CITY OF MUSKEGON

CITY COMMISSION MEETING

MARCH 11, 2014

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, MI at 5:30 p.m., Tuesday, March 11, 2014.

Mayor Gawron opened the meeting with prayer from Pastor Marcy Miller from Samuel Lutheran 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 Gawron, Vice Mayor Lawrence Spataro, Commissioners Ken Johnson, Eric Hood, Willie German, Dan Rinsema-Sybenga, and Byron Turnquist, City Manager Franklin Peterson, City Attorney John Schrier, and City Clerk Ann Marie Cummings.

HONORS AND AWARDS:

A. West Michigan Trails & Greenways Coalition.

Mayor Gawron presented Kati Santee from the West Michigan Trails & Greenways Coalition a resolution thanking them for the generous donation of $50,000 for a connector project linking the non-motorized Musketawa Trail to the Laketon Trail.

2014-16 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes of the February 7th Goal Setting Meeting, February 10th Commission Worksession Meeting, and the February 11th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Gaming License Request from the Muskegon Irish American Society. CITY CLERK

SUMMARY OF REQUEST: The Muskegon Irish American Society is requesting a resolution recognizing them as a non-profit organization operating in the City for the purpose of obtaining a Gaming License. They have been recognized as a 501(c)(3) organization by the State.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

C. Consideration of Bids for Palmer Reconstruction between McGraft and Southern. ENGINEERING

SUMMARY OF REQUEST: Award the reconstruction of Palmer from McGraft to Southern Avenue contract to Jackson Merkey out of Muskegon Township, MI since they were the lowest responsible bidder with a total bid price of $263,753.

FINANCIAL IMPACT: The construction cost of $263,753 plus engineering.

BUDGET ACTION REQUIRED: None at this time since this project is in the 2013/2014 CIP's.

STAFF RECOMMENDATION: Award the contract to Jackson Merkey.

D. 2014 Pavement Marking Program. PUBLIC WORKS

SUMMARY OF REQUEST: Staff is requesting permission to enter into a one-year contractual agreement with Michigan Pavement Marking (MPM) of Wyoming, Michigan for centerline painting. This contract bid was awarded by the Muskegon County Road Commission and for local agencies in the Muskegon County Pavement Marking Group to enter into with MPM with each member billed separately by MPM for painting services requested.

FINANCIAL IMPACT: Estimated costs for 2014 are $16,000. Approximately $14,794 in 2009, $14,300 in 2010 was spent for centerline painting. Also $20,334 in 2011 was spent for centerline painting/specialty markings with $16,008 in 2012 and $16,999 in 2013 spent for centerline painting, through previous bids/contracts with MCRC and MPM.

BUDGET ACTION REQUIRED: None, contractual work has been budgeted for in the Highway Majors budget.

STAFF RECOMMENDATION: Approve the request to enter into a one-year contract with Michigan Pavement Markings.

E. Management Agreement – Fisherman's Landing. FINANCE

SUMMARY OF REQUEST: Approval of a proposed agreement for management of Fisherman's Landing for the 2014 season. Staff has met with Fisherman's Landing representatives on several occasions to work out details of the agreement. Key provisions of the new agreement:

- Facility to move more towards self-sufficiency and further relieve City of financial obligations;

- A non-disparagement clause was added;
- The agreement terminates at the end of the 2014 season, but no later than November 13, 2014.

Staff believes Fisherman's Landing, Inc. is in the best position to manage the facility and continue to oversee its' operation.

FINANCIAL IMPACT: Estimated $10,000 cost savings to City by additional responsibilities being taken on by Fisherman's Landing manager with the goal of making the facility more self-supporting.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Approval.

F. <u>Fireworks Delegation of Authority Authorization.</u> PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety requests that the City Commission review and authorize the *<u>"Fireworks Delegation of Authority Authorization Pursuant to PA 256".</u>*

The Bureau of Fire Services is seeking for departments that are interested in applying for inspection delegation for consumer fireworks sales facilities (CFRS) under Section 19 of 2011 PA 256. The delegation is for one year. The fire department would be responsible to conduct inspections of the permanent and temporary CFRS location within its jurisdiction (City of Muskegon). Entities (MUFD) that elect to have delegation will receive 80% of the application fee paid for the consumer fireworks certificate ($700 for permanent and $420 for temporary).

Currently MUFD has two trained "certified fire inspectors" that are qualified to perform this job task. Application will be made upon the acceptance by City Commission.

FINANCIAL IMPACT: Positive financial impact as fees are paid to conduct inspections.

BUDGET ACTION REQUIRED: N/A.

STAFF RECOMMENDATION: Staff recommends reapproving and performing delegation inspections.

G. <u>River Barges to Muskegon Port – Letter of Support.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Legislation has been introduced to allow river barge traffic to enter the Muskegon Port. Currently, similar river bare traffic has access to the Wisconsin ports, but not West Michigan ports. If river barge traffic is allowed to enter the Muskegon ports, a drastic increase in export and import will be available to the Muskegon area (including the shipment of goods such as aggregate and alternative energy products into Muskegon and the shipment of agricultural goods out of Muskegon).

FINANCIAL IMPACT: The future potential for the Muskegon area to benefit from both import and export of goods through river barge traffic could be significant.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the letter of support for "Coast Guard Proposed Rulemaking USCG-2013-0954 directed to the Director of Governmental and Public Affairs, US Coast Guard Headquarters and to authorize the Mayor's signature.

H. 2014, 2015 and 2016 Street Sweeping Contract. PUBLIC WORKS

SUMMARY OF REQUEST: To award a three-year contract to provide four annual street sweepings to Tri-Us Services, Inc., 78 N. Ball Creek Rd., Kent City, MI 49330.

FINANCIAL IMPACT: Cost will be $202,135.50 each year; $606,406.50 over the course of the contract. Excludes special requests charged at $125/hour.

BUDGET ACTION REQUIRED: None, monies appropriated in Highway and State Trunkline budgets.

STAFF RECOMMENDATION: Approval of this request.

I. City – MDOT Agreement for the Reconstruction of Ramp Connecting Apple Avenue (M-46) to Northbound US-31. ENGINEERING

SUMMARY OF REQUEST: Approve the contract with MDOT for the reconstruction of the on-ramp from Apple to northbound US-31 and approve the resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT: The City's participation is limited to 8.75% of the State's share as required by ACT 51 which is estimated at $15,650.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Approve the contract and resolution authorizing the Mayor and Clerk to sign both.

J. Watermain Purchase and Installation. PUBLIC WORKS

SUMMARY OF REQUEST: Authorize staff to purchase 8 inch watermain pipe and appurtenances from Michigan Pipe & Valve to install a new 8 inch watermain to the Harris development at 1601 Beach Street. The developer will pay for all materials and the City of Muskegon Water Department will install the watermain using our in-house workforce and equipment.

FINANCIAL IMPACT: The estimated cost of materials $27,428 (Developer will reimburse).

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve watermain material purchase from Michigan Pipe & Valve for the estimated amount of $27,428.

N. Resolution to Place an Emergency Moratorium on the Establishment of Medical Marijuana Facilities. CITY CLERK

SUMMARY OF REQUEST: To adopt the resolution placing an emergency moratorium on the establishment of medical marijuana facilities for the next 120 days allowing staff to update the current ordinance based on recent court rulings.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

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

O. Appointment to Civil Service Commission. CITY CLERK

SUMMARY OF REQUEST: Appoint Pamela Lynk to the Civil Service Commission.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Appointment of Pamela Lynk.

COMMITTEE RECOMMENDATION: The Community Relations Committee recommended the appointment at their March 10th meeting.

Motion by Vice Mayor Spataro, second by Commissioner Hood to approve the Consent Agenda as read with the exception of items K, L and M.

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

Nays: None

MOTION PASSES

2014-17 ITEMS REMOVED FROM THE CONSENT AGENDA:

K. Participation Agreement for Nims Neighborhood Playground. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Staff has been working with Nims Neighborhood (“Neighborhood”) and Muskegon Public Schools (“MPS”) to designate a parcel of property on the former Nims School site for a playground for the neighborhood. When the school closed a few years ago, the play equipment was removed. There are no other playgrounds in close proximity to much of the neighborhood. Therefore, MPS has agreed to donate a parcel of property to the City of Muskegon (“City”), who will then enter into an agreement with the Neighborhood to construct and maintain a playground on the property. At this time, it is not absolutely certain where the playground will be located on the property. Therefore, the "Participation Agreement" has been prepared (and approved and signed by MPS), which will allow the Neighborhood to have an assurance of property control for the future playground (needed for grant applications).

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the "Participation Agreement" and authorize the Vice-Mayor's signature.

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Spataro to approve the participation agreement for Nims Neighborhood playground.

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

Nays: None

MOTION PASSES

L. <u>SECOND READING: PILOT Request (Nelson Place) – Ordinance Amendment.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Joe Hollander of Hollander Development Corporation (a partner in Nelson Place Limited Dividend Housing Association Limited Partnership), is seeking new financing for Nelson Place. There is currently a Payment in Lieu of Taxes (PILOT) for Nelson Place which was executed on March 26, 1996. Mr. Hollander intends to refinance the existing high-interest loan from MSHDA with a lower interest rate loan from another lender. However, the existing PILOT Ordinance for Nelson Place terminates the exemption upon refinancing. Therefore, an amendment to the current Ordinance is being requested to allow for the continuation of the PILOT after refinancing. Mr. Hollander intends to continue with the present rent restrictions and income limits (with no dislocation of existing tenants). There will be no significant change to the existing PILOT (length of Contract, PILOT payment). In addition, Nelson Neighborhood Improvement Association will be paid back for a portion of their initial investment in the property. The Commission will review and vote on the Ordinance Amendment at the March 10, 2014 Work Session. It is likely that a second reading will be necessary on March 11, 2014.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: If the City Commission agrees that the continuation of the PILOT is necessary for this property, staff recommends that the Ordinance amendment be approved and the Clerk be authorized to sign the necessary documents.

(Voted on with next item).

M. <u>PILOT Request (Nelson Place) – Contract Amendment.</u> PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The PILOT Contract between Nelson Place Limited Dividend Housing Association Limited Partnership ("Nelson Place") and the City of Muskegon ("City") was executed on March 26, 1996. Nelson Place is in the process of refinancing their mortgage. To do so, they must have the Contract amended. The length of the PILOT, as well as the PILOT payment, remain the same.

FINANCIAL IMPACT: The terms remain the same.

BUDGET ACTION REQUIRED: None.

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

Motion by Commissioner Johnson, second by Commissioner German to approve the PILOT request ordinance amendment and the contract amendment for Nelson Place.

ROLL VOTE: Ayes: German, Turnquist, Johnson, Gawron, and Hood

Nays: None

Abstain: Spataro and Rinsema-Sybenga

MOTION PASSES

2014-18 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 21, 2014, 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 to hear and consider any comments from the public. No comments were made.

Motion by Vice Mayor Spataro, second by Commissioner Hood to close the Public Hearing and adopt the 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.

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

Nays: None

MOTION PASSES

2014-19 UNFINISHED BUSINESS:

A. To Forward Case #EN130182 (1780 Jarman) Back to the Housing Board of Appeals for Oversight of the Rehabilitation of the Property. PUBLIC SAFETY

SUMMARY OF REQUEST: This is to request that the City Commission consider forwarding case #EN130182 back to the Housing Board of Appeals to monitor progress and repairs to the structure located at 1780 Jarman Street. Owner, Linda Jones, and/or representatives have been in contact with SAFEbuilt building official/staff to rehabilitate the home. SAFEbuilt Building Official, Krik Briggs, reports that Ms. Jones has applied for applicable building permits and submitted a "rough" timeline which will be considered and presented to the HBA upon approval.

FINANCIAL IMPACT: CDBG Funds.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To forward case #EN130182 back to the HBA for oversight (repairs, rehabilitation and timeline monitoring), and not to approve demolition of the property known as 1780 Jarman Street.

Motion by Commissioner Johnson, second by Commissioner German to forward case #EN130182 back to the HBA for oversight, and not to approve demolition of the property known as 1780 Jarman Street.

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

Nays: None

MOTION PASSES

2014-20 NEW BUSINESS:

A. Approval of Sale of City-Owned Home at 218 Catherine. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution and instruct the Community & Neighborhood Services Department to complete the sales transaction between Brooks Jr. and Quentina Dawson for the totally rehabilitated home at 218 Catherine, which is part of the City's HOME Infill program through the U. S. Department of Housing and Urban Development. Mr. and Mrs. Dawson's purchase price is $49,900.

FINANCIAL IMPACT: The proceeds from the sale will be used to continue the rehabilitation of vacant houses through the HOME program to sustain our current investments to stabilize and revitalize neighborhoods.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and direct the CNS staff to complete the sale.

Motion by Commissioner German, second by Vice Mayor Spataro to approve the resolution and direct the CNS staff to complete the sale of 218 Catherine.

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

Nays: None

MOTION PASSES

B. <u>Approval of Sale of City-Owned Home at 553 Octavius.</u> COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution and instruct the Community & Neighborhood Services Department to complete the sales transaction between Mr. Robert G. Parker for the totally rehabilitated home at 553 Octavius Street, which is part of the City's HOME Infill program through the U. S. Department of Housing and Urban Development. Mr. Parker's purchase price is $63,000.

FINANCIAL IMPACT: The proceeds from the sale will be used to continue the rehabilitation of vacant houses through the HOME program to sustain our current investments to stabilize and revitalize neighborhoods.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and direct the CNS staff to complete the sale.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Hood to approve the resolution and direct the CNS staff to complete the sale of 553 Octavius.

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

Nays: None

MOTION PASSES

C. <u>Approval of Sale of City-Owned Home at 1733 Manz.</u> COMMUNITY &

NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution and instruct the Community & Neighborhood Services Department to complete the sales transaction between Aryana Stewart for the newly rehabbed home at 1733 Manz Street, which is part of the City's Neighborhood Stabilization Program (NSP) through the Michigan State Housing Development Authority Office of Community Development. Ms. Stewart's purchase price is $40,000.

FINANCIAL IMPACT: The proceeds from the sale will be used to pay off remaining NSP debt.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and direct the CNS staff to complete the sale.

Motion by Vice Mayor Spataro, second by Commissioner German to approve the resolution and direct the CNS staff to complete the sale of 1733 Manz Street.

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

Nays: None

MOTION PASSES

D. **Sidewalk Snow Removal Ordinance Amendment – Revised.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The City of Muskegon currently has a snow removal ordinance for sidewalks. However, it is not practical to administer. Therefore, an amendment to the Ordinance is recommended to allow for actual enforcement of the Ordinance. The major changes are to require snow to be removed from sidewalks within 24 hours after the cessation of any storm depositing snow on the sidewalk, and to allow for employees other than police officers, authorized by the City Manager, to enforce the provisions of the Ordinance. In addition, since the February 11 Commission meeting, the draft ordinance has been amended to read, "within twenty-four (24) hours after the cessation of any storm depositing snow on the sidewalk abutting the property **or as soon as practical,** clear the snow from the sidewalk". This allows for discretion, depending on the weather conditions.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Ordinance Amendment for "Removal of Snow and Ice from Sidewalks" and authorize the Clerk's signature.

Motion by Commissioner German, second by Commissioner Hood to approve the ordinance amendment for "Removal of Snow and Ice from Sidewalks" and

authorize the Clerk's signature.

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

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Public comments were received.

ADJOURNMENT: The City Commission Meeting adjourned at 6:15 pm.

Respectfully submitted,

Ann Marie Cummings, MMC
City Clerk