sign the contract.

7.b Rules of the City Commission - City Clerk

To modify the Rules of the City Commission under E. Citizen Participation (2) and remove the option for groups to be allowed to speak ten minutes.

Additional opportunities have recently been provided to the community to communicate at meetings including the ability to call in on meetings that are televised live, the ability to watch a meeting by zoom for those not televised, and the addition of community engagement forums.

Because of the increase in public participation, many residents wait beyond what can be considered a reasonable timeframe to address the Commission.

The Legislative Committee advises the option for groups to speak ten minutes be eliminated and allow all groups and citizens to speak up to three minutes so all those wishing to address the Commission can do so in a timely manner.

STAFF RECOMMENDATION: To approve the revised Rules of the City Commission to eliminate the option for groups to speak ten minutes.

Action No. 2023-42

Motion by: Vice Mayor German

Second by: Commissioner Ramsey

To approve the revised Rules of the City Commission to eliminate the option for groups to speak ten minutes.

Ayes: (6): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Commissioner Ramsey, and Commissioner Emory

Nays: (1): Vice Mayor German

MOTION PASSES (6 to 1)

7.q 1st Amendment to the Temporary Water Operator Agreement with Muskegon Heights - City Manager

The City of Muskegon has been providing Operators in Charge (OIC) for the City of Muskegon Heights since Jan. 1, 2023 for both water treatment and water distribution. There is an amendment to that agreement which will temporarily provide water plant operators to Muskegon Heights. This will expire on March 31, 2023.

During the month of March, the Muskegon Heights water plant will be short a fulltime operator which will cause a staffing issue for a few shifts during the balance of the month. In an effort to assist, Muskegon will provide plant operators on a limited basis during this time. It is anticipated that Muskegon staff will be operating the Muskegon Heights plant for 10 to 16 hours per week (two shifts per week). These Muskegon operators have volunteered for the additional duty and will be provided in a way that does not negatively impact staffing at the Muskegon water filtration plant.

Muskegon Heights will be charged \$100 per hour per operator. Muskegon will pay the operators out of the funds received from the City of Muskegon Heights.

AMOUNT REQUESTED: N/A (Muskegon will charge Muskegon Heights a rate of \$100 per hour for these operators)

STAFF RECOMMENDATION: To approve the 1st Amendment between the Cities of Muskegon and Muskegon Heights for Water Operations and authorize the City Manager to sign.

Action No. 2023-42

Motion by: Vice Mayor German

Second by: Commissioner Ramsey

To approve the 1st Amendment between the Cities of Muskegon and Muskegon Heights for Water Operations and authorize the City Manager to sign.

Ayes: (7): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

MOTION PASSES (7 to 0)

8. Public Hearings

8.a Recommendation for Annual Renewal of Liquor Licenses - City Clerk

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, 2023, they will be removed from this resolution.

No action needed, all businesses are in compliance or are actively working with departments to become compliant.

STAFF RECOMMENDATION: To adopt the resolution.

8.b Public Hearing-Brownfield Plan Amendment, 2nd Amendment, Adelaide Pointe QOZB, LLC - Development Services

Approval for Brownfield Plan Amendment, 2nd Amendment for Adelaide Pointe QOZB, LLC (Adelaide Pointe Project) and to consider the resolution.

Adelaide Pointe QOZB, LLC has submitted a Brownfield Plan Amendment (2nd Amendment) for the Adelaide Pointe Project – a 35-acre mixed use waterfront development project including winter boat storage, marina space, In/Out forklift boat storage, commercial/retail, and up to 400 housing units.

This 2nd Amendment BPA has been prepared due to the developer no longer seeking the City of Muskegon's bonds to pay for eligible costs related to public infrastructure. The developer will pay for the following public infrastructure costs: public roadways, a reconfiguration of West Western Ave, as well as water main, sanitary sewer and storm sewer utilities. This will cause a shift in the Brownfield Tax Increment Funds to allow for the developer to receive 100% reimbursement for eligible activities. The BRA will be meeting on the morning of March 14. The public hearing has been scheduled and is under the assumption that the BRA will approve this 2nd amendment.

The BPA for APQ was approved by the BRA on Oct. 12, 2021 and by City Commission on Oct. 26, 2021. The 1st Amendment to the BPA for APQ was approved by BRA on Dec. 13, 2022 and by City Commission on Jan. 10, 2023.

STAFF RECOMMENDATION: To close the public hearing and to approve the resolution for the Brownfield Plan Amendment, 2nd Amendment for the Adelaide Pointe Project authorizing the Mayor and City Clerk to sign.

PUBLIC HEARING COMMENCED: No public comments were received.

Action No. 2023-43

Motion by: Commissioner Ramsey

Second by: Commissioner Hood

To close the public hearing and to approve the resolution for the Brownfield Plan Amendment, 2nd Amendment for the Adelaide Pointe Project authorizing the Mayor and City Clerk to sign.

Ayes: (7): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

MOTION PASSES (7 to 0)

9. Unfinished Business

9.a Housing Board of Appeals Demolition - 835 W. Forest - Public Safety

To concur with the Housing Board of Appeals decision to demolish and authorize administration to obtain bids for the demolition and that the Mayor and Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder. Housing Board of Appeals has deemed 835 W. Forest Ave to be in property maintenance violation. Property has been a long-standing area of blight and public nuisance/hazard.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish and authorize administration to obtain bids for the demolition and that the Mayor and Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder

Action No. 2023-44

Motion by: Commissioner St.Clair

Second by: Vice Mayor German

To refer this matter back to the Housing Board of Appeals.

Ayes: (7): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

MOTION PASSES (7 to 0)

10. New Business

10.a Housing Board of Appeals Demolitions - 1420 S. Getty Street, 1101 Spring Street - Public Safety - REMOVED PER STAFF REQUEST

10.b 2nd Quarter Budget Reforecast - Finance

At this time staff is asking for approval of the 2nd Quarter Budget Reforecast for the FY2022-23 budget year. Staff has prepared the 2nd Quarter Budget Reforecast a memo outlining some of the highlights is attached and supporting documentation.

STAFF RECOMMENDATION: To approve the 2nd Quarter FY 2022-23 Budget Reforecast as presented.

Action No. 2023-45

Motion by: Commissioner St.Clair

Second by: Commissioner Ramsey

To approve the 2nd Quarter FY 2022-23 Budget Reforecast as presented.

Ayes: (7): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

MOTION PASSES (7 to 0)

10.c 2nd Amendment, Brownfield Development & Reimbursement Agreement, Adelaide Pointe QOZB, LLC - Development Services

Staff is seeking approval for the 2nd Amendment, Brownfield Development & Reimbursement Agreement, for Adelaide Pointe QOZB, LLC (Adelaide Pointe Project) and to consider the attached resolution.

Contingent upon the approval of the 2nd Amendment to the BPA for Adelaide Pointe, the 2nd Amendment to the Brownfield Development & Reimbursement Agreement for Adelaide Pointe QOZB, LLC has been prepared. This will cause a shift in the Brownfield Tax Increment Funds to

allow the developer to receive 100% reimbursement for eligible activities. The City is no longer using bonds to pay for public infrastructure. The developer will undertake the public infrastructure expenses moving forward. The BRA will meet on the morning of March 14. It is under the assumption that the 2nd Amendment to the DRA will be approved during that meeting.

The 1st Amendment to the DRA for APQ was approved by the BRA and CC on Jan. 10, 2023.

STAFF RECOMMENDATION: To approve the resolution for the Brownfield Development and Reimbursement Agreement for Adelaide Pointe QOZB, LLC authorizing the Mayor and City Clerk to sign.

Action No. 2023-45

Motion by: Commissioner Ramsey

Second by: Commissioner Gorman

To approve the resolution for the Brownfield Development and Reimbursement Agreement for Adelaide Pointe QOZB, LLC authorizing the Mayor and City Clerk to sign.

Ayes: (7): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

MOTION PASSES (7 to 0)

10.d 1095 Third Street Proposal Reviews - Economic Development

Two Low Income Housing Tax Credit firms and one market rate developer have all approached us on the Catholic Charities parcel, and we have solicited proposals on their concepts for staff and commission review.

We have received consistent interest in this site over the past 8-10 months, but it has been under contract with another developer. Now that firm has bowed out due to market conditions, and we have proposals from other entities that wish to complete infill housing and/or mixed-use projects at the site. The building currently sits empty, and we have our facilities team routinely checking it for utility issues and any potential dumping/blight/vandalism problems. Thus far we have been quite lucky and there are minimal issues. We did just have a boiler component fail, so

we cut off the gas and turned off the water to the building to avoid any damage.

The building should not sit vacant under our ownership for another year as it will continue to deteriorate, and it presents a powerful opportunity to address the housing shortage we are experiencing in the community. To that end, staff has requested the various firms that have inquired about the building to show us what they are proposing, and would like commission feedback in selecting a preferred firm. As this was not a formal RFP, rather than make a specific recommendation staff will review each proposal and highlight pros and cons from each. We hope to move forward with direction on a preferred private sector partner from the commission's perspective as they all offer different scopes, and will return to you with a proposed development agreement in an upcoming meeting.

STAFF RECOMMENDATION: To accept the proposal from (_____) as presented and direct the Development Services Director to negotiate a purchase and development agreement for 1095 Third Street for commission consideration.

Action No. 2023-45

Motion by: Commissioner Gorman

Second by: Commissioner St.Clair

To accept the proposal from West Urban Properties as presented and direct the Development Services Director to negotiate a purchase and development agreement for 1095 Third Street for commission consideration.

Ayes: (7): Mayor Johnson, Commissioner Gorman, Commissioner St.Clair, Commissioner Hood, Vice Mayor German, Commissioner Ramsey, and Commissioner Emory

MOTION PASSES (7 to 0)

11. Any Other Business

11.a Special Worksession

Commission discussed the best time to have a special meeting to review and discuss the recently completed housing study as well as the pending proposed ordinance to create a Parks and Recreation Advisory

Committee. A special worksession will be held Wednesday, March 29, 2023 at 5:00 p.m.

12. Public Comment on Non-Agenda items

- 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.)

Public comments were received.

13. Closed Session

14. Adjournment

The City Commission meeting adjourned at 7:56 p.m.

Motion by: Commissioner St.Clair

Second by: Commissioner Emory

MOTION PASSES

Respectfully Submitted,

Ann Marie Meisch, MMC - City Clerk