CITY OF MUSKEGON

CITY COMMISSION MEETING

JANUARY 13, 2004

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, January 13, 2004.

Mayor Warmington opened the meeting with a prayer from Pastor Terry Baker from the Spring Street Baptist Church after which the Commission and Public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Bill Larson, Commissioners Clara Shepherd, Lawrence Spataro, Chris Carter, Kevin Davis, and Stephen Gawron, City Manager Bryon Mazade, City Attorney John Schrier and City Clerk Gail Kundinger.

2004-02 CONSENT AGENDA

a. **Approval of Minutes.** CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Commission Worksession that was held on Monday, December 8, 2003; and the Regular Commission Meeting that was held on Tuesday, December 9, 2003.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

b. **Resolution for Charitable Gaming License.** CITY CLERK

SUMMARY OF REQUEST: The Child Abuse Council of Muskegon County, 1781 Peck Street, is requesting a resolution recognizing them as a non-profit organization operating in the City for the purpose of obtaining a gaming license.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: None

c. **Appointments to Committees and Boards.** COMMUNITY RELATIONS COMMITTEE

SUMMARY OF REQUEST: To concur with the recommendations from the Community Relations Committee for appointments as reflected in the minutes of the January 5, 2004 meeting.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

COMMITTEE RECOMMENDATION: Approve the recommendations.

STAFF RECOMMENDATION: Approve the recommendations from the Community Relations Committee.

d. **Housing Commission Appointment.** CITY MANAGER

SUMMARY OF REQUEST: To approve the reappointment of Ed Horne to the Muskegon Housing Commission for a five-year term to expire January 31, 2009.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the appointment.

e. **Sale of Unbuildable Lot at 739 Ellifson Avenue.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of a vacant unbuildable lot (Parcel #24-205-035-0001-05) at 739 Ellifson Avenue to Daniel and Phyllis McCarthy, owners of 735 Ellifson, Muskegon, MI 49442 and Pamela Scott, 745 Ellifson Avenue, Muskegon, MI 49442. Approval of this sale will allow these two adjacent property owners to expand their current yards. As is required by City policy, the subject parcel is being offered for $100, and will be split between the McCarthy's and Ms. Scott for $50 each.

FINANCIAL IMPACT: The sale of this lot will allow the property to be placed back on the City's tax rolls thus relieving the City of continued maintenance costs.

BUDGET ACTION REQUIRED: None

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

COMMITTEE RECOMMENDATION: The Land Reutilization Committee (LRC) recommended approval of this request at their December 16, 2003 meeting.

f. **Sale of Unbuildable Lot at 1513 Park Street.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the sale of a vacant, marginal lot (Parcel #24-205-417-0003-00) at 1513 Park Street to Scott McCullough, 1519 Park Street, Muskegon, MI, Fanny Hatcher, 1507 Park St., Muskegon, MI, and Michael South, 453 W. Grand Ave., Muskegon, MI. Approval of this sale will allow the adjacent property owners to have homes located on buildable lots, as well as expanding their current yards. Since this is a marginal lot, and two of the adjacent property owners are located on unbuildable lots, LRC recommended the sale of this parcel for $100. The subject parcel will be split between the three adjacent property owners and the price split between them.

FINANCIAL IMPACT: The sale of this lot will allow the property to be placed back on the City's tax rolls thus relieving the City of continued maintenance costs.

BUDGET ACTION REQUIRED: None

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

COMMITTEE RECOMMENDATION: The Land Reutilization Committee (LRC) recommended approval at their November 18, 2003 meeting.

g. **Termination of Old Ferry Agreement**. CITY MANAGER

SUMMARY OF REQUEST: To approve an agreement with Lake Express to terminate the lease agreement dated March 4, 2003, between the City and Lake Express. This agreement was replaced by a new lease agreement dated October 28, 2003.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the agreement.

h. **Request for Encroachment Agreement - Torresen Marine, Inc**. ENGINEERING

SUMMARY OF REQUEST: Torresen Marine Inc. has submitted an encroachment agreement form requesting your permission to install an underground 2" conduit across Lakeshore Dr. just east of Sampson. The installation would utilize a bore & Jack method. The conduit would be utilized as telecommunication facility carrier.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the encroachment agreement with the supplemental conditions.

i. **"Cool Cities" Resolution.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the resolution of support and commitment for participation in the "Creating Cool Collaboration" strategic planning session.

