

CITY OF MUSKEGON

CITY COMMISSION MEETING

JANUARY 13, 2015

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ☐ **CALL TO ORDER:**
- ☐ **PRAYER:**
- ☐ **PLEDGE OF ALLEGIANCE:**
- ☐ **ROLL CALL:**
- ☐ **HONORS AND AWARDS:**
 - A. Muskegon Big Reds.**
 - B. Muskegon Catholic Central Crusaders.**
- ☐ **INTRODUCTIONS/PRESENTATION:**
 - A. Year-In-Review. CITY MANAGER**
- ☐ **CITY MANAGER'S REPORT:**
- ☐ **CONSENT AGENDA:**
 - A. Approval of Minutes. CITY CLERK**
 - B. Liquor License Request – Racquets, 446 W. Western Avenue. PUBLIC SAFETY**
 - C. Ground Lease for Nims Neighborhood Playground/Park. PLANNING & ECONOMIC DEVELOPMENT**
 - D. Approval of Extension for Realtor Procurement Contract for CNS. COMMUNITY & NEIGHBORHOOD SERVICES**
 - E. Rezoning Request for the Property Located at 916 W. Laketon Avenue. PLANNING & ECONOMIC DEVELOPMENT**
 - F. Request for a Permanent Stage at Hackley Park. PLANNING & ECONOMIC DEVELOPMENT**
 - G. Low-Boy Trailer. PUBLIC WORKS**
 - H. Agreement – Digital Spectrum Enterprises. FINANCE**
- ☐ **PUBLIC HEARINGS:**

- ☐ **COMMUNICATIONS:**
- ☐ **UNFINISHED BUSINESS:**
- ☐ **NEW BUSINESS:**

A. Section 10-351 Registration of Rental Dwellings Ordinance Amendment.
PUBLIC SAFETY

- ☐ **ANY OTHER BUSINESS:**
- ☐ **PUBLIC PARTICIPATION:**

- ▶ **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.)

- ☐ **CLOSED SESSION:**
- ☐ **ADJOURNMENT:**

ADA POLICY: THE CITY OF MUSKEGON WILL PROVIDE NECESSARY AUXILIARY AIDS AND SERVICES TO INDIVIDUALS WHO WANT TO ATTEND THE MEETING UPON TWENTY-FOUR HOUR NOTICE TO THE CITY OF MUSKEGON. PLEASE CONTACT ANN MARIE CUMMINGS, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TTY/TDD DIAL 7-1-1- TO REQUEST A REPRESENTATIVE TO DIAL (231) 724-6705.

Date: January 13, 2015
To: Honorable Mayor and City Commissioners
From: Ann Marie Cummings, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes of the December 8th Commission Worksession Meeting, and the December 9th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

City of Muskegon
City Commission Worksession
December 8, 2014
City Commission Chambers
5:30 PM

MINUTES

2014-94

Present: Commissioners Hood, German, Rinsema-Sybenga, Gawron, Johnson, and Spataro.

Absent: Commissioner Turnquist.

Urban Farming.

Frank Peterson, City Manager, gave an overview of the topic, provided a hand-out to Commissioners regarding urban gardening and the Right to Farm Act.

Mr. Peterson stated the City has a strong history of supporting community gardens and has allowed a number of neighborhood gardens to operate on city property. The topic isn't as simple as we would like it to be, as a state law that was designed to protect farmers from residential encroachment could be used to allow commercial farming operations to operate free of many local zoning rules. This law did not contemplate commercial farming encroachment into residential areas, and absent a state legislative fix, protecting residential areas from commercial farming operations, there is a possibility that allowing a private farmer to operate commercially could take away the rights of his/her neighbors to avoid what they may perceive as nuisances associated with commercial farming practices.

Comments were received from the public.

The City Commission directed staff to work with state organizations to create an ordinance that allows for the commercial sale of items grown in private and community gardens, provided appropriate regulations are developed to protect all other homeowners and residents from the potential encroachment of commercial farming activities into densely populated urban neighborhoods and to present a draft to City Commission in the first quarter of 2015.

Adjournment.

Motion by Commissioner Hood, seconded by Vice Mayor Spataro to adjourn at 6:54 p.m.

MOTION PASSES

**Ann Marie Cummings, MMC
City Clerk**

CITY OF MUSKEGON

CITY COMMISSION MEETING

DECEMBER 9, 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, December 9, 2014.

Mayor Gawron opened the meeting with prayer from Pastor Marcy Miller from the 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 Willie German, Byron Turnquist, Ken Johnson, and Eric Hood, City Manager Franklin Peterson, City Attorney John Schrier, and City Clerk Ann Marie Cummings.

Absent: Commissioner Dan Rinsema-Sybenga (arrived at 5:43 p.m.)

2014-95 HONORS AND AWARDS:

A. Employee Years of Service Awards.

Mayor Gawron, City Commissioners, and City Manager Franklin Peterson presented the 2014 Service Awards to the City employees thanking them for their years of service.

2014-96 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes of the November 25th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Request to Deny & Accept Properties That Did Not Sell During the Tax Sale for 2014. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The County of Muskegon held two delinquent tax

auctions during 2014. There were seventy-eight properties left after the last auction. According to the State's tax foreclosure laws, the City must state that they are not interested in obtaining them, otherwise the City will automatically receive ownership of the parcels. From the list that was provided, Planning and Community & Neighborhood Services have gone over the parcels to determine which ones to accept.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To deny and accept certain parcels and authorize both the Mayor and the Clerk to sign said resolution.

C. Bloomberg Philanthropies Public Art Challenge. PLANNING &
ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The Public Art Challenge is a new program to support temporary public art projects that can transform civil spaces and drive economic development. Project submittals must formally be submitted by cities, through their mayors, although communities must demonstrate collaboration between artists, arts organizations, city government and others. As the timeline for submittal for the project overview is December 15, a collaboration is being formed between the Cities of Muskegon, Muskegon Heights, Norton Shores, Roosevelt Park, North Muskegon, the County (with the County Grants Administrator acting as project coordinator and grant writer), the MAISD, the Community Foundation, the Muskegon Museum of Art, the Muskegon Art Festival and the downtown Arts Committee. The proposal will include the Lyman Davis sculpture, as well as school research and writing projects tied to Muskegon's port history, design and creation of small ship replicas to place throughout downtown and neighborhood art. The details of the project will be formulated further if we are asked to submit a full proposal.

FINANCIAL IMPACT: If approved, the City of Muskegon will receive up to \$1 million over two years for the project.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the project submittal by December 15, 2014.

D. City – MDOT Agreement for the Resurfacing of US31 BR from Sherman to Shoreline Drive. ENGINEERING

SUMMARY OF REQUEST: Approve the contract with MDOT for the resurfacing of US-31 BR (Seaway Dr.) from Sherman to Shoreline Dr. 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 \$65,900.

BUDGET ACTION REQUIRED: None at this time.

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

E. Approval of the Fair Housing Agreement with Muskegon County.
COMMUNITY AND NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: the cities of Muskegon, Muskegon Heights, Norton Shores and the County of Muskegon are entering into an agreement with the Fair Housing Center of West Michigan to conduct fair housing testing in the County of Muskegon per the recommendation of the 2009 Analysis of Impediments Report. This agreement will be for 2015 and 2016.

FINANCIAL IMPACT: Based on population, the City of Muskegon will pay \$4,500 per year of the \$15,000 annual cost.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Agreement and authorize the Mayor to sign.

F. Approval of the Settlement Agreement with COAM. CITY MANAGER

SUMMARY OF REQUEST: The City and COAM have tentatively settled the 2015-18 collective bargaining agreement. The City Commission is requested to approve the negotiated tentative agreement with the POLC Unit. This agreement has been ratified by the bargaining unit.

Key points of the agreement are as follows:

1. Agreement term from January 1, 2015 to December 31, 2018.
2. Increases of 1%, 1%, 1.5%, and 0%
3. Lump sum payments of \$600, \$0, \$600, and \$1,500.
4. Creation of a field training officer compensation program that applies to all unit members. It would be equal to ½% of the one (1) year sergeant's pay.
5. Changes to comp-time that limit the amount an employee can accrue in a calendar year to 110 hours.
6. Changes to the way holidays are administered in the unit.
7. Changes to the way the City's HMO plan is administered.
8. Changes to the way workers compensation is administered in the unit.

