CITY OF MUSKEGON

CITY COMMISSION MEETING

JANUARY 26, 2021 @ 5:30 P.M.

MUSKEGON CITY COMMISSION CHAMBERS

933 TERRACE STREET, MUSKEGON, MI 49440

REMOTE MEETING

MINUTES

The Regular Commission Meeting of the City of Muskegon was held electronically with the Vice Mayor and Commissioners participating via Zoom – a remote conferencing service, Clerk staff present at 933 Terrace Street, Muskegon, MI at 5:30 p.m., Tuesday, January 26, 2021.

ROLL CALL FOR THE REGUAR COMMISSION MEETING:

Present: Mayor Stephen J. Gawron (Muskegon, MI), Vice Mayor Eric Hood (Muskegon, MI), Commissioners Ken Johnson (Muskegon, MI), Dan Rinsema-Sybenga (Muskegon, MI), Willie German, Jr. (Muskegon, MI), Teresa Emory (Muskegon, MI), and Michael Ramsey (Muskegon, MI), City Manager Frank Peterson, City Attorney John Schrier, and City Clerk Ann Meisch.

PUBLIC COMMENT ON AN AGENDA ITEM: Public comments were received.

2021-07 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the January 11, 2021 Worksession and January 12, 2021 Regular City Commission Meetings.

STAFF RECOMMENDATION: To approve the minutes.

B. Deficit Elimination Plan – Public Improvement Fund Finance

SUMMARY OF REQUEST: To approve the resolution and direct staff to submit the Deficit Elimination Plan for the Public Improvement Fund to the State of Michigan.

On June 30, 2020 the Public Improvement Fund was in a deficit of $1,601.331. Act 275 of the Public Acts of 1980 requires the City to formulate a deficit elimination plan and file it with the Michigan Department of Treasury. The deficit elimination plan and resolution for the Public Improvement Fund is attached.

STAFF RECOMMENDATION: To approve the deficit elimination resolution for the Public Improvement Fund.

C. Deficit Elimination Plan – Sewer Fund Finance

SUMMARY OF REQUEST: To approve the Deficit Elimination plan and resolution for the Sewer Fund and direct staff to submit plan to the State of Michigan.

On June 30, 2020 the Sewer Fund had a $3,595,965 deficit unrestricted net position. Act 275 of Public Acts of 1980 requires the City to formulate a deficit elimination plan and submit it to the Michigan Department of Treasury. The deficit elimination plan and resolution for the Sewer Fund are attached.

STAFF RECOMMENDATION: To approve the deficit elimination resolution for the Sewer Fund.

E. <u>Annex Lease Extension – Mercy Health</u> City Manager

SUMMARY OF REQUEST: City staff is seeking authorization to extend the lease agreement with Mercy Health at the Arena Annex Building for one additional year. Mercy Health currently leases space for a sports rehabilitation and physical therapy office. Mercy Health has occupied the space for five years. The city assumed the lease in 2018 when Ima Jam, Inc. terminated their master lease with the City. Mercy is seeking to extend their lease for an additional year. The lease agreement, in combination with a licensing agreement allowing Mercy staff to train patients in the facility, generates between $50,000 and $75,000 annually for the facility.

STAFF RECOMMENDATION: Approve the lease extension and authorize the City Manager to sign.

H. <u>City Hall Building HVAC Controls</u> Public Works

SUMMARY OF REQUEST: Authorize staff to approve a contract with Smart Building Services (SBS) to replace and upgrade the failing City Hall HVAC control system.

The existing heating and cooling control system for City Hall is old, obsolete, and becoming unreliable. Pars are no longer readily available for it and it does not allow newer technologies to be utilized, like texting and emailing alarms.

Three proposals were collected by staff for a budgeted upgrade to the system. The proposal from SBS though not the low bidder is being recommended by staff as the best value system. The proposal from SBS includes open source software, and a non-proprietary control system, which is preferred by staff. In addition, the SBS proposal includes the work to apply for and work on the City's behalf for rebates from DTE and Consumers Energy. The SBS proposal also includes training and warranty allocations not mentioned in the other proposals.