STAFF RECOMMENDATION: Approval

j. **<u>Fees for Business Registration and Liquor Licensing Renewals.</u>** CITY CLERK

SUMMARY OF REQUEST: Approval of amendments to the Master Fee Resolution to include Business Registration fee increase from $25 to $30 annually, and Liquor License renewal fee at $100 annually.

FINANCIAL IMPACT: Additional revenue of approximately $6,300.

BUDGET ACTION NEEDED: Increase Business Registration revenue.

STAFF RECOMMENDATION: Approve the amendments to the Master Fee Resolution to include the 2004 Business Registration fee of $30 and the Liquor License renewal fee of $100.

k. **<u>Approval of Transfer of Obligation.</u>** COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve a transfer of obligation for a rehabilitation (siding) that was completed by the CNS Department in 2002. Currently, Ms. Kimberly Hunter of 130 E. Isabella who has a forgivable five-year lien with a current balance of $6,311.20 wishes to sell the property to Ms. Carisa Brown who is purchasing Hunter's home prior to foreclosure. Ms. Brown agrees to accept all of the CNS requirements in reference to the home that was sided by the department in 2002.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the request.

Motion by Commissioner Spataro, second by Commissioner Gawron to approve the Consent Agenda.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, Larson

Nays: None

MOTION PASSES

2004-03 PUBLIC HEARINGS:

a. **<u>Request for an Industrial Facilities Exemption Certificate, Ameriform.</u>** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, Ameriform, Inc., 1790 Sun Dolphin Drive, Muskegon, Michigan, manufacturer of custom thermoformed plastic products, has requested the issuance of an Industrial Facilities Exemption Certificate. Total capital investment for this project is $702,725 in personal property. The project will result in the creation of 5 new employment opportunities. Ameriform, Inc., along with its sister company, KL Industries, has a current workforce of approximately 200 people in 3 locations.

FINANCIAL IMPACT: The City will capture certain additional property and income 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 seven (7) years.

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

Motion by Commissioner Spataro, second by Vice Mayor Larson to close the Public Hearing at 5:47 p.m. and approve the resolution granting an Industrial Facilities Exemption Certificate for a term of seven years.

ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, Spataro

Nays: None

MOTION PASSES

2004-04 NEW BUSINESS:

a. Tentative Agreement Reached with Muskegon Police Command Union. ASSISTANT CITY MANAGER

SUMMARY OF REQUEST: Staff recommends approval of the set of tentative agreements reached with the Muskegon Police Command Union. Tentative Agreements were ratified by the union membership at a meeting held on Monday, January 12, 2004.

FINANCIAL IMPACT: The overall financial packet is about 10% of payroll. The packet includes the following significant economic agreements:

Union

Wages

2004	2005	2006
2.00%	2.00%	2.00%

Pension

Effective 12/31/06, increase multiplier from 2.5% to 2.75% (for normal retirement), and change retirement age from 55 w/25 yrs. of service to age 53 w/25 yrs. of service.

Insurance

Increase major medical cap from $225,000 to $300,000

City

Future Reduction in Health Care Costs

a. Increase co-pays for generic and brand name drugs;

b. Increase premium co-pay to $20 bi-weekly;

c. 1/1/04 limit retiree dependents to those identified at time of retiree retirement;

d. Establish employee health insurance savings account to allow employees to contribute pre-tax monies to be used for health and prescription costs after retirement.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval

Motion by Commissioner Gawron, second by Commissioner Spataro to approve the tentative agreement with the Muskegon Police Command Union.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, Shepherd

Nays: None

MOTION PASSES

b. <u>FIRST READING - Parks Parking Ordinance</u>. LEISURE SERVICES

SUMMARY OF REQUEST: To adopt the ordinance, which will allow for level 3 parking tickets for parks as was in the old set of parking ordinances.

FINANCIAL IMPACT: Continues the Level 3 tickets for parks at $17.50.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval.

Motion by Commissioner Spataro, second by Commissioner Gawron to adopt the ordinance.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, Warmington

Nays: None

MOTION PASSES

c. <u>Ruddiman Creek Access Agreement</u>. LEISURE SERVICES

SUMMARY OF REQUEST: To authorize the Mayor and Clerk to sign the access agreement to allow for the removal of contamination in Ruddiman Creek.

FINANCIAL IMPACT: None to the City.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval

Motion by Commissioner Carter, second by Commissioner Shepherd to authorize

the Mayor and Clerk to sign the access agreement.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, Carter

Nays: None

MOTION PASSES

d. Denial of Parking Ramp Proposal. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The City distributed a Request for Proposals for the City Parking Ramp this fall. The proposals were due in late November. The only proposal received was from St. Mary's Catholic Church. They proposed a real-estate "swap", which included the City demolishing the existing City ramp, then swapping the land with St. Mary's for their parking lot on SW corner of Jefferson and Webster. It is recommended that the proposal be denied, as the City would be responsible for the expense of demolishing the parking ramp.

FINANCIAL IMPACT: None (if the proposal is denied), with the exception that the City will continue to provide minimal maintenance on the facility until it is reused or sold at a later date.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To deny the proposal from St. Mary's Church.

Motion by Vice Mayor Larson, second by Commissioner Spataro to deny the proposal from St. Mary's Church and send them a letter thanking them for their proposal.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, Davis

Nays: None

MOTION PASSES

e. Nugent Sand Resolution. CITY COMMISSION

SUMMARY OF REQUEST: To authorize the Mayor and Commissioners to sign the resolution in opposition to the construction of a pipeline through the barrier dune to Lake Michigan.

Motion by Commissioner Shepherd, second by Commissioner Gawron to approve the resolution that is in opposition to the construction of a pipeline through the barrier dune to Lake Michigan.

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, Gawron

Nays: None

MOTION PASSES

f. **<u>Concurrence with the Housing Board of Appeals Notice & Order to Demolish the Following</u>**: INSPECTIONS

SUMMARY OF REQUEST: To request City Commission concur with the findings of the Housing Board of Appeals that the structures located at the following addresses are unsafe, substandard, public nuisances 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 structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

1. 781 W. Southern (Area 12)

CASE NUMBER AND PROJECT ADDRESS: #EN030137, 781 W. Southern (Area 12)

LOCATION AND OWNERSHIP: This structure is located on W. Southern between Beidler and Henry Streets. It is owned by Beneficial Michigan.

STAFF CORRESPONDENCE: This property was written as a dangerous building 8-19-03 when the housing inspector referred it to the Director of Inspections because of the condition. The Notice and Order to repair or remove was issued 9-17-03 and the Housing Board of Appeals declared the structure on November 6, 2003. No one was present at that meeting to represent this case.

OWNER CONTACT: None

FINANCIAL IMPACT: The cost of demolition will be paid with general funds.

BUDGET ACTION REQUIRED: None

SEV: $23,100

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

ESTIMATED COST OF REPAIRS: $6,000 plus the cost of interior repairs

Motion by Commissioner Spataro, second by Commissioner Shepherd to concur with the Housing Board of Appeals decision to demolish 781 W. Southern.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, Larson

Nays: None

MOTION PASSES

2. 1166 W. Grand

CASE NUMBER AND PROJECT ADDRESS: #01-051 – 1166 W. Grand (Area 12)

LOCATION AND OWNERSHIP: This structure is located on W. Grand west of Barclay at the end of the cul de sac. It was owned by Kenneth and Maryjane

Sanford and they sold it on a land contract to James and Tamara Ward. An inspection was conducted on 11/15/01 due to complaints regarding the exterior condition of the home. A notice and order to repair or remove was issued 2/26/02. The case was heard before the HBA on May 2, 2002 and it was tabled for 180 days. At that time it was ordered that the repairs to the front of the house be completed within 30 days and the exterior repairs be completed within 90 days. It was stated if the conditions were met, the case would not be brought back to the HBA. The exterior repairs were not completed and the case was heard again before the HBA on 12/5/02. The Wards were not present, but they called the office on 11/27/02 and stated they had been working inside and spent a large amount of money on the electrical work and that the front of the house would be completed within 60 days. There has been no contact with the owners since that date. The HBA declared it dangerous and substandard on 12/5/02. The case was brought before City Commission on 3/25/03 and was tabled indefinitely to give the Wards an opportunity to repair. In September 2003 they had a furnace installed, with the help of CNS. On 11/17/03 a complaint notice was issued regarding junk on the front porch and reissued 12/1/03. On 12/18/03 a $100 civil infraction was issued for storing rubbish on the porch. On this date it was discovered that the gas had been shut off for non-payment and the Wards had moved to Florida and they are renting the house out. An officer attempted to speak to someone at the house due to neighbor complaints, but got no answer. He was able to see a small propane stove inside on the kitchen counter. Another exterior inspection was conducted 1/2/04.

STAFF CORRESPONDENCE: A dangerous building inspection report was written 11/15/01 and Notice and Order to repair or remove was issued 2/26/02. On 5/2/02 the HBA tabled the case for 180 days to allow the owner to complete repairs. On 12/5/02 the HBA declared the house substandard and dangerous. On 3/25/03 the City Commission heard the case and tabled it indefinitely.

OWNER CONTACT: The owners were present at the 5/2/02 HBA meeting and stated they wanted to repair the house. A progress inspection was ordered by the City Commission 3/25/03 and was conducted 4/10/03. The Wards have not contacted the Inspection Department since then, but have been in Contact with CNS for financial help with the furnace.

FINANCIAL IMPACT: The cost of demolition will be paid with general funds.

BUDGET ACTION REQUIRED: None

SEV: $26,500

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

ESTIMATED COST OF REPAIRS: $25,000

Motion by Commissioner Shepherd, second by Vice Mayor Larson to call for the

question.

ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, Spataro

Nays: None

MOTION PASSES

Motion by Vice Mayor Larson, second by Commissioner Spataro to concur with the Housing Board of Appeals Notice and Order to demolish 1166 W. Grand.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Gawron, Larson, Shepherd

Nays: Davis

MOTION PASSES

3. 204 W. Dale

CASE NUMBER AND PROJECT ADDRESS: #EN030165, 204 W. Dale

LOCATION AND OWNERSHIP: This structure is located on W. Dale between Fifth and Sixth Street. It is owned by Raul and Sharon Melgoza.

STAFF CORRESPONDENCE: This property was written as a dangerous building 10/14/03 when the housing inspector referred it to the Director of Inspections because of the conditions. The owner did not have a Certificate of Compliance and was trying to evict the tenants at the time. The Notice and Order to repair or remove was issued 10/21/03 and the Housing Board of Appeals declared the structure on December 4, 2003. No one was present at that meeting to represent this case.

OWNER CONTACT: Mrs. Melgoza contacted the Inspection office in early November and stated her husband is incarcerated and she is trying to evict the tenants. She was referred to Legal Aid because she has no Certificate of Compliance and was having a problem getting the tenants out.

FINANCIAL IMPACT: The cost of demolition will be paid with general funds.

BUDGET ACTION REQUIRED: None

SEV: $14,700

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

ESTIMATED COST OF REPAIRS: $15,000 plus cost of repairs for upper unit.

Motion by Commissioner Spataro, second by Commissioner Gawron to concur with the Housing Board of Appeals decision to demolish 204 W. Dale.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, Warmington

Nays: None

MOTION PASSES

2004-05 ANY OTHER BUSINESS: Commissioner Larson commented on his concern reference the Ferry Dock. City Manager will set up a meeting with the County. Commissioner Spataro commented on a letter from a City employee that was sent to the Commissioners. This was referred to the Legislative Policy Committee.

2004-06 PUBLIC PARTICIPATION: Comments were heard from the public thanking the Commission for their decision reference Nugent Sand.

2004-07 CLOSED SESSION: To discuss pending litigation.

Motion by Vice Mayor Larson, second by Commissioner Gawron to go into Closed Session at 6:52 p.m.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, Carter

Nays: None

MOTION PASSES

Motion by Commissioner Shepherd, second by Commissioner Spataro to come out of Closed Session at 7:18 p.m.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, Davis

Nays: None

MOTION PASSES

Motion by Commissioner Shepherd, second by Commissioner Carter to concur with the recommendations from the City Attorney.

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, Gawron

Nays: None

MOTION PASSES

The Regular Commission Meeting of the City of Muskegon was adjourned at 7:19 p.m.

Respectfully submitted,

Gail A. Kundinger, MMC
City Clerk