FINANCIAL IMPACT: Approximately \$25,000 in the first year; \$14,000 in the second year, \$32,000 in the third year, and \$28,000 in the fourth year.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the tentative agreement and to authorize the Mayor and Clerk to sign the contract.

G. 2015 Salary Schedule and Fringe Benefits for Non-Represented Employees. CITY MANAGER

SUMMARY OF REQUEST: To approve and adopt the proposed salary ranges and salary schedules for the non-represented administrative, technical, professional, and supervisory employees for 2015. For Ranges 1 to 5, the increase is 1%. For all other ranges, the proposed increase is 1.5%. Employees in ranges 1 to 5 would also receive a one-time stipend of \$500 to accept as a deposit into either a city deferred compensation plan or a city health care savings plan (the stipend could be accepted as cash, but would be reduced to \$250).

FINANCIAL IMPACT: The salary increases will cost approximately \$34,000 annually plus approximately \$7,600 annually in fringe benefits.

BUDGET ACTION REQUIRED: To authorize the necessary 2015 budgetary amendments and transfer of money from the affected City funds (Contingency Account for General Fund) to the appropriate salary and fringe benefit accounts to accommodate the salary increases and fringe benefit adjustments.

STAFF RECOMMENDATION: To approve and adopt the proposed salary ranges, salary schedules, and fringe benefit changes for non-represented employees for 2015.

H. Farmers' Market – Fifth Amendment to Purchase Agreement. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The City is waiting for the contractor's lien period on the Farmers' Market to expire, so the property can be transferred from the DMDC to the City free of any claims. This is taking longer than anticipated. Therefore, a Fifth Amendment to the Purchase Agreement is recommended to extend the closing date. The Amendment allows for continued operation of the Farmers' Market prior to the official closing on the property, with the City "fully responsible for any and all liability related to operating the farmers' market" during that time. The Closing is moved to December 30, 2015 or before. Meanwhile, the City is working with the County Assessor on alternatives to lower the taxable value on the property while it is in this transition period.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the "Fifth Amendment to Purchase Agreement" and authorize the City Manager's signature.

I. Community Relations Committee Recommendation. CITY CLERK

SUMMARY OF REQUEST: To concur with recommendation from the Community Relations Committee to appoint Kevin Huss to the Civil Service Commission.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the recommendation of the Community Relations Committee from their December 8, 2014, meeting to appoint Kevin Huss to the Civil Service Commission.

Motion by Vice Mayor Spataro, second by Commissioner German to approve the Consent Agenda as read.

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

Nays: None

MOTION PASSES

2014-97 PUBLIC HEARINGS:

A. Request for an Industrial Facilities Exemption Certificate – AFI Real Estate. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, Real Estate, 1920 Port City Blvd., has requested the issuance of an Industrial Facilities Tax Exemption Certificate. The total capital investment will be \$640,000 in real property and will create up to twenty (20) jobs. This qualifies them for a tax abatement of twelve (12) years.

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 12 years for personal property.

The Public Hearing opened to hear and consider any comments from the public. Comments were heard from Doris Rucks, 348 Cross Avenue.

Motion by Commissioner Rinsema-Sybenga, second by Vice Mayor Spataro to close the Public Hearing and adopt the Industrial Facilities Exemption Certificate.

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

Nays: None

MOTION PASSES

2014-98 NEW BUSINESS:

A. Local Parking Restrictions. PUBLIC SAFETY

The Director of Public Safety requests that the City Commission review and authorize the proposed amendment to Chapter 92; Article V., subsections 71-72-73 of the City of Muskegon Ordinance as it relates to parking restrictions, snow emergency declaration, and parking violations bureau.

Sec. 92-71; is an inclusive list of “*parking restriction*” that could be enforced within the city limits of Muskegon, which includes “*winter parking ban*”, and allowances to park on the “*terrace*” at specified times of the year.

Sec. 92-72; is a “*snow emergency declaration*” which would be enacted at the request of the Mayor (designee) to clear the public streets if snow or other winter precipitation was significant and/or impeded safe travel upon the city streets.

Sec. 92-73; is a “*parking violations bureau – minimum parking fines*”, the fine schedule (*graduated system with set levels*) was aligned with the city ordinance parking restrictions to specify the level of fine(s) associated with the specific parking violations within sec. 92-71.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approving this ordinance amendment as written.

Motion by Vice Mayor Spataro, second by Commissioner Rinsema-Sybenga to approve the amendments to the local parking restrictions as described.

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

Nays: None

MOTION PASSES

B. 2015 User Fee Update. FINANCE

SUMMARY OF REQUEST: City departments have reviewed and updated their user fees and these have been incorporated into the Master Fee Resolution for your consideration.

The new fees and fee changes that are being proposed are highlighted on the spreadsheet and include the following:

- Modification to Cemeteries opening (cremation) fee for non-residents of the City and elimination of other Cemeteries opening (cremation) and family tree search fees to simplify the fee schedule;
- New fee added in the Clerk’s Office for liquor license renewal after February 28 and the ordinance book fee has been eliminated;
- New fee added by DPW for use of bike path for organized events and new fee for wide load permit;

- Increased fee for wedding reservations in/on City parks/beaches;
- Reduction in the late fee for non-payment of rental registration annual fee;
- Modifications to the Farmers' Market daily fees following the first season of operating the new market,;
- New fees added for license to purchase applications to be processed by the Police Department and court or probation ordered preliminary breath tests to be performed;
- Marina added new fees for shoppers docks and cost to move catamaran post, commercial launch ramp permit, trailer storage and end of season late removal fees have been adjusted;
- Fees for installation of water or sewer stub line to property line have been increased as these fees have not changed in many years;
- New fee added for thawing water/sewer line after the first free visit each season and new fee for TV sewer lateral;
- Additions and changes to some Zoning fees to fall in line with other municipalities and to better reflect costs.

FINANCIAL IMPACT: Increased revenue for fee supported activities.

BUDGET ACTION REQUIRED: None at this time. Adoption of the Master Fee Resolution will help the City attain its budgeted revenue estimates.

STAFF RECOMMENDATION: Approval.

Motion by Commissioner Hood, second by Vice Mayor Spataro to approve the User Fee update.

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

Nays: None

MOTION PASSES

C. Neighbor-to-Neighbor Policy. CITY MANAGER

SUMMARY OF REQUEST: A policy has been drafted to encourage our employees to participate in volunteer activities by providing flexibility in work schedules, paid leave opportunities, and bonuses for meeting certain community volunteering goals.

Employees will be encouraged to increase their involvement in the community by mentoring youth, organizing food drives, helping neighborhoods, etc. The City Manager will give final approval of events or organizations that qualify under this program. A list of programs currently approved will be provided to employees but will be added to and updated on a regular basis.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the policy as submitted and give authorization to the City Manager to select qualified programs.

Motion by Commissioner Hood, second by Commissioner Johnson to approve the Neighbor-to Neighbor Policy as submitted and give authorization to the City Manager to select qualified programs.

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

Nays: Turnquist

MOTION PASSES

PUBLIC PARTICIPATION: Public comments were received.

ADJOURNMENT: The City Commission Meeting adjourned at 6:58 p.m.

Respectfully submitted,

Ann Marie Cummings, MMC
City Clerk

Date: December 15, 2014
To: Honorable Mayor and City Commissioners
From: Jeffrey Lewis, Director of Public Safety *P*
Re: Liquor License Request – Racquets, 446 Western Ave

SUMMARY OF REQUEST: The Muskegon Police Department has received an Application for Temporary Authorization from Downtown Pinnacle Properties (dba Racquets Downtown Grill) for a charity volleyball event scheduled for January 30, 2015 to January 31, 2015. The liquor license request is to include the volleyball court area which will be located on Western Avenue between 3rd and 4th Street on January 31, 2015.

The State of Michigan Liquor Control Commission is asking for local commission approval, for use of the city street, before the license is issued. This is a repeat event, and the Muskegon Police Department find no reason to deny this request.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the request.



Muskegon Fire Division
770 Terrace Street
231-724-6795

Muskegon Department of Public Safety

Jeffrey Lewis
Director of Public Safety
933 Terrace Street, Muskegon, MI 49440
Phone: 231-724-6955 Fax: 231-725-2043

www.shorelinecity.com



Muskegon Police Division
980 Jefferson
231-724-6750

Date: December 15, 2014

To: City Commission through the City Manager


From: Jeffrey Lewis, Director of Public Safety

Re: Liquor License Request – 446 W Western Avenue
Commission Approval for Use of City-owned Property

The Muskegon Police department has received an Application for Temporary Authorization from Downtown Pinnacle Properties (dba Racquets Downtown Grill).

This application is for a charity volleyball event scheduled for January 30, 2014 to January 31, 2015. The liquor license request is to include the volleyball court area which will be located on Western Avenue, between 3rd and 4th Street on January 31, 2015.

The State of Michigan Liquor Control Commission is asking for local commission approval, for use of the city street, before the license is issued.

This is a repeat event and the Muskegon Police Department finds no reason to deny this request.

JL/erp

Commission Meeting Date: January 13, 2015

Date: December 15, 2014
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department
**RE: Ground Lease for Nims Neighborhood
Playground/Park**

SUMMARY OF REQUEST: The City Commission approved a lease with Nims Neighborhood for the property at the former Nims School, on October 28, 2014. When the Transnation Title started work on the Title Commitment, they found that there are some issues with the formerly vacated east west alley abutting Lot 9 of Block 493 (see attached "Ground Lease", Section 7). To simplify the issue and move the process along as quickly as possible, Nims Neighborhood and City staff agreed to modify the Lease to include language that any improvements placed in this alley may have to be relocated in the future.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the attached "Ground Lease" and authorize the Vice-Mayor's and City Clerk's signatures.

GROUND LEASE

THIS LEASE (the "**Lease**") is entered into on _____, 201__, between CITY OF MUSKEGON, a municipal corporation ("**City**"), and NIMS NEIGHBORHOOD ASSOCIATION, an unincorporated association ("**Nims**"), on the terms and conditions set forth below.

1 **Premises.** City leases to Nims and Nims leases from City real property located in the City of Muskegon, Muskegon County, Michigan legally described as Lot 9 of Block 493 of the 1903 Plat, which the City owns in fee simple. City also has an interest in the vacated east west alley abutting Lot 9 of Block 493 of the 1903 Plat and leases to Nims whatever interest City has in the alley (the "**Premises**").

2. **Term.** This Lease shall be for an initial term of ten (10) years, commencing with the signing of the Lease. Nims shall have the right to renew the term of this Lease for succeeding periods of five (5) years each for a maximum of five (5) renewal terms by giving City notice of Nims' intent to renew the Lease at least 1 calendar year prior to the expiration of the then current term. Each renewal shall be on the same terms and conditions as contained in this Lease.

3. **Rent.** Upon execution of this Lease, Nims shall pay rent of One Dollar (\$1.00) per year for use and occupancy of the Premises. For the first year, the payment shall not be prorated and shall be due upon execution of the Lease. Thereafter, payments shall be due on January 1.

4. **Use.** The Premises are to be used as a playground ("Project").

5. **Covenant of Quiet Enjoyment.** So long as the Nims is not in default under this Lease, Nims shall be entitled to quiet possession of Lot 9 of Block 493 of the 1903 Plat during the term of this Lease. City grants permission to Nims to use the vacated east west alley abutting Lot 9 of Block 493 of the 1903 Plat to the extent that City has the right to grant such permission.

6. **Utilities.** Nims shall pay when due all bills for gas, electricity, other utilities and services, and water usage, for the Premises during the term of this Lease. City shall pay for installing water service and tap fee for water.

7. **Leasehold Improvements.** Nims shall have the obligation to construct and/or place on the premises playground equipment, picnic tables, a walking path, tables, benches, grills, drinking fountain and an irrigation system, which must be ADA compliant and approved in advance by City. The equipment and location of the improvements are shown on attached Exhibit A. Nims acknowledges that any improvements placed in the vacated east west alley abutting Lot 9 of Block 493 of the 1903 Plat may have to be re-located and, if required, will do so at its own cost.

Nims shall have the right to construct and/or place on the premises additional playground equipment, picnic tables, a walking path, tables, benches, grills, drinking fountain and irrigation, which must be ADA compliant. Anything constructed or built or improved on the Premises must first be approved by City staff. Nims acknowledges that any improvements placed in the vacated east west alley abutting Lot 9 of Block 493 of the 1903 Plat may have to be re-located and, if required, will do so at its own cost.

Within 12 months of the effective date of the Lease, City shall remove the withering tree in the leased area.

At the expiration of the Lease, unless the Premises are acquired by Nims, title to all structures and leasehold improvements on the Premises shall vest in City. During any construction activities on the Premises, the provisions of paragraph 4 shall always apply.

8. **Maintenance by Nims.** Nims shall, at its expense, keep the Premises and any improvements on the Premises in good condition and repair. Nims agrees to operate and keep the Premises in a clean condition, in compliance with applicable laws and ordinances.

9. **Damage to Improvements.** Nims shall repair any damage to the Premises and any improvements on the Premises. Nims shall be responsible for paying to repair or replace any damages to the Premises or Improvements not covered by the City's insurance. To the extent that any damage to the Premises or improvements may be covered by insurance, Nims and City shall work together to obtain reimbursement from the insurance carrier. If the damage is covered by the City's insurance carrier, Nims shall be responsible for the amount of the deductible. If the improvements constructed by City on the Premises are rendered unuseable, City may, at City's option, elect to terminate this Lease as of the date of the damage or destruction.

10. **Signs.** City and Nims shall coordinate and cooperate on the selection, verbiage, and cost sharing of a sign(s). The sign(s) shall be in compliance with all governmental regulations.

11. **Default.** This Lease is granted on the condition that if an event of default ("Event of Default") shall occur and then a default ("Default") occurs, this Lease may be terminated. An Event of Default shall occur if there has been: 1) a failure by Nims to pay, when due, any rent to be paid to City, or charges required by the terms of this Lease; 2) a failure by Nims to comply with any other obligations or provisions of this Lease. Following an Event of Default City may send to Nims notice of the Event of Default. The notice shall give Nims 30 days to cure the default. If the Event of Default is not cured during the notice period, then upon the expiration of that notice period of 30 days a Default shall exist.

12. **City's Remedies.** If a Default as defined above occurs, then City shall at its election, upon or concurrent with the giving of notice to Nims, have the right to terminate this Lease and enter into and upon and take possession of the Premises, and City may hold and retain the Premises.

13. **Leasehold Mortgage.** Nims shall not have the right to encumber by mortgage Nims' interest under this Lease.

14. **Assignment and Subletting.** Nims shall not have the right to assign or transfer any or all of its rights under this Lease.

15. **Notices.** All notices, approvals, consents and other communications hereunder shall be in writing and, except when receipt is required to start the running of a period of time, shall be deemed given: (i) when delivered in person; (ii) when sent by telephone facsimile (the sender shall also send "hard copy" following the facsimile; however, the notice shall be effective upon the transmission of the facsimile); (iii) two (2) days after depositing in the custody of a nationally-recognized receipted overnight delivery service with delivery fees prepaid; or (iv) five (5) days after depositing in the United States Mail first-class or registered or certified mail, postage prepaid and return receipt requested. Notices shall be sent to the parties as follows:

If to City: CITY OF MUSKEGON
Director of Public Works
933 Terrace Street
Muskegon, MI 49440
Phone: (231) 724-6994

If to Nims: NIMS NEIGHBORHOOD ASSOCIATION
Attn: Shirley Strang
1535 Palmer
Muskegon, MI 49441
Phone: (231) 755-8222

16. **Modifications.** No modification, alteration, or amendment to this Lease shall be binding unless in writing and signed by both parties to the Lease.

17. **Title and Nondisturbance Agreement.** City warrants that no lien, exception to title, or encumbrance affects the Premises other than those of record at the Effective Date of this Lease. City and Nims acknowledge that City is the fee simple owner of Lot 9 of Block 493 of the 1903 Plat but not the owner of the vacated east west alley abutting Lot 9 of Block 493 of the 1903 Plat.

18. **Whole Agreement.** This Agreement constitutes the entire agreement between the parties and shall be deemed to supersede and cancel any other agreement between the parties relating to the transaction contemplated in this Agreement. None of the prior and contemporaneous negotiations, preliminary drafts, or prior versions of the agreement leading up to its signing and not set forth in this Agreement shall be used by any of the parties to construe or affect the validity of this Agreement. Each party acknowledges that no representations, inducement or condition not set forth in this Agreement has been made or relied upon by either party.

19. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Michigan. In the event any provision of this Agreement is in conflict with any statute or rule of any law in the State of Michigan or is otherwise unenforceable for any reason whatsoever, then that provision shall be deemed severable from or enforceable to the maximum extent permitted by law, as the case may be, and that provision shall not invalidate any other provision of this Agreement. Venue for any action brought under this Agreement shall lie in Muskegon County, Michigan.

20. **Effective Date.** The parties have signed this Agreement in duplicate and it shall be effective as of the day and year first above written.

CITY OF MUSKEGON - a Michigan corporation

By: _____
Name: Lawrence O. Spataro
Title: Vice Mayor
Date:

By: _____
Name: Ann Cummings
Title: City Clerk
Date:

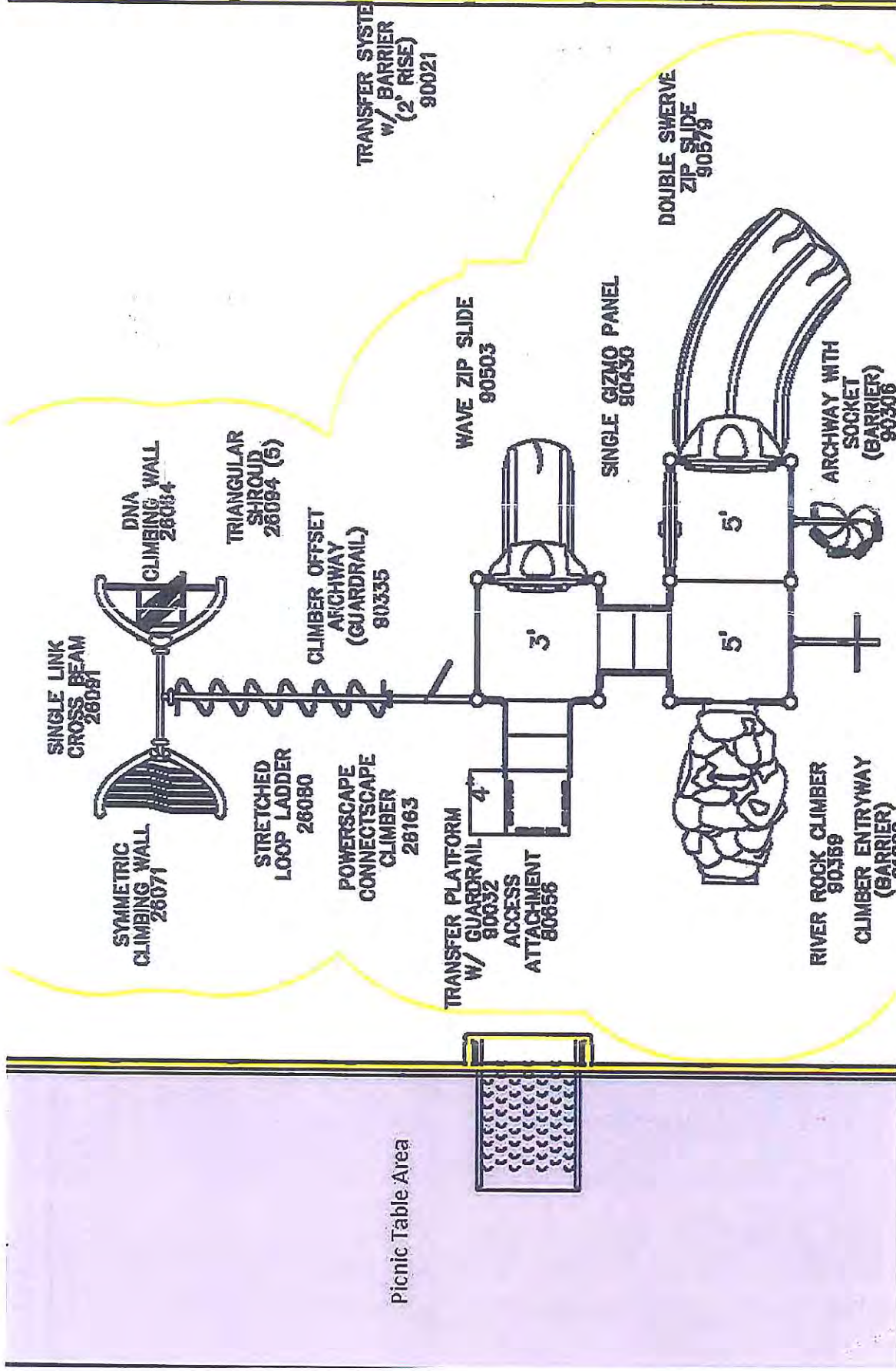
NIMS NEIGHBORHOOD ASSOCIATION - A Michigan corporation

By: Shirley Strang
Name: Shirley Strang
Title:
Date:

EXHIBIT A

SITE IMPROVEMENTS

39'-11 1/8"



SINGLE LINK
CROSS BEAM
26081

SYMMETRIC
CLIMBING WALL
26071

DNA
CLIMBING WALL
26084

TRIANGULAR
SHROUD
26094 (5)

STRETCHED
LOOP LADDER
26080

POWERSCAPE
CONNECTSCAPE
CLIMBER
26163

CLIMBER OFFSET
ARCHWAY
(GUARDRAIL)
90335

TRANSFER PLATFORM
w/ GUARDRAIL
80032
ACCESS
ATTACHMENT
80656

WAVE ZIP SLIDE
90503

SINGLE GIZMO PANEL
90430

DOUBLE SWERVE
ZIP SLIDE
90578

RIVER ROCK CLIMBER
90359
CLIMBER ENTRYWAY
(BARRIER)

ARCHWAY WITH
SOCKET
(BARRIER)
90306

Commission Meeting Date: January 13, 2015

Date: January 5, 2015

To: Honorable Mayor & City Commission

From: Community and Neighborhood Services Department

**RE: Approval of Extension for Realtor Procurement
Contract for CNS**

SUMMARY OF REQUEST: To extend the Procurement Contract to December 31, 2015 for Greenridge Realty to be used by the City of Muskegon Community and Neighborhood Services office. By granting the extension, the expiration date will coincide with the other procurement contracts.

FINANCIAL IMPACT: The awards for the realtor will be paid through the sale of homes originally established under HOME.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the extension of the Procurement Contracts to Greenridge Realty for the Community and Neighborhood Services office.

COMMITTEE RECOMMENDATION: None required.

Commission Meeting Date: January 13, 2015

Date: January 6, 2015
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Rezoning request for the property located at 916 W Laketon Ave

SUMMARY OF REQUEST:

Request to rezone the property at 916 W Laketon Ave from R-1, Single Family Residential to B-4, General Business by Lakeshore Animal Hospital.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the rezoning.

COMMITTEE RECOMMENDATION:

The Planning Commission unanimously recommended approval of the request at their 12/11/14 meeting.

Planning Commission packet excerpt:

STAFF OBSERVATIONS

1. Lakeshore Animal Hospital is located at 896 W Laketon Ave. They also own the property at 916 W Laketon Ave, which previously had a house on it, but was recently demolished. The lot is now vacant.
2. The property measures 39' x 162' and is considered a non-buildable lot because it does not have the required minimum road frontage of 50 feet.
3. The applicant is seeking the rezoning so that they may expand their parking lot for the animal hospital. Commercial parking lots are not allowed on residentially zoned properties.
4. Notice was given to properties within 300 feet of the property. Dolores Belonga of 1781 Division St has no objection to the request. Janet Nelson at 973 W Larch Ave is in favor of the request. There was also a voicemail left by an unnamed caller who was not in favor of the request.

Property at 916 W Laketon Ave looking north from Laketon Ave



Looking south from the alley



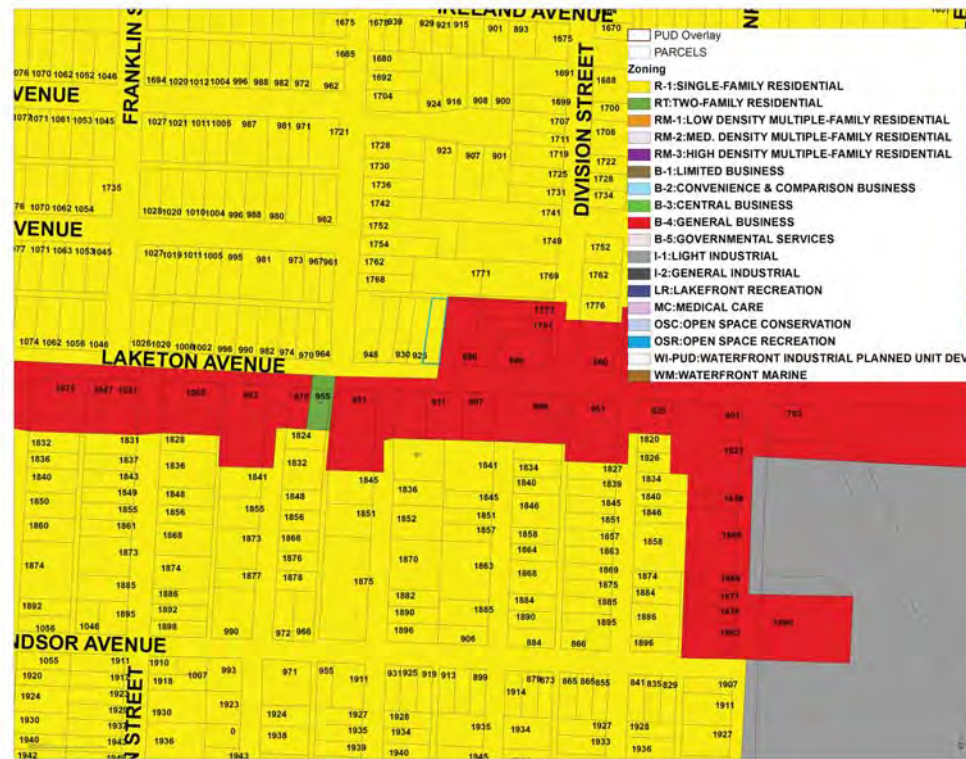
Current parking lot behind the building at 896 W Laketon Ave



Residential properties to the west



Zoning Map



Aerial Map (house is no longer there)



CITY OF MUSKEGON

MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend the zoning map of the City to provide for a zone change for a property from R-1, Single Family Residential to B-4, General Business.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

The zoning map of the City of Muskegon is hereby amended to change the zoning for the following described property from R-1, Single Family Residential to B-4, General Business.

CITY OF MUSKEGON REVISED PLAT OF 1903 E 40 FT OF W 240 FT OF S 160 FT LOT 13 BLK 505

This ordinance adopted:

Ayes: _____

Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____

Ann Cummings, MMC
City Clerk

CERTIFICATE (Rezoning of 916 W Laketon Ave from R-1 to B-4)

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 13th day of January, 2015, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2008, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2015

Ann Cummings, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

CITY OF MUSKEGON
NOTICE OF ADOPTION

Please take notice that on January 13, 2015, the City Commission of the City of Muskegon adopted an ordinance amending the zoning map to provide for the change of zoning for the property from R-1, Single Family Residential to B-4, General Business:

CITY OF MUSKEGON REVISED PLAT OF 1903 E 40 FT OF W 240 FT OF S 160 FT LOT 13 BLK 505

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten days from the date of this publication.

Published _____, 2015

CITY OF MUSKEGON

By _____
Ann Cummings, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE.

Account No. 101-80400-5354

Commission Meeting Date: January 13, 2015

Date: January 8, 2015
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Request for a permanent stage at Hackley Park

SUMMARY OF REQUEST:

Parties in the Park, Inc has proposed to donate a permanent stage for Hackley Park that will replace the temporary stage. They will be conducting a fundraising campaign to raise the money.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the stage and the attached resolution.

COMMITTEE RECOMMENDATION:

The Historic District Commission unanimously approved the request for the permanent stage at their 1/6/15 meeting.

Resolution No. _____

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING THE ADDITION OF A PERMANENT STAGE AT HACKLEY PARK

WHEREAS, Parties in the Park, Inc has proposed to donate a permanent stage to Hackley Park that will be located in the same general area as the temporary stage has been used; and

WHEREAS, the stage will be utilized during Parties in the Park and other events held at the park; and

WHEREAS, The Historic District Commission gave approval of the permanent stage at their regularly scheduled meeting on January 6, 2015.

Adopted this 13th Day of January, 2015.

Ayes:

Nays:

Absent:

BY: _____
Stephen J. Gawron
Mayor

ATTEST: _____
Ann Cummings
Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on January 13, 2015.

Ann Cummings
Clerk



SITE PLAN
SCALE 1"=30'

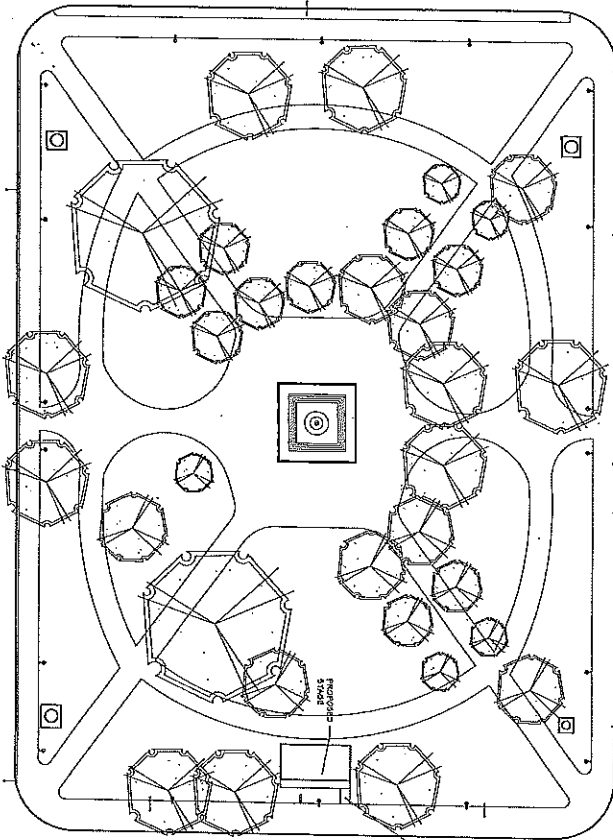
THIS IS NOT A SURVEY

WEST WEBSTER AVENUE

4TH STREET

WEST CLAY AVENUE

3RD STREET

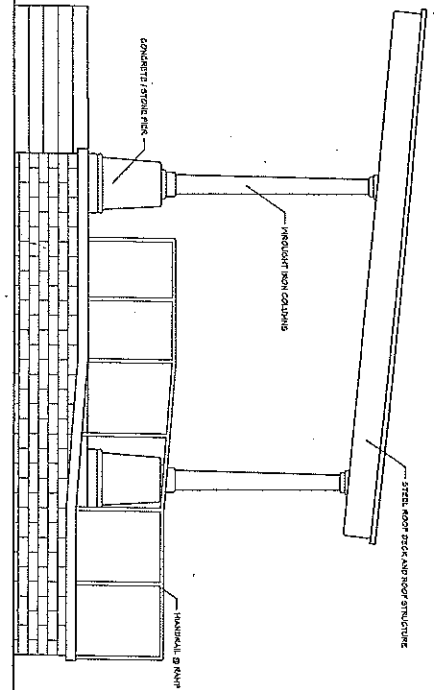


PRELIMINARY
NOT FOR CONSTRUCTION

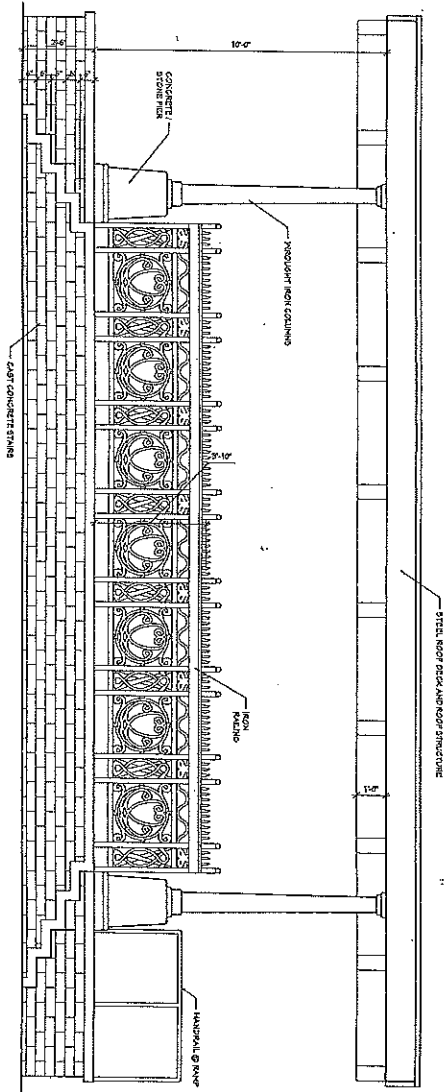
PERMANENT STAGE FOR:



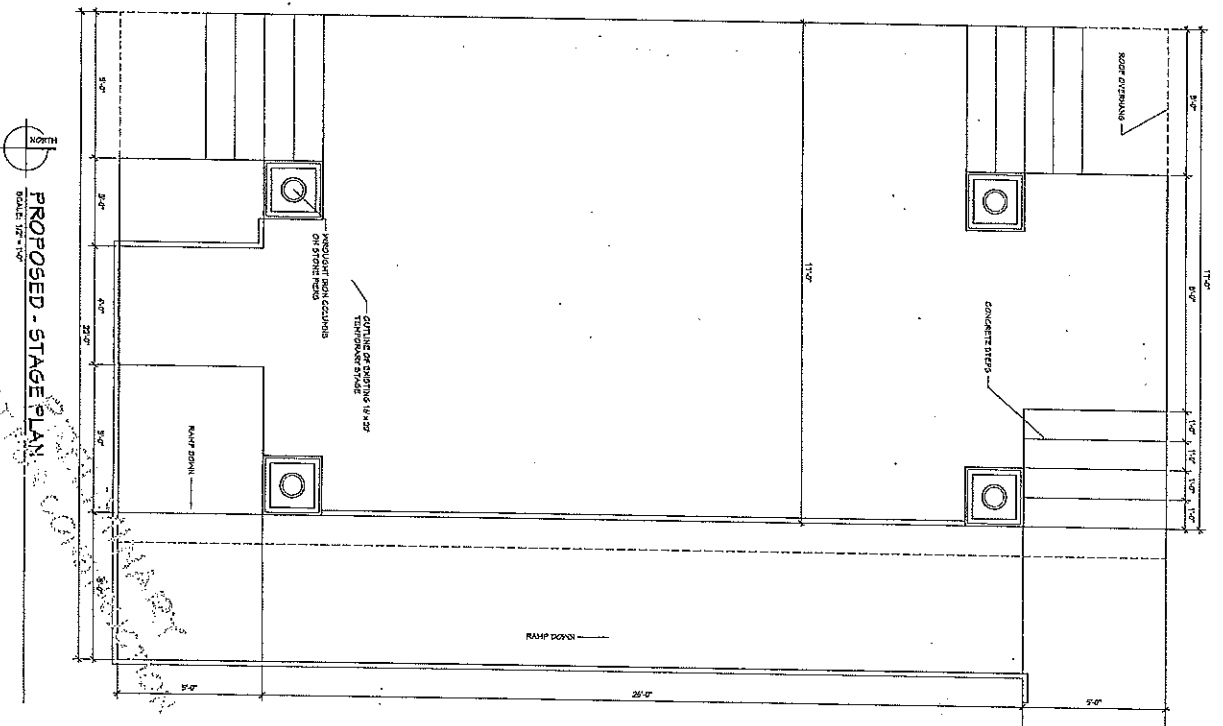
PROJECT: [illegible]
DRAWN BY: [illegible]
DATE: [illegible]
SHEET: [illegible]
SITE: [illegible]



PROPOSED - SIDE ELEVATION
SCALE: 1/2" = 1'-0"



PROPOSED - MAIN ELEVATION
SCALE: 1/2" = 1'-0"



PROPOSED - STAGE PLAN
SCALE: 1/2" = 1'-0"

A1 01

SHEET NO.

PROPOSED -
STAGE PLAN

SHEET TITLE

NO.

DATE

PROJECT

REVISIONS

NO.

DATE

PROJECT

REVISIONS

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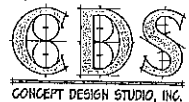
PROJECT

REVISIONS

NO.

DATE

PERMANENT STAGE FOR:
HACKLEY PARK
MUSKEGON, MICHIGAN



CONCEPT DESIGN STUDIO, INC.
800 E. ELLIS ROAD, SUITE 505
NORTON SHORES, MI 49441
PH (231) 799-4025
FAX (231) 799-4021

Date: January 13, 2015

To: Honorable Mayor and City Commissioners

From: DPW/Equipment

RE: Low-Boy Trailer

SUMMARY OF REQUEST:

The Equipment Division has been looking for a gently used trailer for approximately a year now and we have finally found what we need for a price that we find acceptable. Greg Smith Farms has a trailer for \$21,000.00 in very nice condition and we are requesting permission to proceed with this purchase.

FINANCIAL IMPACT:

\$21,000.00

BUDGET ACTION REQUIRED:

None. This is the amount budgeted for.

STAFF RECOMMENDATION:

Authorize staff to purchase (1) Low-Boy Trailer from Greg Smith Farms of Belding, Mi for \$21,000.00



Commission Meeting Date: January 13, 2015

Date: January 7, 2015
To: Honorable Mayor and City Commissioners
From: Finance Director and City Clerk
RE: Agreement – Digital Spectrum Enterprises (DSE)

SUMMARY OF REQUEST: Since May 2005, the City has contracted with Digital Spectrum Enterprises (DSE) for management of the City's government access channel. In exchange for these management rights, DSE broadcasts City Commission meetings at no direct cost to the City. The current agreement with DSE dates from January 2012 through December 2014.

Proposed is a three year agreement renewal with DSE. Terms of the agreement are the same as before.

FINANCIAL IMPACT: This contract entails no direct cost to the City. The City benefits by having City Commission meetings broadcast at no cost.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of a three year contract with DSE for management of the government access channel.

**AGREEMENT BETWEEN THE CITY OF MUSKEGON
AND
DIGITAL SPECTRUM ENTERPRISES OF WEST MICHIGAN, INC.**

This agreement is made this 13th day of January, 2015, by and between the **City of Muskegon**, a Michigan municipal corporation ("City") and **Digital Spectrum Enterprises of West Michigan, Inc.**, a Michigan nonprofit corporation ("DSE"), who agree as follows:

RECITALS

1. The City desires to provide support for the use of cable television, public, educational, and government ("PEG") access channels provided pursuant to federal law.
2. The City has granted a franchise to Comcast, as successors of Taft Cable Partners and Robert Fulk, Ltd. ("Cable Company") to operate a cable television system in the City of Muskegon ("Franchise Agreement").
3. The Franchise Agreement with Cable Company provides that certain channel capacity be provided for PEG access, including a government access channel for use by area municipal governments served by Cable Company (currently cable channel 96) ("Government Access Channel").
4. DSE, as the access management entity designated by the City, has indicated its interest in serving the community by providing PEG access programming and services on the Government Access Channel.
5. In exchange for broadcasting City events free of charge as explained in section 1.B below), the City agrees to allow DSE to use Government access Channel to broadcast programming consistent with PEG channel purposes.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

SECTION 1. SCOPE OF SERVICES: Pursuant to this Agreement, DSE shall provide the following services:

- A. *OPERATE THE GOVERNMENT ACCESS CHANNEL.* Operate the Government Access Channel for local government and community access programming purposes in the manner consistent with the principles set forth in this Agreement and the Franchise Agreement between the City and Cable Company, with the primary purpose being to administer, coordinate, and assist the City of Muskegon in providing local government programming.

- B. *BROADCASTING LOCAL GOVERNMENT PROGRAMMING.* Produce and broadcast, at no expense to the City, City Commission meetings and meetings of other committees, boards and commissions that the City might require, and other reasonable programs or issues that the City Commission may deem necessary.
- C. *DEVELOP OPERATING POLICIES AND PROCEDURES.* Develop policies and procedures for use and operation of the PEG access equipment, facilities, and channel and file such policies and procedures with the City.
- D. *COMPLIANCE WITH LAWS, RULES, AND REGULATIONS.* Administer the Government Access Channel and facilities in compliance with the Franchise Agreement between the City and Cable Company.
- E. *TRAINING.* Train City residents, and when requested, City and school or college employees in the techniques of video production, and provide technical advice in the execution of productions.
- F. *SPECIAL NEEDS GROUPS.* Support special needs groups, including but not limited to the hearing impaired, in program production through training and other means.
- G. *OTHER ACTIVITIES.* Undertake other PEG access programming activities and services as deemed appropriate by DSE and consistent with the obligation to facilitate and promote PEG access programming and provide non-discriminatory access.

SECTION 2. CHANNELS OPEN TO PUBLIC: DSE agrees to keep the PEG Government Access Channel open to all potential users regardless of their viewpoint, subject to FCC regulations and other relevant laws. Neither the City, nor the Cable Company, nor DSE shall have the authority to control the content of programming placed on the Government Access Channel so long as such programming is lawful. Provided that, nothing herein shall prevent DSE, the City, or the Cable Company from producing or sponsoring programming, prevent the City or the Cable Company from underwriting programming, or prevent DSE, the City, or the Cable Company from engaging in activities designed to promote production of certain types of programming or use by targeted groups as consistent with such time, manner, and place regulations as are appropriate to provide for and promote use of PEG access channels, equipment and facilities.

SECTION 3. INDEMNIFICATION: DSE shall indemnify, defend, and hold harmless the City, its officers, agents, employees and volunteers from and against any and all claims, suits, actions, causes of actions, losses, damages, or liabilities of any kind, nature or description, including payment of litigation costs and attorneys' fees, brought by any person or persons for or on account of any loss, damage or injury to person, property or any other interest, tangible or intangible, sustained by or accruing to any person or persons, however the same may be caused, whether directly or indirectly arising or resulting from any alleged acts or omission of DSE, its officers, employees, agents or subcontractors arising out of or resulting from the performance of this Agreement.

DSE shall indemnify and hold harmless the City, its officers, agents, employees and volunteers from and against any and all claims or other injury, including costs of litigation and attorneys' fees, arising from or in connection with claims or loss or damage to person or property arising out of the failure to comply with any applicable laws, rules, regulations or other requirements of local, state, or federal authorities, for claims of libel, slander, invasion of privacy, or infringement of common law or statutory copyright or trademark or any other intellectual property rights, for breach of contract or other injury or damage in law or at equity which claims, directly or indirectly, result from DSE use of channels, funds, equipment, facilities or staff granted under this Agreement or the Franchise Agreement.

SECTION 4. COPYRIGHT:

- A. *CLEARANCE:* Before cable casting video transmissions, DSE shall require all users to agree in writing that they shall make all appropriate arrangements to obtain 1) all rights to all material cable cast and, 2) clearance from broadcast stations, networks, sponsors, music licensing, organizations' representatives, and any and all other persons as may be necessary to transmit their program material over the Government Access Channel. DSE shall maintain, for the applicable statute of limitations period, copies of all such user agreements for the City's inspection, upon reasonable notice by the City.
- B. *OWNERSHIP:* The City shall own the copyright of any programs that the City requests DSE to produce and DSE agrees to assign all such rights to the City and shall execute all documents reasonably requested to effect such assignment and registration of copyrights assigned. Copyright of all other programs shall be held by the person(s) who produced the program.

SECTION 5. INSURANCE: DSE shall maintain in full force and effect at all times during the term of this Agreement insurance as required by this Section. The cost of such insurance shall be borne by DSE.

- A. *COMPREHENSIVE LIABILITY INSURANCE:* Comprehensive liability insurance, including protective, completed operations and broad form contractual liability, property damage and personal injury coverage, and comprehensive automobile liability including owned, hired, and non-owned automobile coverage. The limits of such coverage shall be: (1) bodily injury including death, \$1,000,000 for each person, each occurrence and aggregate; (2) property damage, \$1,000,000 for each occurrence and aggregate.
- B. *EQUIPMENT INSURANCE:* Insurance shall be maintained on all equipment and facilities, including fixtures, to replacement cost. The insurance shall include, at a minimum, insurance against loss or damage beyond the users control, theft, fire or natural catastrophe. The City shall be shown as the lien holder on all policies.
- C. *WORKER'S COMPENSATION:* Full Worker's Compensation Insurance and Employer's Liability with limits as required by Michigan law, provided through an insurance carrier satisfactory to the City.
- D. *CABLECASTER'S ERRORS AND OMISSION INSURANCE:* Insurance shall be maintained to cover the content of productions which are cablecast on the Government Access Channel in at least the following areas: libel and slander; copyright or trademark infringement; infliction of emotional distress, invasion of privacy; plagiarism; misuse of musical or literary materials. This policy shall not be required to cover individual access producers.
- E. *CITY AS CO-INSURED OR ADDITIONAL INSURED:* The City shall be named as a co-insured or additional insured on all aforementioned insurance coverage's. The policies shall provide that no cancellation, major change in coverage or expiration may be affected by the insurance company or DSE without first giving the City thirty (30) days written notice prior to the effective date of such cancellation or change in coverage. Any insurance or self-insurance maintained by the City, its officers, agents, employees, or volunteers shall be in excess of the DSE insurance and shall not contribute to it.
- F. *NOTIFICATION OF COVERAGE:* DSE shall file with the City proof of insurance coverage as follows: (1) Comprehensive Liability and Workers' Compensation; (2) equipment insurance upon the acquisition of any equipment; (3) cable caster's error and omission insurance within thirty (30) days of the cable casting of programming on the Government Access Channel.

SECTION 6. NON-DISCRIMINATION IN EMPLOYMENT AND SERVICE:

- A. DSE shall not discriminate against any person, employee or applicant for employment or contract work on the basis of race, color, creed, religion, sex, sexual preference, marital status, ancestry, national origin or physical or mental disability.
- B. DSE shall not discriminate in the delivery of services on the basis of race, color, creed, religion, sex, sexual preference, marital status, ancestry, national origin or physical or mental disability.

SECTION 7. INDEPENDENT CONTRACTOR: It is understood and agreed that DSE is an independent contractor and that no relationship of principal/agent or employer/employee exists between the City and DSE. If in the performance of this Agreement any third persons are employed by DSE, such persons shall be entirely and exclusively under the control, direction and supervision of DSE. All terms of employment, including hours, wages, working conditions, discipline, hiring and discharging, or any other term of employment, shall be determined by DSE and the City shall have no authority over such persons or terms of employment.

SECTION 8. ASSIGNMENT AND SUBLETTING: Neither this Agreement nor any interest herein shall be assigned or transferred by DSE, except as expressly authorized in writing by the City.

SECTION 9. RECORDS, FISCAL AUDIT:

- A. DSE shall maintain all necessary books and records, in accordance with generally accepted accounting principles.
- B. Upon reasonable request from the City, DSE shall, at any time during normal business hours, make available all of its records with respect to all matters covered by this Agreement.

SECTION 10. ANNUAL REPORT: On or before July 30 of each year in which this Agreement is in effect DSE shall provide to the City an Annual Plan outlining activities and programs planned for the following fiscal year. Such plan shall contain:

- A. A statement of anticipated number of hours of local original PEG access programming;
- B. Training classes to be offered and frequency of classes;
- C. Statistics on programming and services provided; and
- D. Other access activities planned by DSE.

SECTION 11. FUNDING FROM OTHER SOURCES: DSE may during the course of this Agreement, receive funds from other sources, including, but not limited to, fundraising activities. DSE may generate funding for programming through program underwriting and sponsorship in a manner consistent with Federal Communications Commission (FCC) non-commercial rules and regulations.

SECTION 12. TERMS OF AGREEMENT: This Agreement shall be for a period of three years commencing January 13, 2015 and ending December 31, 2017, unless terminated earlier, as provided in this Agreement.

SECTION 13. TERMINATION OF AGREEMENT/TRANSFER OF ASSETS:

- A. The City shall have the right upon sixty (60) days written notice to DSE to terminate this Agreement for
 - 1. Breach of any provision of this Agreement by DSE;
 - 2. Malfeasance, misfeasance, and/or misappropriation of public funds;
 - 3. Notice from Cable Company (and City verification) that DSE is engaging in a commercial advertising and/or fundraising in a manner inconsistent with PEG channels; or
 - 4. Loss of 501(c)(3) status by DSE.
- B. DSE may avoid termination by curing such breaches to the satisfaction of the City within thirty (30) days of notification or within a time frame

agreed to by the City and DSE. The City may also terminate this Agreement at the expiration of its term, or any extension thereof.

SECTION 14. TIME: Time is of the essence in this Agreement and for the performance of all covenants and conditions of this Agreement.

SECTION 15. COOPERATION: Each party agrees to execute all documents and do all things necessary and appropriate to carry out the provisions of this Agreement.

SECTION 16. APPLICABLE LAW: This Agreement shall be interpreted and enforced under the laws of the State of Michigan.

SECTION 17. NOTICES: All notices and other communication to be given by either party may be given in writing, depositing the same in the United States mail, postage prepaid and addressed to the appropriate party as follows:

TO: CITY OF MUSKEGON
Attn: Finance Director
933 Terrace Street
Muskegon MI, 49440

TO: DIGITAL SPECTURM ENTERPRISES
Attn: Ann Bratsburg
105 W. Sherman Blvd
Muskegon MI, 49444

Any party may change its address for notice by written notice to the other party at any time.

SECTION 18. ENTIRE AGREEMENT: This Agreement is the entire agreement of the parties and supersedes all prior negotiations and agreements whether written or verbal. This Agreement may be amended only by written agreement and no purported verbal amendment to this Agreement shall be valid.

WITNESSES:

CITY OF MUSKEGON

By _____

Stephen Gawron, Its Mayor

and

By _____

Ann Marie Cummings, Its Clerk

DIGITAL SPRECTRUM ENTERPRISES OF WEST MICHIGAN, INC.

By



Ann Bratsburg, Owner

IN WITNESS WHEREOF, the parties have executed this agreement as of the date written above.

Date: January 13th, 2015
To: Honorable Mayor and City Commissioners
From: Director of Public Safety Jeffrey Lewis
RE: Section - 10-351 Registration of Rental Dwellings
Ordinance Amendment

SUMMARY OF REQUEST:

The Director of Public Safety requests that the City Commission review and authorize the proposed amendment to Chapter 10 Buildings, Article VI, Division 2, subdivision III "Rental Property", of the City of Muskegon Ordinance as it relates to; subsection (F.) ***Dwelling Fire Insurance*** 1. Minimum coverage; use of insurance proceeds 2. Property owners to provide city with insurance information.

This amendment requests that property owner(s) who lease for occupancy have fire insurance in order to restore and/or demolish a structure in the event of a fire. Further that the property owner(s) provide information and/or fire insurance policy to the city during the rental registration process. A violation of this amended section shall result in the suspension of the registration certificate.

FINANCIAL IMPACT:

Relieve the City of Muskegon from bearing the expense to demolish uninsured rental properties that are damaged during a working fire.

BUDGET ACTION REQUIRED:

N/A

STAFF RECOMMENDATION:

Staff recommends approving this ordinance amendment as written.

**City of Muskegon
Muskegon County, Michigan
Ordinance Amendment No. _____**

THE CITY OF MUSKEGON HEREBY ORDAINS:

Chapter 10 “Buildings and Building Regulations,” Article VI “Property Maintenance Code,” Division 2, Subdivision III. “Rental Property” of the Code of Ordinances of the City of Muskegon is amended as follows:

Subdivision III. Rental Property

Sec. 10-351. Registration of rental dwellings.

- (a) *Required.* All rental dwellings shall be registered with the city. If the owner does not reside within 30 miles of the city, he shall designate a responsible local agent who shall be responsible for operating such dwelling in compliance with the law, including this article. All official notices may be served on the responsible agent, and any notice so served shall be deemed to have been served upon the owner of record. Each owner or responsible local agent shall maintain a current list of the number of occupants of each rental dwelling for which he is responsible. A rental unit certificate of compliance shall not be issued if the registration provisions of this article are not complied with.
- (b) *Deadline for registration; failure to comply.* All rental dwellings existing as of the effective date of the ordinance from which this article is derived shall be registered no later than six months after the effective date of this article. The city shall order registration prior to that date for any dwelling cited in a notice required by this article. Failure to comply with such an order is a violation of this article.
- (c) *Registry of new rental dwellings.* The owner of a new rental dwelling or of any dwelling newly converted to a rental dwelling shall register the rental dwelling prior to allowing occupancy of any new rental units.
- (d) *Change in register information.* The owner of rental dwellings already registered with the city or his responsible local agent shall register within 60 days after any change occurs in register information. A new owner of a registered dwelling shall register the dwelling within 60 days of assuming ownership.
- (e) *Application; contents.* Application for registration shall be made in such form and in accordance with such instructions as may be provided by the administrator and shall include:
 - (1) The address of the rental dwelling.

- (2) The number of dwelling units, the number of rooming units and the number of hotel units in the dwelling.
 - (3) The name, residence address, business address, business phone number and personal phone number of the owner.
 - (4) The name, residence address, business address, business phone number and personal phone number of the manager and responsible local agent designated by the owner.
 - (5) The address where the owner or responsible local agent will accept notices or orders from the city.
- (f) *Dwelling fire insurance.* In order to protect the health, safety and welfare of the residents of the city, it is hereby declared that the city shall require dwelling fire insurance for all property owners who let for occupancy premises in the city in the amount and for the purposes provided below.
- (1) *Minimum coverage; use of insurance proceeds.* All property owners owning property in the city shall be required to obtain a minimum of \$10,000 in dwelling fire insurance. Further, in the event of any fire or loss covered by such insurance, it shall be the obligation of the property owner to use such insurance proceeds to cause the restoration or demolition or other repair of the property in adherence to the city code and all applicable ordinances.
 - (2) *Property owners to provide city with insurance information.* All property owners shall be required to place their insurance company name, policy number and policy expiration date on their rental unit registration form, or in the alternative, to provide the city with a copy of their actual dwelling fire insurance policy. A registration certificate shall not be issued to any person unless the aforementioned information has been provided to the City Clerk. Violation of this section shall result in suspension of a registration certificate. The city shall be informed of any change in policies for a particular rental unit or cancellation of a policy for said property within 10 days of said change or cancellation.
- (g) *Inaccurate or incomplete register information.* It shall be a violation of this article for an owner or a responsible local agent to provide inaccurate information for the register of rental dwellings or to fail to provide information required by the city under subsection (e) of this section. In those cases in which the owner or responsible local agent is not a natural person, the information required for the register shall be provided for the organization owning the rental dwelling and for the president, general manager or other chief executive officer of the organization. Where more than one natural person has an ownership interest, the required information shall be provided for each owner.

- (h) *Exemption from registration requirement.* Dwellings that are not owner-occupied, but are occupied by a grandparent, parent, child or current spouse of the owner are exempt from the rental registration requirements outlined in this section. This exemption is limited to single family residential dwellings. It is the responsibility of the owner asking to be exempted from the rental dwelling registration requirement to provide satisfactory proof to the city of the existence of the familial relationship between owner and resident of the dwelling.

(Code 1975, § 4-82; Or. No. 2304, 2-28-12)

This ordinance adopted:

Ayes: _____

Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By _____

Ann Cummings, MMC

City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the _____ day of _____, 2014, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted, and public notice was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2014

Ann Cummings, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

TO: ALL PERSONS INTERESTED

Please take notice that on _____, 2014, the City Commission of the City of Muskegon adopted an amendment to Chapter 10 “Buildings and Building Regulations,” Article VI “Property Maintenance Code,” Division 2, Subdivision III. “Rental Property” of the Code of Ordinances of the City of Muskegon, whereby the following changes were made:

Section 10-351. was amended by adding a new section (f), requiring dwelling fire insurance for all property owners who let for occupancy premises in the city. A minimum of \$10,000 policy is required and it shall be the obligation of the property owner to use such insurance proceeds to cause the restoration or demolition or other repair of the property in adherence to the city code and all applicable ordinances. Property owners shall be required to place their insurance company name, policy number and policy expiration date on their rental unit registration form, or in the alternative, to provide the city with a copy of their actual dwelling fire insurance policy. A registration certificate shall not be issued to any person unless the aforementioned information has been provided to the City Clerk. Violation of this section shall result in suspension of a registration certificate. The city shall be informed of any change in policies for a particular rental unit or cancellation of a policy for said property within 10 days of said change or cancellation.

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten (10) days from the date of this publication.

CITY OF MUSKEGON

Published: _____, 2014 By: _____
Ann Cummings, MMC, Its Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE