CITY OF MUSKEGON

CITY COMMISSION MEETING

MARCH 14, 2006

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, March 14, 2006.

Mayor Warmington opened the meeting with a prayer from Pastor Michael Borgert from the First Christian Reformed Church after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioner Chris Carter, Kevin Davis, Lawrence Spataro, and Sue Wierengo, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Gail Kundinger.

Absent: Commissioner Clara Shepherd (excused).

2006-23 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, February 28, 2006.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

C. Sale of Buildable Vacant Lot at 1293 Marquette Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of a vacant buildable lot at 1293 Marquette Avenue to Pierre and Tondalaya Tyson. The lot is 100 x 132 ft. and is being offered to Mr. and Mrs. Tyson for $6,750. A single family ranch style home will be constructed. The home will have a two stall garage and five bedrooms with two of the bedrooms being located in the basement. The square footage of the home will exceed what is required by the policy. The closing will take place 120 days from the City Commission approval.

FINANCIAL IMPACT: The sale of this lot for the construction of a single family home will generate additional tax revenue for the City and will place the property 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 said resolution and deed.

COMMITTEE RECOMMENDATION: The Land Reutilization Committee recommended approval of the sale with the closing taking place in 120 days as opposed to 90 days from the City Commission approval of the sale at their regular meeting of February 26, 2006.

D. Contract for Mowing Services. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve a two-year contract with the Sheldon Park Neighborhood Improvement Association for the maintenance of two City-owned lots in the Sheldon Park neighborhood.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Authorize execution of the contract. The responsibility for cleaning and mowing these lots would belong to the Association rather than the City and would extend through 2007. The City's estimated cost of $2,000 to maintain the lots over this period would then be donated to the Association. The neighborhood has maintained the lots for several years under similar agreements and has done a good job.

E. Purchase of Computer Equipment. PUBLIC SAFETY

SUMMARY OF REQUEST: Police Department staff request that the Commission approve the use of Criminal Forfeiture Funds to purchase new computer hardware. These computers will be utilized by the Patrol Bureau, Community Officers and the Professional Standards Office. The current computers are approximately 3-4 years old and we are beginning to experience a number of malfunctions. This purchase will coincide with the start-up of the County's new records management system. We would like to replace 13 computers. This bid was developed with the assistance of the Information Technologies Department.

FINANCIAL IMPACT: Cost for this package is $16,765 ($1,290 per unit). There is no impact on General Fund monies.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of this request.

F. **Request for an Encroachment Agreement.** ENGINEERING

SUMMARY OF REQUEST: Inland Seas on behalf of Marathon Petroleum Company has filed an encroachment agreement form to install four monitoring wells in the public right-of-way in the area of Sherman Blvd. and Glenside Blvd.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the encroachment agreement subject to the supplemental conditions and compliance with the necessary insurance requirements.

Motion by Commissioner Carter, second by Vice Mayor Gawron to approve the Consent Agenda as read with the exception of item B.

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

Nays: None

MOTION PASSES

2006-24 ITEM REMOVED FROM THE CONSENT AGENDA:

B. **Approval of a Neighborhood Enterprise Zone Certificate at 1120 Jefferson.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: An application for a Neighborhood Enterprise Zone certificate has been received from Millie Ortiz to rehabilitate a home in the Nelson neighborhood at 1120 Jefferson Street that she has just purchased. The home is on the dangerous building list and the applicant has set up a timeline for repairs with the Inspections Department. The home is located in a Neighborhood Enterprise Zone. The application states that the estimated cost for rehabilitation will be $30,000. There will be new electrical, plumbing, furnace, windows, some drywall and the repairing of the floor and walls. The applicant has met local and state requirements for the issuance of the Neighborhood Enterprise Zone certificate. Approval or denial by the City Commission is required within 60 days of the application date and must be forwarded to the State Tax Commission.

FINANCIAL IMPACT: Taxation will be 50% of the State average for the next 7 years

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approve issuance of the Neighborhood Enterprise Zone certificate.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the Neighborhood Enterprise Zone Certificate for 1120 Jefferson.

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

Nays: None

MOTION PASSES

2006-25 PUBLIC HEARINGS:

A. <u>Request for an Industrial Facilities Exemption Certificate - Cole's Quality Foods.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, Cole's Quality Foods, 1188 Lakeshore Drive, has requested the issuance of an Industrial Facilities Exemption Certificate for the property located at 1188 Lakeshore Drive, Muskegon. The total capital investment is approximately $2,000,000 in personal property. This request qualifies Cole's Quality Foods for a term of eight years for personal property.

FINANCIAL IMPACT: The City will capture certain additional property taxes generated by the expansion.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the resolution granting an Industrial Facilities Exemption Certificate for a term of eight years for personal property.

The Public Hearing opened at 5:41 p.m. to hear and consider any comments from the public. No public comments were heard.

Motion by Vice Mayor Gawron, second by Commissioner Wierengo to close the Public Hearing at 5:43 p.m. and approve the request for an Industrial Facilities Exemption Certificate for Cole's Quality Foods.

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

Nays: None

MOTION PASSES

B. <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 23, 2006, 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.

The Public Hearing opened at 5:44 p.m. to hear and consider any comments from the public. Comments were heard from Ann Mahan-McAllister, 2236 Oak and Malachi Williams Jr., 3031 Merriam, the owners of Dreamers.

Motion by Commissioner Spataro, second by Commissioner Carter to close the Public Hearing at 5:57 p.m. and approve the recommendation for annual renewal of liquor licenses and adopt the resolution.

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

Nays: None

MOTION PASSES

C. <u>2006-2007 CDBG/HOME Recommendation and City Commission Preliminary Decision.</u> COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To conduct a Public Hearing concerning the CDBG/HOME 2006-2007 recommendation submitted by both the administration and the Citizen District Council. The Public Hearing is to gather information from the public concerning the 2006-2007 CDBG/HOME funding which is to be $1,060,145 and $301,767 respectively, excluding any program income or reprogrammed funding. The City Commission is also asked to make their preliminary decision on what items should be funded and at what amounts. The City Commission will be asked to make their final decision on April 11, 2006, during the scheduled Commission Meeting.

FINANCIAL IMPACT: The 2006 – 2007 allocations will be based on the Commission decision(s).

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To conduct the Public Hearing and to make a preliminary allocation decision.

The Public Hearing opened at 5:58 p.m. to hear and consider any comments from the public. Comments were heard from Diana L. Miller, Habitat for Humanity; Frank Cobb, 801 Mills; Heidi Steigman, 1030 Ducey; Lynn Nash, 1405 Lakeshore; Jamie Langlois, 3447 Chippewa; Dan Bonner, 1652 Nelson; Jessica Elsey, 476 Muskegon; Frank Noble, 1924 Jiroch; and Lois Brinks.

Motion by Commissioner Spataro, second by Commissioner Carter to close the Public Hearing at 7:14 p.m.

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

Nays: None

MOTION PASSES

Discussion to continue at the end of the meeting.

D. <u>Create a Special Assessment District for Lakeshore Drive, McCracken</u>

to 145' Northeasterly of Centerline of Vanderlinde. ENGINEERING

SUMMARY OF REQUEST: To hold a Public Hearing on the proposed special assessment for Lakeshore Drive, McCracken Avenue to 145' northeasterly of the centerline of Vanderlinde Street, 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: None at this time.

BUDGET ACTION REQUIRED: None at this time.

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

The Public Hearing opened at 7:15 p.m. to hear and consider any comments from the public. Comments were heard from Jim Larsen, 1605 Lakeshore in opposition of the project; and Richard McEwen, 1812 Lakeshore in favor of the project.

Motion by Commissioner Carter, second by Commissioner Davis to close the Public Hearing at 7:24 p.m. and approve the creation of the special assessment district for Lakeshore Drive, McCracken to 145' northeasterly of the centerline of Vanderlinde.

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

Nays: None

Abstain: Warmington

MOTION PASSES

Mayor Warmington and Commissioner Davis were appointed to the Board of Assessors.

E. Create a Special Assessment District for Western Avenue, 3rd Street to 8th Street. ENGINEERING

SUMMARY OF REQUEST: To hold a Public Hearing on the proposed special assessment for Western Avenue, Third Street to Eighth Street, 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: None at this time.

BUDGET ACTION REQUIRED: None at this time.

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

The Public Hearing opened at 7:26 p.m. to hear and consider any comments from the public. Comments were heard in opposition from Derrick Ebbadon, 16327 Highland Drive, Spring Lake, representing Port City CIO.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to close the Public Hearing at 7:31 p.m. and create the special assessment district for Western Avenue, 3rd Street to 8th Street and appoint two City Commissioners to the Board of Assessors.

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

Nays: None

MOTION PASSES

Commissioner Spataro and Wierengo were appointed to the Board of Assessors.

2006-26 NEW BUSINESS:

A. L. C. Walker Arena Management Agreement. FINANCE

SUMMARY OF REQUEST: Staff has negotiated a new management agreement for the L. C. Walker Arena. The new agreement greatly simplifies the relationship between the City and the arena manager, limits the City's financial exposure and provides private-sector incentives to utilize the facility to its fullest.

FINANCIAL IMPACT: The proposed contract will reduce and limit the City's financial obligation for the arena. Additionally, a mechanism is established to fund future repairs.

BUDGET ACTION REQUIRED: None at this time. If contract is approved, budget amendments will be made during the second quarter reforecast and will include creation of the repair and maintenance fund, adjustments to the budgeted revenues and expenses of the Arena fund reflecting partial year operations under the old contract, and adjustments to the General fund reflecting the new management fee arrangement.

STAFF RECOMMENDATION: Staff recommends approval of the proposed L. C. Walker Arena Management agreement.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the L. C. Walker Arena Management agreement as proposed.

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

Nays: None

MOTION PASSES

B. Muskegon Township Water Billing Agreement. CITY MANAGER

SUMMARY OF REQUEST: To approve a reduction in billing service cost to Muskegon Township from $5,250 a month to $2,625 a month for January, 2006, through May, 2006. This adjustment is due to the fact that Muskegon Township is no longer fully utilizing the City's billing services.

FINANCIAL IMPACT: Reduction in revenues of $15,750.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the request and authorize City staff to execute documents to enter into the change.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the Muskegon Township Water Billing Agreement.

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

Nays: None

MOTION PASSES

C. Variable Frequency Drive Repairs Resulting from Power Surge. WATER FILTRATION

SUMMARY OF REQUEST: Authorize repairs to three variable frequency drives damaged by a power surge. The variable frequency drives control two low service pumps and one recycle pump.

FINANCIAL IMPACT: The repair cost by the manufacturer, Cutler-Hammer, is $86,433.

BUDGET ACTION REQUIRED: The repair cost will require a budget adjustment.

STAFF RECOMMENDATION: Staff recommends proceeding with the repairs to the variable frequency drives at a cost of $86,000.

Motion by Vice Mayor Gawron, second by Commissioner Wierengo to proceed with the repairs to the variable frequency drives at a cost of $86,000.

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

Nays: None

MOTION PASSES

D. Amend the Special Assessment Roll for 2004 Sidewalk Replacement Program. ENGINEERING

SUMMARY OF REQUEST: Amend the 2004 Special Assessment Roll for the 2004 Sidewalk Program (H-1572) project to revise the assessment amount levied against 1421 Wesley (parcel No. 24-611-000-0226-00) from $3,079.43 to $379.04. The original roll which was adopted August 24, 2004, reflected an assessment of $3,079.43 against 1421 Wesley in error. When the original assessment information was generated, a square footage of 750 of sidewalk replacement was entered by mistake instead of the 75 square feet that was actually replaced.

FINANCIAL IMPACT: Reimburse the owner the overage in payment and interest which is estimated at less than $100.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the amended special assessment roll and reimbursement to the owner of 1421 Wesley.

Motion by Commissioner Spataro, second by Commissioner Wierengo to amend the special assessment roll for the 2004 Sidewalk Replacement Program and reimburse the owner of 1421 Wesley.

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

Nays: None

MOTION PASSES

E. **<u>Consideration of Bids: Forest Avenue, Davis to Ruddiman.</u>** ENGINEERING

SUMMARY OF REQUEST: Award the paving, using asphalt material, contract (H-1616) for Forest Avenue, Davis to Ruddiman to Felco Contractors, Inc. since they were the lowest bidder with a bid price of $42,575.20. While Felco is the lowest bidder, he failed to fill out the disadvantage contractor affidavit as part of the bid submittal.

FINANCIAL IMPACT: The construction cost $42,575.20 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Award the contract to Felco Contractors, Inc. if the City Commission desires to waive the bid irregularity of not completing the disadvantage contractor affidavit.

Motion by Vice Mayor Gawron, second by Commissioner Spataro to award the contract to Felco Contractors, Inc., for Forest Avenue, Davis to Ruddiman, and waive the bid irregularity of not completing the disadvantage contractor affidavit.

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

Nays: None

MOTION PASSES

F. **<u>Consideration of Bids: Cherry Street, Wilcox to Thompson.</u>** ENGINEERING

SUMMARY OF REQUEST: Award the paving, using asphalt material, contract (H-1605) for Cherry, Wilcox to Thompson to Felco Contractors, Inc. since they were the lowest bidder with a bid price of $47,869.50. While Felco is the lowest bidder, he failed to fill out the disadvantage contractor affidavit as part of the bid submittal.

FINANCIAL IMPACT: The construction cost $47,869.50 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Award the contract to Felco Contractors, Inc, if the City Commission desires to waive the bid irregularity of not completing the disadvantage contractor affidavit.

Motion by Commissioner Spataro, second by Commissioner Carter to award the contract for Cherry Street, Wilcox to Thompson, to Felco Contractors, Inc., and waive the bid irregularity.

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

Nays: None

MOTION PASSES

2006-27 ANY OTHER BUSINESS:

Discussion continued on: **2006-2007 CDBG/HOME Recommendation and City Commission Preliminary Decision.**

Motion by Commissioner Spataro, second by Commissioner Wierengo to approve the recommendation of the Community Development Block Grant Committee and to make changes on the HOME Fund making HOME Rental Rehabilitation $0, Muskegon County Habitat for Humanity $35,000, and Neighborhood Investment Corporation $70,000.

Motion amended by Commissioner Spataro, second by Commissioner Wierengo to recommend $30,176 to HOME Administration, $100,000 to HOME Tax Reverted Rehabilitation, $25,000 to HOME Rental Rehabilitation, $85,000 to HOME Infill New Construction, $35,000 to Muskegon County Habitat for Humanity, and $70,000 to Neighborhood Investment Corporation.

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

Nays: None

AMENDED MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 8:34 p.m.

Respectfully submitted,

Gail A. Kundinger, MMC
City Clerk