In addition, SBS included Alternate #1, which includes a Smart Energy Management System (EMS) Server. This server could be used in the future as a central location for monitoring and controlling other city owned buildings allowing for further improvements. Staff is also recommending acceptance of the Alternate bid item.

Base Bid Quotes were received as follows:

Smart Building Services:	**$39,764.00 – REBATE ($21,482) = NET $18,282**
Johnson Controls:	**$32,379.00 – REBATE ($17,610) = NET $14,769**
Control Resource:	**$84,400 – REBATE ($21,400) = NET $63,000**

AMOUNT REQUESTED: $42,264 AMOUNT BUDGETED: $60,000

FUND OR ACCOUNT: 101-92019-5346

STAFF RECOMMENDATION: Authorize staff to approve the proposal from SBS inclusive of Alternate #001 for removal, purchase and installation of new HVAC Control System for City Hall Building, provided that no contract will be signed or paid until SBS has secured applicable rebates from Consumers Energy and DTE Energy on behalf of the City.

I. <u>Social District Permit Recommendation</u> Economic Development

SUMMARY OF REQUEST: The City Commission must recommend approval of the Michigan Liquor Control Commission permits of participating licensed establishments in the Downtown Muskegon Social District.

With the establishment of the Downtown Muskegon Social District, participating licensed establishments must receive a Social District permit from the Michigan Liquor Control Commission. The MLCC must first receive a recommendation for approval from the City Commission before granting the permits. You handled the initial eight such request at your August 25 and September 8, 2020 meetings and added others since. The attached resolution is for the City's Muskegon Farmers Market and Mercy Health Arena which are also seeking a Social District permit from the state and seeking City Commission recommended approval. The Social District plan identifies 22 potential participating licensees within the district. Other licensed establishments may file a Social District permit application in the future.

STAFF RECOMMENDATION: To approve the resolution recommending Michigan Liquor Control Commission approval of Social District permits in the Downtown Muskegon Social District and to direct the City Clerk to certify the City Commission action with the MLCC.

Motion by Commissioner Johnson, second by Commissioner Ramsey, to approve the consent agenda as presented, minus items D, F, and G.

ROLL VOTE: Ayes: German, Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, and Ramsey

Nays: None

MOTION PASSES

2021-08 REMOVED FROM CONSENT AGENDA:

D. Sale – 275 Mason Avenue City Manager

SUMMARY OF REQUEST: City staff is seeking authorization to sell the city-owned home at 275 Mason to Chad Huisman and Alyssa Hamelin. The city constructed this house as part of the phase two of our infill housing program. Our contract to construct the home was $197,464. We also anticipated $11,844 in sales commissions. The accepted purchase price is $189,900, and the incurred sales commissions are $10,800. The City will contribute $5,000 toward closing costs.

STAFF RECOMMENDATION: Authorize the City Manager to complete the sale of 275 Mason Avenue, as described in the purchase agreement.

Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to authorize the City Manager to complete the sale of 275 Mason Avenue, as described in the purchase agreement.

ROLL VOTE: Ayes: German, Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, and Ramsey

Nays: None

MOTION PASSES

F. Environmental Work – Former Farmers Market Site City Manager

SUMMARY OF REQUEST: Staff is seeking approval to hire Soils and Structures to provide geotechnical investigation services at the former farmers markets site.

This site was originally included in a city pilot program to build a mix of housing types to attract residents at various income levels. The original plan called for 53+ rental units – some single-family structures and some multi-family structures. In an effort to meet the community's goal of focusing on single family houses in lieu of duplexes and multiplexes, the proposed program has been scaled back to include a total of 21 single family houses and no duplexes or multiplexes.

As part of this change, we are focusing greater attention on the soil quality of the remaining building sites before moving forward with the project. Staff has received pricing from two well-qualified environmental service providers that have significant history working on the site. The lowest responsible bidder was Soils and Structures at $15,890.00. The work will be qualified for reimbursement in the scattered site brownfield program.

AMOUNT REQUESTED: $15,890.00 **AMOUNT BUDGETED:** $0

FUND OR ACCOUNT: Brownfield

STAFF RECOMMENDATION: Approve the expense of $15,890 to complete geotechnical investigation services at the former farmers market site.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to approve the expense of $15,890 to complete geotechnical investigation services at the former farmers market site.

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

Nays: Emory

MOTION PASSES

G. <u>Management Agreement – Watermark</u> City Manager

SUMMARY OF REQUEST: City Staff is proposing the attached development agreement with the developers of the Watermark Center.

The developer is seeking to add additional marijuana-related uses to the three-parcel development site. The goal of addition of the marijuana uses is to attract an anchor tenant for the industrial components of the building and leverage funding for the renovation of the mixed-use residential portions of the property. Staff feels that this is the best opportunity to ensure redevelopment of the site. The proposed development agreement sets timelines for redevelopment of the site, standards for job creation, and minimums for investment value. The project is expected to generate a $40 Million investment and save the structures from further decline. The City will have the ability to impose a consent special assessment on the property in the event that the develop fails to meet the terms of the agreement.

STAFF RECOMMENDATION: Authorize the City Manager to sign the development agreement.

Motion by Commissioner German, second by Commissioner Rinsema-Sybenga, to authorize the City Manager to sign the development agreement.

<u>Amendment</u>: Motion to amend the development agreement to remove recitals from 1330 Division.

ROLL VOTE: Ayes: Gawron, Hood, Ramsey, German, Rinsema-Sybenga, Emory, and Johnson

Nays: None

MOTION PASSES

<u>VOTE ON ORIGINAL MOTION:</u>

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Ramsey, Rinsema-Sybenga, and Emory

Nays: German

MOTION PASSES

2021-09 UNFINISHED BUSINESS:

A. <u>Amendment to the Marihuana Facilities Overlay District – 965 W Western, 920 Washington Ave, and 1330 Division St</u> Planning – 2nd Reading

SUMMARY OF REQUEST: Request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for Growing, Processing and Provisioning/Retail license types at 965 W Western Avenue, 920 Washington Avenue and 1330 Division Street by P & G Holdings, LLC

After discussing at the Planning Commission meeting, the applicant agreed that they did not need to include 1330 Division Street as part of the request.

A motion to request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for Growing, Processing and Provisioning/Retail license types at 965 W Western Avenue and 920 Washington Avenue be recommended to the City Commission for approval. The motion was amended to include a recommendation that the approval be reviewed in 24 months to allow staff or the Planning Commission to consider revocation of the zoning approval if the condo development had not proceeded as stated. The motion was approved by a 6-3 vote.

STAFF RECOMMENDATION: To approve the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for Growing, Processing and Provisioning/Retail license types at 965 W Western Avenue and 920 Washington Avenue by P & G Holdings, LLC.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Emory, to approve the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for Growing, Processing and Provisioning/Retail license types at 965 W Western and 920 Washington Avenue by P & G Holdings, LLC.

ROLL VOTE: Ayes: Hood, Ramsey, Rinsema-Sybenga, Emory, Johnson, and Gawron

Nays: German

MOTION PASSES

B. <u>Amendment to the Marihuana Facilities Overlay District – 420 Harvey Street (2)</u> Planning – 2nd Reading

SUMMARY OF REQUEST: Request to amend Section 2331 of the zoning ordinance to include 420 Harvey Street in the marihuana facilities overlay district and allow class B grower, processor, retailer, designated consumption establishment and marihuana special events license types, by Michigan CannaHouse, LLC.

While the applicant's first case was tabled by the Planning Commission, they decided to apply for another amendment that would allow them additional

license types (Class B Grower, Processor, Retailer) instead of microbusiness.

STAFF RECOMMENDATION: To approve the request to amend Section 2331 of the zoning ordinance to include 420 Harvey Street in the marihuana facilities overlay district and allow class B grower, processor, retailer, designated consumption establishment and marihuana special events license types, by Michigan CannaHouse, LLC.

Motion by Commissioner Johnson, second by Commissioner Ramsey, to approve the request to amend Section 2331 of the zoning ordinance to include 420 Harvey Street in the marihuana facilities overlay district and allow class B grower, processor, retailer, designated consumption establishment and marihuana special events license types, by Michigan CannaHouse, LLC.

ROLL VOTE: Ayes: None

Nays: Ramsey, German, Rinsema-Sybenga, Emory, Johnson, Gawron, and Hood

MOTION FAILS

C. Housing Commission Ordinance Amendment Development Services – 2nd Reading

SUMMARY OF REQUEST: Staff are seeking approval of an amendment to Chapter 18, Article IV of the Code of Ordinances in coordination with the Hartford Terrace development agreement.

The Muskegon Housing Commission proposes to rehabilitate Hartford Terrace Apartments through HUD's Rental Assistance Demonstration program. This program allows private capital to be raised for rehabilitation of low-income housing projects. The calculation of Payments In Lieu Of Taxes for this program differs from the typical public housing program, and changes to the city's ordinance for housing commission owned properties requires a change to accommodate the development.

STAFF RECOMMENDATION: To amend and adopt Chapter 18, Article IV, Section 83 Muskegon Housing Commission.

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Hood, to amend and adopt Chapter 18, Article IV, Section 83 for Muskegon Housing Commission.

ROLL VOTE: Ayes: German, Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, and Ramsey

Nays: None

MOTION PASSES

2021-10 NEW BUSINESS:

A. <u>Amendment to the Marihuana Facilities Overlay District – 885 E Apple Avenue</u> Planning

SUMMARY OF REQUEST: Request to amend section 2331 of the zoning ordinance to include 885 E Apple Avenue in the marihuana facilities overly district, by Khi Guy.

A motion was made that the request to amend section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for Retail license types at 885 E Apple Avenue be recommended to the City Commission for approval. The motion passed by a 5-1 vote.

STAFF RECOMMENDATION: To approve the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for retail provisioning license types at 885 E. Apple Avenue.

Motion by Commissioner Ramsey, second by Commissioner Rinsema-Sybenga, to approve the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for retail and provisioning license types at 885 E Apple Avenue.

2nd Motion: Motion by Commissioner German, second by Commissioner Ramsey, to table this item until the next regular City Commission meeting, February 9, 2021.

ROLL VOTE: Ayes: Emory, Johnson, Gawron, Hood, Ramsey, German, and Rinsema-Sybenga

Nays: None

MOTION PASSES

B. <u>Harris Option – Ovals</u> City Manager – REMOVED PER STAFF REQUEST

C. <u>Community Relations Committee – Planning Commission Appointment</u> City Clerk

SUMMARY OF REQUEST: To select and appoint a new member to the Planning Commission. Those interested in serving on the Planning Commission included: Michael Haueisen, Bryan Pereira, William Snyder, Corey Bickford, Michael Hughes, Christopher Carskadon, David Medendorp, Jane Clingman Scott, Roberta King, Destinee Keener. Willing to serve on any board: Brianna MacPherson, Deondrea Cooper, Faye Redmond, Johna Willis, Shundrice Brown

STAFF RECOMMENDATION: To make an appointment to the Planning Commission.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to appoint Destinee Keener to the Planning Commission.

ROLL VOTE: Ayes: Johnson, Gawron, Hood, Ramsey, German, Rinsema-Sybenga, and Emory

Nays: None

MOTION PASSES

2021-11 ANY OTHER BUSINESS:

Commissioner Johnson raised the issue of the Harris Option at the Ovals which was removed from tonight's agenda and was to be placed on a Worksession agenda for discussion and consideration. Discussion took place as to whether this proposal should be considered at the Worksession and it was suggested that the Commission review the Imagine Muskegon Lake Plan before considering any proposals.

Motion by Commissioner Johnson, second by Commissioner Emory, to reject the Harris Option at the Ovals.

ROLL VOTE: Ayes: Gawron, Rinsema-Sybenga, Emory, Johnson, Gawron, Hood, and Ramsey

Nays: None

MOTION PASSES

PUBLIC COMMENT: Public comments were received.

ADJOURNMENT: The City Commission meeting adjourned at 8:30 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk