

CITY OF MUSKEGON

CITY COMMISSION MEETING

FEBRUARY 8, 2022 @ 5:30 P.M.

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

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, February 8, 2022. Commissioner Rachel Gorman, opened the meeting with prayer, after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Ken Johnson, Commissioners, Teresa Emory, Rachel Gorman, Rebecca St.Clair, and Michael Ramsey, City Manager Franklin Peterson, City Attorney John Schrier, and City Clerk Ann Marie Meisch.

Absent: Vice Mayor Willie German, Jr. and Commissioner Eric Hood

PUBLIC COMMENT ON AGENDA ITEMS:

2022-11 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the January 10, 2022 Worksession Meeting and the January 11, 2022 Regular Meeting.

STAFF RECOMMENDATION: To approve the minutes.

B. Off-Premise Tasting Room Permit – Pigeon Hill Brewing City Clerk

SUMMARY OF REQUEST: To consider approval of a resolution for a new Off-Premises Tasting Room Permit for Pigeon Hill Brewing.

In order to add wine to the offerings at 441 W. Western, Pigeon Hill is seeking approval of a new permit for an Off-Premise Tasting Room Permit. Despite what the name might seem to imply, it is referring to “off the manufacturing premises” – and would allow Pigeon Hill to sell on-site for on-site consumption (and takeaway/social district). This permit specifically allows Pigeon Hill to use it’s existing small wine makers license (located at 895 4th Street) as the source of wine for the forthcoming restaurant/entertainment on Western. Pigeon Hill is already licensed for beer and spirits at the location so this only relates to wine.

STAFF RECOMMENDATION: To adopt the resolution for a new Off-Premises Tasting Room Permit for Pigeon Hill Brewing, 441 W. Western Avenue, Muskegon,

MI 49440.

C. 2022 User Fee Update Finance

SUMMARY OF REQUEST: City Departments have reviewed and updated their user fees and these have been incorporated in the Master Fee Resolution.

The City of Muskegon has, in the past, adopted resolutions from time to time which set fees for various services in the City.

In addition to the specifically adopted resolution fees, there are fees which are charged pursuant to ordinances and codes as well as the fees which are charged in the exercise of various other functions of the City which serve the public.

The City Commission has reviewed all of the fees which are charged from time to time pursuant to resolution, ordinance and in the affording of services to and for the public, and has determined to adopt the resolution of a comprehensive schedule of fees called the Master Fee Resolution.

STAFF RECOMMENDATION: Approval of the 2022 Master Fee Resolution.

D. Roberts Street Elevated Tank Painting Public Works – Filtration

SUMMARY OF REQUEST: Staff is requesting authorization to contract with Dixon Engineering for professional services related to painting and repairing the Roberts Street elevated tank.

The Roberts Street elevated tank, located at the corner of Roberts and Lawrence in the Marquette neighborhood, is a critical component of the City's water system. The exterior and interior coatings on the tank are beyond their expected lifetimes. A 2019 inspection found deterioration and delamination on both the exterior and interior coatings. The exterior needs a completely new overcoat, while the interior needs to be patched at various points of failure. Other minor modifications to the tank are required to bring it into compliance with safety standards and drinking water regulations.

Staff worked with Dixon Engineering on a proposal for professional services to oversee the design, bidding, construction, and post-construction phases of the Roberts Street elevated tank project. Dixon has extensive knowledge of the City's elevated tanks from performing multiple inspections and managing numerous repair projects on all three of the city's elevated tanks, so bids were not solicited for the professional services portion of this project. Bids for the construction portion of this project will be brought back to the Commission for consideration after they are received. This project is included in the FY 2021-2022 capital improvement budget.

AMOUNT REQUESTED: \$47,000 AMOUNT BUDGETED: \$400,000

FUND OR ACCOUNT: 591-92035-5346

STAFF RECOMMENDATION: Authorize staff to contract with Dixon Engineering in the amount of \$47,000 for professional services to oversee the painting and repairs of the Roberts Street elevated tank.

E. As-Needed Forestry Services Public Works

SUMMARY OF REQUEST: Staff is requesting authorization to award a contract to Andy's Tree Service to provide \$75,000 of As-Needed Forestry Services within the City.

The City Commission allocated \$75,000 towards Contractual Forestry Work under line 101-70771-5300 in the 21/22 Fiscal Year. The Commission had previously (9/14/21) approved an extension of the previous contract with CHOP, Inc. CHOP, Inc. is not available to fulfill this service during the required timeframe and staff is seeking to move forward to develop a contract with Andy's Tree Service.

CHOP, Inc. contacted DPW staff to inform them that they would not have time to accomplish work for the City within the optimal timeframe to minimize the risk of spreading Oak Wilt as a result of staffing shortages and other work commitments. As such staff solicited bids and availability from four (4) other forestry providers to determine who else might be available to perform work during the available Oak Wilt timeframe. Two (2) providers were available and provided bids.

Both bids were comparable to the pricing provided by CHOP for similar services.

CHOP is headquartered in Kent County while both of the new bidders are located within Muskegon County.

This represents a deviation from the purchasing policy in that formal open competitive bids were not solicited as the time required would have pushed the contract approval out of the optimal window for Oak Wilt work. Staff worked to follow the lower tier purchasing policy guidance in obtaining three written quotes for the work to still ensure a competitive nature to the bidding.

Staff is recommending that a contract be awarded to the low bidder (Andy's Tree Service).

If funding is approved for the continuation of this service in FY22/23 staff will repost for open competitive bidding.

AMOUNT REQUESTED: \$75,000 AMOUNT BUDGETED: \$75,000

FUND OR ACCOUNT: 101-70771-5300

STAFF RECOMMENDATION: Authorize staff to cancel the previously approved contract extension with CHOP, Inc. and negotiate a contract with Andy's Tree Service in the amount of \$75,000 for completion of As-Needed Forestry Services during the 21/22 Fiscal Year.

F. Arena Restrooms, ADA Improvements City Manager

SUMMARY OF REQUEST: Staff is seeking approval to enter into a design build agreement with Spark 43 to design and construct ADA egress, public restrooms, storage and alley/utility improvements at the Mercy Health Arena.

Staff has been working to develop a long-term solution to three downtown issues: large-capacity public restrooms for special events and daily visitors, ADA egress from the west side of the arena, and capacity to replace the arena's storage that was lost in a windstorm in 2015 (https://www.mlive.com/news/muskegon/2015/04/lc_walker_arena_officials_tryi.html).

If approved, this plan will help address all three issues. The construction would create ADA access from Western Avenue using the small alleyway between the arena and the CIO Hall. The walkway would consist of a ramp connecting Western Avenue to the egress doors on the Arena's western façade. Currently, all occupants utilizing that egress point must exit via a steep set of stairs constructed 50+ years ago. As part of the ramp construction, we will gain barrier-free entry to the arena's new restrooms directly from the exterior of the arena. This will allow the arena restrooms to be accessed by the general public without entering the arena. Additionally, as part of the new ramped egress, a storage area approximately 20 feet x 25 feet will be created to help store important arena assets like football/soccer turf, floor coverings, etc. The project would also include replacing the stormwater, sanitary sewers, and watermains in the alley.

Note that the costs are based on engineers estimates, and all trades will be hard-bid to meet the City's purchasing policies. We are proposing to use ARPA for the non-utility improvements, and the utility funds for the corresponding utility improvements.

AMOUNT REQUESTED: \$750,000

FUND OR ACCOUNT: State/Federal Grants

STAFF RECOMMENDATION: Accept the proposal from Spark 43 and authorize the expenditures not to exceed \$750,000, inclusive of design and contingencies.

G. Purchase of Billboard Space from Lamar Advertising Planning

SUMMARY OF REQUEST: Request to purchase up to \$13,720 in billboard advertisements as part of the city's community outreach for safe marihuana consumption.

The City received \$112,000 last year from excise tax from marihuana sales. 35% of that money (\$39,200) is to be allocated for the Muskegon Social Equity Program. 35% of that money (\$13,720) is to be spent on education and community outreach for responsible marihuana consumption related to harm reduction. Please see the advertisement renderings to choose from as well as the quote from Lamar Advertising. The quote lists panels of information for each potential location. Each panel includes a start date, rate per cycle, and a one-time production fee. A cycle is 28 days long so most of the quotes are for four cycles.

Staff Recommendation one includes \$3,000 for Provisioning Center Bags, \$5,500 for Industrial Park Message Board (11 months), and \$5000 for Arena Message Board (10 months), for a total of \$13,500.

Staff Recommendation two includes \$3,000 for Provisioning Center Bags, \$6,000 for Industrial Park Message Board and \$4,808 for billboard location #2, for a total of \$13,808.

AMOUNT REQUESTED: Up to \$13,720

FUND OR ACCOUNT: General Fund

STAFF RECOMMENDATION: To approve staff recommendation number one of the marihuana educational campaign.

H. Precinct Boundary Changes City Clerk

SUMMARY OF REQUEST: Following the 2020 Census, State of Michigan Redistricting, and County Reapportionment, we are requesting changes to some precinct boundaries in order to better balance the number of registered voters in each ward.

Due to the timeline for getting changes submitted to the State of Michigan, Bureau of Election, we are seeking approval of the changes so that we can submit our revisions as soon as possible.

The deadline to file ballot wording of proposals qualified to appear on the May 3, 2022 ballot is February 8, 2022 and we have been told to expect the MAISD to file.

The deadline for precinct boundary changes to be submitted for the May 3, 2022 Election is March 4, 2022. The deadline for precinct boundary changes to be submitted for the August 2, 2022 Primary is April 4, 2022. We would like to have the changes made before the May Election to allow for time to send new voter ID cards to voters in the City of Muskegon. Approximately 721 voters will be assigned to new precincts and polling places. All voters will receive new ID cards to identify changes to Precinct, Ward, Polling Place, County Commission District, State House District, State Senate District, and Congressional District numbers.

Change #1 – move approximately 164 voters from Ward 3 Precinct 10 to Ward 2 Precinct 7 – these are voters at 550 W. Western, the Amazon Building. (These voters are supposed to be in precinct 7, this is a correction that needs to be made anyway.)

Change #2 – move approximately 299 voters from Ward 1 Precinct 2 to Ward 2 Precinct 5 – these are voters in an area West of Getty between Brusse and Marcoux. This helps with balancing the number of registered voters per ward as well as making a clearer, more concise boundary line.

Change #3 – move approximately 33 voters from Ward 4 Precinct 11 to Ward 3 Precinct 9 – these are voters in an area East of Glade between Laketon and Hackley. This helps with balancing the number of registered voters per ward as well as making a clearer, more concise boundary line.

Change #4 – move approximately 225 voters from Ward 4 Precinct 12 to Ward 3 Precinct 10 – these are voters in an area South of Laketon, Northwest of Ruddiman Creek. This helps with balancing the number of registered voters per ward as well as making a clearer, more concise boundary line.

STAFF RECOMMENDATION: To concur with the recommendation of the City of Muskegon Election Commission and adopt the resolution to alter precinct boundaries.

I. CRC Recommendations City Clerk

SUMMARY OF REQUEST: To concur with the CRC recommendations to make appointments. The CRC recommends the following:

- Lakeside Business Improvement District – Allen Serio and Melanie Lyonnais (Assessed property owners or their representatives) – terms expiring 1/31/2025
- Citizen's District Council – Veania Coleman (Citizen at-large) – term expiring 1/25/2022

STAFF RECOMMENDATION: To concur with the recommendation of the CRC to accept the appointments to the Lakeside Business Improvement District and the Citizen's District Council.

Motion by Commissioner Ramsey, second by Commissioner Gorman, to accept the consent agenda as presented.

ROLL VOTE: Ayes: Emory, St.Clair, Johnson, Ramsey, and Gorman

Nays: None

MOTION PASSES

2022-12 UNFINISHED BUSINESS:

A. Amendment to the Form Based Code – 2nd Reading Planning

SUMMARY OF REQUEST: Staff initiated request to amend the Form Based Code, Urban Residential and Lakeside Residential context areas of the zoning ordinance to reduce the minimum side setback (at non-street locations) requirement from six feet to five feet and reduce the side build-to-zone (at side street) from 10-25 feet to 5-25 feet.

The Planning Commission recommended in favor of the request by a 6-1 vote.

STAFF RECOMMENDATION: To approve the request to amend the Form Based Code, Urban Residential and Lakeside Residential context areas of the zoning ordinance to reduce the minimum side setback (at non-street locations) requirements from six feet to five feet and reduce the side build-to-zone (at side street) from 10-25 feet to 5-25 feet.

Motion by Commissioner Gorman, second by Commissioner Ramsey, to approve the request to amend the Form Based Code, Urban Residential and Lakeside Residential context areas of the zoning ordinance to reduce the minimum side setback (at non-street locations) requirements from six feet to five feet and reduce the side build-to-zone (at side street) from 10-25 feet to 5-25 feet.

ROLL VOTE: Ayes: St.Clair, Johnson, Ramsey, and Gorman

Nays: Emory

MOTION PASSES

2022-13 NEW BUSINESS:

A. HBA Demolitions – 275 Myrtle, 1470 Samburt, and 561 Catherine Public Safety

SUMMARY OF REQUEST: The Housing Board of Appeals approved the demolition of 275 Myrtle, 1470 Samburt, and 561 Catherine.

This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures located at 275 Myrtle, 1470 Samburt, and 561 Catherine are unsafe, substandard, a public nuisance and that they be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structures and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder or staff may issue infraction tickets to the owner, agent, or responsible party if they do not demolish the structure.

FUND OR ACCOUNT: 101-80387-5356

STAFF RECOMMENDATION: To concur with the Housing Board of appeals to demolish 275 Myrtle, 1470 Samburt, and 561 Catherine and approval from commission to accept bids on this demolition.

Motion by Commissioner Ramsey, second by Commissioner Gorman, to concur with the Housing Board of Appeals decision to demolish 275 Myrtle and 1470 Samburt and approval from commission to accept bids on this demolition.

ROLL VOTE: Ayes: Johnson, Ramsey, Gorman, Emory, and St.Clair

Nays: None

MOTION PASSES

Motion by Commissioner St.Clair, second by Commissioner Emory, to concur with the Housing Board of Appeals decision to demolish 561 Catherine and approval from commission to accept bids on this demolition.

ROLL VOTE: Ayes: Ramsey, Gorman, Emory, St.Clair, and Johnson

Nays: None

MOTION PASSES

B. Amendment to the Marihuana Facilities Overlay District – 1314 E Apple Avenue Planning

SUMMARY OF REQUEST: Request to amend Section 2331 of the zoning ordinance to include 1314 E Apple Avenue into the Marihuana Facilities overlay District with retail, provision centers and class B recreational grows as approved license types, by Lake Michigan Labs.

The Planning Commission recommended approval of this request by a 6-1 vote.

STAFF RECOMMENDATION: To approve the request to amend Section 2331 of the zoning ordinance to include 1314 E Apple Avenue into the Marihuana Facilities Overlay District with retail, provision centers and class B recreational grows as approved license types.

Motion by Commissioner St.Clair, second by Commissioner Emory, to approve the request to amend Section 2331 of the zoning ordinance to include 1314 E Apple Avenue into the Marihuana Facilities Overlay District with retail, provision centers and class B recreational grows as approved license types.

ROLL VOTE: Ayes: Ramsey, Gorman, Emory, St.Clair, and Johnson

Nays: None

MOTION PASSES

SECOND READING REQUIRED

ANY OTHER BUSINESS: Commissioner Gorman asked about the goal setting meeting. The goal setting meeting has been tentatively scheduled for April 15, 2022. Mayor Johnson distributed copies of a Climate Emergency Resolution adopted by the City of Montague for Commissioners to review for consideration of adopting the same or similar resolution at the upcoming Legislative Policy Committee Meeting.

PUBLIC COMMENT ON NON-AGENDA ITEMS: Public Comments were received.

ADJOURNMENT: The City Commission meeting adjourned at 7:20 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk