CITY OF MUSKEGON

CITY COMMISSION MEETING

JANAURY 12, 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 12, 2021.

ROLL CALL FOR THE REGUAR COMMISSION MEETING:

Present: 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-arrived at 6:35 p.m.), City Manager Frank Peterson, City Attorney John Schrier, and City Clerk Ann Meisch.

Absent: Mayor Stephen J. Gawron

2021-02 HONORS/AWARDS/PRESENTATIONS:

A. Lead Grant Summary Community & Neighborhood Services

Sharonda Carson, Community Development Specialist in the Community & Neighborhood Services Department, provided a summary of the Lead Safe Muskegon Program and the $880,000 grant awarded for services in the County of Muskegon. Approximately $730,000 has been spent to remediate 26 homes to date, with the average remediation cost being around $30,000.

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

2021-03 CONSENT AGENDA:

A. Approval of Minutes City Clerk

SUMMARY OF REQUEST: To approve the minutes of the December 7, 2020 Worksession and December 8, 2020 Regular City Commission Meetings.

STAFF RECOMMENDATION: To approve the minutes.

C. Western Market Rent   City Clerk

SUMMARY OF REQUEST: The DMDC has indicated now that the Renaissance period has ended, they need to charge rent to cover the taxes and insurance on the property where Western Market currently sits. The tax bill for the property taxes last year were approximately $8,150. The DMDC has indicated they would like to charge the City $5,000 per year beginning with 2019. They have invoiced the City $10,000 for 2019 and 2020.

AMOUNT REQUESTED: $10,000   AMOUNT BUDGETED: $0

FUND OR ACCOUNT: General Fund

STAFF RECOMMENDATION: Authorize staff to pay 2019 and 2020 rent in the amount of $10,000 and the annual fee of $5,000 going forward beginning 2021.

D. Electricity Upgrade at Western Market   City Clerk

SUMMARY OF REQUEST: Our electrician has indicated that we need to upgrade our power at the chalets to accommodate vendor needs. We have received a quote to install a new 100 amp weather proof service. The power source is approximately 300 feet away that the condo association behind the chalets is allowing us to continue to use.

The power that was originally installed was not intended to support heaters and air conditioners. We quickly learned it was necessary to allow both depending on the season but we are using more power than the system was designed for. We also have business interested in joining us in 2021 and, if approved by the committee, they need additional power beyond the two outlets currently offered. With this proposal, we could accommodate a business with this need now and in the future.

AMOUNT REQUESTED: $6,500   AMOUNT BUDGETED: $0

FUND OR ACCOUNT: General Fund

STAFF RECOMMENDATION: To authorize the City Clerk to hire Lakeshore Electric to upgrade the electricity at Western Market for a cost of $6,500.

E. Special Event Fees   City Clerk

SUMMARY OF REQUEST: Staff is requesting those events held in 2019 ONLY be allowed a 50 % discount up to the amount of their 2019 invoice for DPW Services, to waive their application fee this year, and allow the City Manager and Public Safety Director to evaluate policing services actually provided after each event and determine if a discount may be given. This waiver/reduction of fees does not apply to new events or events that did not take place in 2019 or events that are not paid up-to-date with previous events.

The City recognizes that our established events in Muskegon have been seriously impacted this past year and some may not be back. Several staff

members met with many leaders of such events to listen to their needs. Staff then met to develop ideas how we may assist understanding staff is also running with less resources. Staff's recommendation is to allow a 50% discount for DPW services (ex. If the invoice for 2019 services was $4,000, the discount can be as much as $2,000. If their 2021 invoice is $5,000, they receive a $2,000 discount). Police Department services are different because they are actual costs that the City does incur. The Public Safety Director has indicated he is willing to evaluate the services needed, if the even had a well thought out plan for safety that was implemented and followed the guidelines set by the police department. Larger events are required to have a meeting with staff to cover such details. These changes are only suggested for 2021.

STAFF RECOMMENDATION: To authorize staff to reduce 2021 fees for DPW services for special events up to 50% based on the fees billed in 2019, to waive the application fee, and allow the City Manager and Public Safety Director to evaluate each event after it has occurred and determine a discount. Any discounts/waiver of fees apply only to events held in 2019 who wish to continue in 2021.

F. <u>Non-Union PT and LT Wage Matrix</u> EEO & Employee Relations

SUMMARY OF REQUEST: The 2021 wage matrix will not have any changes this year other than the change to the minimum wage.

STAFF RECOMMENDATION: Approve the minimum wage change to the non-union part time limited term wage matrix for 2021.

G. <u>Extension of Temporary Employment Services Agreement</u> EEO & Employment Relations

SUMMARY OF REQUEST: To approve a one-year contract extension with GoodTemps Temporary Staffing Services, Inc. for temporary and seasonal employment services. The current agreement expired on December 31, 2020.

STAFF RECOMMENDATION: To approve the agreement with GoodTemps Temporary Staffing Services, Inc. and authorize the Mayor and City Clerk to sign the agreement extension.

I. <u>Transmittal of 06/30/2020 Comprehensive Annual Financial Report</u> Finance

SUMMARY OF REQUEST: The City's June 30, 2020 Comprehensive Annual Financial Report (CAFR) will be distributed to the City Commissioners via email and hard copy. The CAFR will also be available on the City's website. The CAFR includes the annual independent auditor's report as required by state law. At this time the CAFR is being formally transmitted to the City Commission. The CAFR has been prepared in accordance with all current Governmental Accounting

Standards Board (GASB) pronouncements and also includes the single audit of federal grants received by the City.

STAFF RECOMMENDATION: To accept the June 30, 2020 CAFR and authorize staff to transmit the CAFR to appropriate federal, state, and private agencies.

J. <u>Obsolete Property Rehabilitation Certificate – Chart House Energy – name change to Chart House Energy Opportunity Fund, LLC</u> Planning

SUMMARY OF REQUEST: Request to amend the Obsolete Property Rehabilitation Certificate at 825 W. Western Avenue for Chart House Energy to recognize their name change to Chart House Energy Opportunity Fund, LLC.

The Certificate was issued for 10 years on October 23, 2018. The original resolution states that "the applicant shall have twenty-four (24) months to complete the rehabilitation. It shall be completed by October 23, 2020, or two years after the Certificate is issued, whichever occurs later." The Certificate has not been issued by the State yet because of ownership/title issues, which have not been cleared. The State of Michigan will process the application and issue the certificate once the local unit of government provides and amended resolution. The applicant is now proposing to commence construction immediately and finish by October 1, 2021. The Certificate would expire on its originally planned date of December 31, 2028.

STAFF RECOMMENDATION: To approve the request to amend the Obsolete Property Rehabilitation Certificate at 825 W Western Avenue for Chart House Energy to recognize their name change to Chart House Energy Opportunity Fund, LLC.

K. <u>Alley Vacation – Art Museum</u> Planning

SUMMARY OF REQUEST: Request to vacate a portion of the alley between Clay Street and Webster Avenue between 2nd Street and 3rd Street by the Muskegon Museum of Art. The Planning Commission unanimously recommended vacation of the alley as requested.

STAFF RECOMMENDTION:To approve the request to vacate a portion of the alley between Clay Street and Webster Avenue between 2nd Street and 3rd Street, by the Muskegon Museum of Art.

L. <u>Sale – 219 Merrill Avenue</u> City Manager

SUMMARY OF REQUEST: City staff is seeking authorization to sell the city-owned home at 219 Merrill to Vontrese Clanton. 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 $185,000, and the incurred sales commissions are $11,100. The City will also contribute $5,500 toward closing costs. *Note: In*

November, the City Commission authorized a sale to another buyer at a $190,000 purchase price with a similar commitment toward closing costs, but that buyer chose not to complete the transaction.

STAFF RECOMMENDATION: Authorize the City Manager to complete the sale of 219 Merrill Avenue, as described in the purchase agreement.

M. <u>Sale – 275 Mason Avenue</u> City Manager

SUMMARY OF REQUEST: City staff is seeking authorization to sell the city-owned home at 275 Mason to Alex Riensma. The City constructed the 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 rice is $180,000, and the incurred sales commissions are $10,800. The City will not contribute funds toward closing costs.

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

N. <u>Sale – 346 Mason Avenue</u> City Manager

SUMMARY OF REQUEST: City staff is seeking authorization to sell the city-owned home at 346 Mason to Christopher and Morgan Lawson. 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 $179,900, and the incurred sales commissions are $10,800. The City will not contribute toward closing costs.

STAFF RECOMMENDATION: Authorize the City Manager to complete the sale of 346 Mason Avenue, as described in the purchase agreement.

P. <u>Marshall Street Elevated Tank Painting</u> Public Works – Filtration

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

Staff has worked with Dixon Engineering on a proposal for professional services to oversee the design, bidding, construction, and post-construction phases of the Marshall Street elevated tank project. Dixon engineering has extensive knowledge of the city's elevated water tanks and has managed many of our past elevated tank projects and inspections.

Located in the Jackson Hill neighborhood, the Marshall Street tank is highly visible from the Moses J. Jones Parkway. The exterior tank coating continues to chalk, fade, and lose its gloss. More importantly, the exterior and interior coatings are beyond their expected lifetimes, and a 2019 inspection found coating deterioration with spot failures and topcoat delamination.

The largest part of this project will include repairs to the interior coating of the tank and a complete overcoat of the tank exterior. Additionally, the cathodic

protection system that prevents corrosion of the tank has failed and needs to be repaired. Other minor modifications will take place on the tank to bring it into compliance with safety standards and drinking water regulations.

Dixon engineering will prepare design plans for the project and assist the city in soliciting bids from contractors to perform the work. Bids for the contractors will be brought back to the commission for consideration after they are received.

AMOUNT REQUESTED: $49,750 AMOUNT REQUESTED: $325,000

FUND OUR ACCOUNT: 591-92035

STAFF RECOMMENDATION: Authorize staff to contract with Dixon Engineering in the amount of $49,750 for professional services to oversee the painting and repairs of the Marshall Street elevation tank.

R. <u>Police Cruiser Replacement</u> Equipment

SUMMARY OF REQUEST: The Equipment Division is requesting permission to purchase three Chevy Tahoes from Berger Chevrolet, the State Mi-Deal contract holder. The price of this vehicle is $38,836.00 each for a total price of $116,508.00 coming from the Equipment budget.

AMOUNT REQUESTED: $116,508.00 AMOUNT BUDGETED: $120,000.00

FUND OR ACCOUNT: Equipment

STAFF RECOMMENDATION: Authorize staff to move forward with purchase.

T. <u>Paid Parking Policy – Development Services</u> Development Services

SUMMARY OF REQUEST: Staff are seeking approval of a policy to formalize paid parking within the city.

At the request of the City Manager, the Parking Committee has developed a Paid Parking Policy based on a review of the implementation, operation, and enforcement of the first summer of paid parking at our beaches. This policy addresses paid parking at the city owned beaches and launches and standardizes practices for selling and distributing passes, communicating with the public, and enforcement. The committee includes representatives from Public Safety, Public Works, Finance, and Development Services.

STAFF RECOMMENDATION: To approve the Paid Parking Policy.

V. <u>Sale – 352 Mason Avenue</u> City Manager

SUMMARY OF REQUEST: City staff is seeking authorization to sell the city-owned home at 352 Mason to Ian McDowell. 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 $189,000, and the incurred sales commissions are $11,394. The City will not contribute funds toward closing costs.

STAFF RECOMMENDATION: Authorize the City Manager to complete the sale of 352 Mason Avenue, as described in the purchase agreement.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Johnson, to approve the consent agenda as presented, minus items B, H, O, Q, S, U, and W.

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

Nays: None

MOTION PASSES

2021-04 ITEMS REMOVED FROM CONSENT AGENDA:

B. <u>FY2020-21 Sewer Rate Adjustment</u> Finance

SUMMARY OF REQUEST: As the FY2019-20 Comprehensive Annual Financial Report was finalized it became evident that the Sewer Fund was in a $3.5 Million deficit. This deficit will require an immediate rate increase of 20% effective January 1, 2021.

In FY 2018-19 the Sewer fund had a $979,425 operating loss and in FY2019-20 had an operating loss of $1,435,021. These losses were directly related to the high water level and infiltration into our system and have created a deficit of $3,595,965 in the Sewer Fund.

During the calendar year 2019 the City billed about 1.7 million units of sewage usage which equals 1,271,600,000 gallons, in the same period the county treated and billed us for 2,090,510,000 gallons. This means we are paying to treat 1.64 gallons for every gallon we bill. From FY2018-19 to FY2019-20 our costs to the County for treatment increased 19.5% however during the same period of time our revenues increased only 2.2%

The sewer rate has increased by 5% in each of the last two fiscal years and as you recall staff had proposed an 8% increase for the current fiscal year however the Commission only approved a 5% increase. At this time staff is proposing a 20% increase. For the current fiscal year this increase is expected to generate an additional $900,000 in revenue. For the current year we are hopeful that the increase will create an operational surplus and lower the deficit in the Sewer, however there will still be a deficit in the sewer fund for the current fiscal year. We are hopeful the deficit will go away in FY21-22.

I have attached an updated budget reforecast that only includes the operational budget for the current fiscal year for the Sewer Fund. Unfortunately, our usage is down which is why the revenue reforecast increase is less than $900,000. The 2nd Quarter Budget Reforecast will be presented to the Commission at the first meeting in February.

STAFF RECOMMENDATION: To approve the resolution to adjust the FY2020-21 Sewer Rate by 20%.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to approve the resolution to adjust the FY2020-21 Sewer Rate by 20%

> **<u>Amendment:</u> Motion by Commissioner Johnson, second by Commissioner Emory, to place a moratorium on the waiving of sewer connection fees so long as long the sewer fund has an operating deficit and is in debt to other funds.**
>
> **ROLL VOTE: Ayes: Hood, German, Rinsema-Sybenga, Emory, and Johnson**
>
> **Nays: None**

MOTION PASSES

<u>Vote on Original Motion:</u>

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

Nays: None

MOTION PASSES

H. <u>Vinyl Siding Installer Contracts for FY 2020</u> CNS

SUMMARY OF REQUEST: To authorize Community and Neighborhood Services to enter a new contract with JR Tucker Construction, Badgerows Contracting, and Maintenance Unlimited to install vinyl siding at an agreed price of $65.00 (Sixty-five dollars) per building square for the Residential Façade Program's 2020 fiscal year. Bids for Contractor Procurement was posted in September 2020.

AMOUNT REQUESTED: N/A AMOUNT BUDGETED: $105,000

FUND OR ACCOUNT: Residential Façade allocation category of the Community Development Block Grant. CDBG 2018, 2019, 2020 Budgets.

STAFF RECOMMENDATION: To enter agreements with 3 contractors to perform Residential Façade projects to expedite a long waiting list.

Motion by Commissioner Emory, second by Commissioner Johnson, to enter into agreements with 3 contractors to perform Residential Façade projects to expedite a long waiting list.

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

Nays: None

MOTION PASSES

O. <u>Convention Center Agreements</u> City Manager

SUMMARY OF REQUEST: Staff is seeking approval of an updated Convention

Center Naming Rights and Sponsorship Agreement with VanDyk Mortgage Corporation.

In December, the City Commission approved a naming rights agreement with VanDyk Mortgage. As we worked toward formal implementation, a number of issues came to our attention. The items were easy to correct, but both sides felt the cleanest way to correct the agreement was to resubmit it in its entirety for commission approval. Changes of note are as follows:

1. **The costs for VanDyk remain unchanged, with the exception of the rent payment for the month of January 2021. Because signage installation is not predicted to take longer than expected, we mutually agreed that their monthly payments should begin January 1. Rent payments will begin once all exterior signage is installed.**
2. **Mortgage-related advertising and marketing is heavily regulated to ensure fair and non-discriminatory lending practices. Accordingly, we needed to make significant changes to industry exclusivity language, marketing language, trademark usage language, and other language that gave the city permission to use the VanDyk Mortgage name on promotional materials. The changes provide more input from VanDyk's legal team throughout the process to insure compliance.**
3. **We recharacterized the future partnership with VanDyk because they cannot be our preferred vendor for the same reasons listed in #2, but instead, they should be listed as a strategic partner. All marketing needs to be clear that buyers may use their lender of choice.**
4. **We cleaned up the liability language specific to liability claims. Parkland, as the operator, will need to hold VanDyk harmless. The City will agree to work to have VanDyk released from those types of suits in the event they happen, with the understanding that the City cannot legally indemnify VanDyk or any other entity. We also increased Parkland's insurance requirements to account for this.**

STAFF RECOMMENDATION: Approve the Naming Rights and Sponsorship Agreement with VanDyk Mortgage and authorize the City Manager to sign the agreements.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Johnson, to approve the Naming Rights and Sponsorship Agreement with VanDyk Mortgage and authorize the City Manager to sign with agreement of the City Attorney and without substantive changes.

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

Nays: None

MOTION PASSES

Q. As – Needed Forestry Services Public Works

SUMMARY OF REQUEST: Authorize the award of the As-Needed Forestry Services to CHOP Tree Service in the not to exceed amount of $50,000.

Staff solicited bids for as-needed forestry services. The bid was posted publicly on our website and hosted elsewhere along with bid packets being mailed to several area tree firms. Only one bid was received at the designated time with a second bid received late and rejected.

The Bid Sheet for CHOP is included in the attachment. The bid sheet was reviewed and found to be a reasonable bid and is recommended for approval by staff. The bid received late that was rejected was higher than the accepted bid. This project was included in the most recent 20-21 budget reforecast.

AMOUNT REQUESTED: $50,000   AMOUNT BUDGETED: $50,000

FUND OR ACCOUNT: 101-70771-5346

STAFF RECOMMENDATION: Approve the award of the as-needed forestry services contract to CHOP Tree Service for the not to exceed amount of $50,000.

Motion by Commissioner Emory, second by Commissioner Rinsema-Sybenga, to approve the award of the as-needed forestry services contract to CHOP Tree Service for the not-to-exceed amount of $50,000.

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

Nays: None

MOTION PASSES

S. PILOT Village at Jackson Hill   Planning

SUMMARY OF REQUEST: Request to amend the PILOT at the Village of Jackson Hill, by General Capital. General Capital ("GCG") is under contract to purchase the Village at Jackson Hill, a 40-unit senior tax credit apartment complex constructed about 15 years ago at 557 McLaren Avenue. GCG intends to apply to MSHDA for 9% tax credits to rehabilitate the project. In order for the project receive a high enough score to be competitive to receive an allocation of credits, they are asking that the City consider adopting a new PILOT for the program. The existing 4% PILOT terminates in 2027 and MSHDA requires a PILOT with a longer term to receive the PILOT points.

If successful in receiving a tax credit award, GCG intends to rehabilitate the project. They anticipate spending approximately $48,000 per unit in hard construction costs. The rehabilitation will include creating visitable and truly handicap accessible units. In addition, if successful in receiving an award of the credits the Area Median Income ("AMI") unit mix of the project will expand. Currently, the project has 2 60% AMI units 18 45% AMI units and 20 40% AMI

units. With a new tax credit award, the unit AMI mix will shift to 5 units at 30% AMI, 5 units at 40% AMI, 1 unit at 50% AMI, 16 units at 40% AMI and 13 units at 80% AMI.

With the change in unit mix the gross potential rental revenue at the project will increase from approximately $260,000 to $330,000. This increase will happen over time, as the current tenants will not be displaced. Rents will increase in the same manner they have in the past. As new tenants take occupancy, the rents will increase to the new AMI limits.

The current owners are paying a 4% PILOT and it expires in 2027. GCG is requesting to extend the PILOT 25 years (until 2046) and is willing to adjust the PILOT payments to include a municipal services fee.

In addition, it also appears that a corner of one of the buildings encroaches onto City ROW. The applicant is seeking an encroachment easement that will help with any liability with the building location.

STAFF RECOMMENDATION: To approve the amended PILOT, including the Municipal Services Agreement. Also, to approve the encroachment easement.

Motion by Commissioner German, second by Commissioner Emory, to approve the amended PILOT, including the Municipal Services Agreement, Also, to approve the encroachment easement.

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

Nays: None

MOTION PASSES

U. <u>Changes to the Fee Schedule for Paid Parking at Beaches</u>
Development Services

SUMMARY OF REQUEST: Staff are seeking approval of a change to the fees for parking at city beaches.

Daily rate Monday through Thursday - $7

Daily rate Friday through Sunday - $10

STAFF RECOMMENDATION: To approve the daily rates for paid parking at city owned beaches.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to approve the daily rates for paid parking at city owned beaches.

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

Nays: German

MOTION PASSES

W. Community Relations Committee Recommendations **City Clerk**

SUMMARY OF REQUEST: To accept the resignation, reappointments, and appointments for various community relations committees, boards, authorities, and commissions as follows:

- **Resignation – Mary Jamieson from the Board of Review, Citizen position, term expiring 01/31/2022**
- **Board of Review**
  - **Reappoint Jane Clingman-Scott and Ralph Burr**
  - **Appoint David Mendendorp and Pamela Smith**
- **Business Improvement District**
  - **Appoint Andy Maciejewski, Dan Castle, and Jaime Charron**
- **Citizen's Police Review Board**
  - **Reappoint Ron Hayward, Robert Roundtree, Faye Redmond, Rozelia Patino, William Muhammad, and Ann Craig**
- **Civil Service**
  - **Reappoint David Wendtland**
- **Community Development Block Grant/Citizen's District Council (CDBG/CDC)**
  - **Reappoint Jeremy Lenertz**
  - **Appoint Paul Kurdziel, Perry Dennie, Jennifer Ross, and Ationza Smith**
- **Construction Code Board of Appeals**
  - **Reappoint Wade VandenBosch and Lane Bensten**
  - **Appoint Joshua Ohst**
- **Downtown Development Authority**
  - **Reappoint Don Kalisz and Mike Johnson**
- **Election Commission**
  - **Reappoint Betty Ivory**
- **Equal Opportunity Committee**
  - **Appoint Bennie Chambers and Tonya Pell**
- **Farmers Market Advisory Board**
  - **Reappoint John Zandstra, Woody VanBlargan, and Kim Martens**
- **Historic District Commission**

- **Reappoint Steven Radtke**
- **Appoint David Gregersen**

- **Housing Code Board of Appeals**
  - **Reappoint Randy Mackie and Kirk Kolberg**
- **Housing Commission**
  - **Appointed by City Manager – Barry Williams**
- **Income Tax Board of Review**
  - **Appoint Patrick Kiely**
- **Lakeside Business Improvement District**
  - **Reappoint Mark Flermoen and Dick Ghezzi**
- **Local Development Finance Authority**
  - **Reappoint Kevin Ricco**
  - **Appoint Virginia Taylor**
- **Local Officer's Compensation Commission**
  - **Appoint Michael Hughes**
- **Planning Commission**
  - **Reappoint Joe Doyle and Tim Michalski**
- **Zoning Board of Appeals**
  - **Reappoint William Bowman**
  - **Appoint Jill Montgomery Keast and Michele Ribesky**

STAFF RECOMMENDATION: To concur with the recommendation of the Community Relations Committee and approve the resignation, reappointments, and appointments.

1) **Motion by Commissioner Rinsema-Sybenga, second by Commissioner German, to concur with the recommendations of the Community Relations Committee and approve the resignation, reappointments, and appointments for all except the Equal Opportunity Committee.**

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

Nays: None

MOTION PASSES

2) **Motion by Commissioner German, second by Commissioner Emory, to appoint Pell, Chambers, and Buchanan to the Equal Opportunity**

Committee.

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

Nays: None

MOTION PASSES

2021-05 PUBLIC HEARINGS:

A. <u>Lakeside BID Special Assessment Roll Public Hearing and Resolution</u> Economic Development

SUMMARY OF REQUEST: The Lakeside BID Board has voted to petition the City Commission to establish a Special Assessment District inclusive of all commercial parcels in the BID in order to raise funds for public maintenance and improvements. Tonight, a duly posted and noticed public hearing will take place to hear comment on the Special Assessment Tax Roll.

The Lakeside Business Improvement District Board has recommended a special assessment amount to fund BID improvements in the Lakeside Corridor for a period of 3 years, with potential to renew the assessment at the end of the term depending on the amount of TIF capture by their desired Corridor Improvement Authority. The attachments to this cover sheet reflect the costs per square foot of every address in the BID, as well as a map outlining the BID district approved by the Commission last year. Also attached is the resolution certifying the assessment and adding it to the roll. The total anticipated capture of this assessment is approximately $22,000.00, which will be used by the BID Board to provide for winter maintenance of sidewalks, plowing, landscaping maintenance, and marketing materials for the district. A separate assessment bill will be sent to all affected properties this year, and in subsequent years this assessment will be included on winter tax bills. Frosty Cove was removed from the District

STAFF RECOMMENDATION: To approve the Resolution adding the Lakeside BID Special Assessment to the tax rolls for a period of three years as presented.

PUBLIC HEARING COMMENCED:

Mike Galivin – 590 W. Western - does Lakeside BID include former Sappi Property? Answer is no.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Johnson, to close the public hearing and approve the resolution adding the Lakeside BID Special Assessment to the tax rolls for a period of three years, as presented.

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

Nays: None

MOTION PASSES

2021-06 NEW BUSINESS:

A. Amendment to the Marihuana Facilities Overlay District – 965 W Western, 920 Washington Ave, and 1330 Division St Planning

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 Vice Mayor Hood, 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 Growing, Processing and Provisioning/Retail license types at 965 W Western Avenue and 920 Washington Avenue by P & G Holdings, LLC.

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

Nays: German and Johnson

MOTION PASSES

***SECOND READING REQUIRED**

B. Amendment to the Marihuana Facilities Overlay District – 420 Harvey Street (1) Planning

SUMMARY OF REQUEST: Request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for microbusiness, designated consumption establishment and event license types at 420 S Harvey Street, by Michigan Canna House, LLC.

This case was tabled at the October Planning Commission. It was brought back to the Planning Commission in December. A motion to approve the request

failed by a 2-7 vote.

STAFF RECOMMENDATION: To approve the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overly district to allow for microbusiness, designated consumption establishment use and event license types at 420 S Harvey Street, by Michigan Canna House, LLC.

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 microbusiness, designated consumption establishment use and event license types at 420 S. Harvey Street, by Michigan Canna House, LLC.

ROLL VOTE: Ayes: None

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

MOTION FAILS

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

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 Canna House, 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 Canna House, LLC.

Motion by Commissioner Johnson, second by Commissioner Ramsey, to approve the request to amend Section 2331 of the zoning ordinance to include 420 S. 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 Canna House, LLC.

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

Nays: None

MOTION PASSES

***SECOND READING REQUIRED**

D. <u>Hartford Terrace Development Agreement</u> Development Services

SUMMARY OF REQUEST: Staff is seeking approval of the development agreement and associated PILOT and municipal services agreements with the Muskegon Housing Commission.

The proposed agreement is based on Low Income housing Tax Credits being awarded by the Michigan State Housing Development Authority for work at Hartford Terrace. If the LIHTC is not awarded by March 31, 2022, the agreement is voided. The proposed PILOT rate is 2% of contract rents with a municipal services fee of an additional 2% of contract rents. The city can expect to more than double the annual payment received from this development.

Hartford Terrace serves some of the most vulnerable of our city's population, including elderly, persons with disabilities, and those making 30% or less of the area median income. The developer is planning to invest $18,000,000 into the property including major building systems, elevators, apartment interiors, common areas, windows, and sitework. Ten of the existing 160 apartments are currently accessible, and the renovation will add another 6 accessible units.

STAFF RECOMMENDATION: To approve the development agreement and associated PILOT and municipal services fee agreements with the Muskegon Housing Commission.

Motion by Commissioner Ramsey, second by Commissioner Rinsema-Sybenga, to approve the development agreement and associated PILOT and municipal services fee agreements with the Muskegon Housing Commission.

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

Nays: None

MOTION PASSES

E. <u>Housing Commission Ordinance Amendment</u> Development Services

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 and approve the resolution for Muskegon Housing Commission.

Motion by Commissioner Ramsey, second by Commissioner Johnson, to amend and adopt Chapter 18, Article IV, Section 83 and approve the resolution from Muskegon Housing Commission.

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

Nays: None

MOTION PASSES

***SECOND READING REQUIRED**

G. **<u>Amendment to the PUD at Harbor 31</u> Planning (F & G order switched at Commission meeting)**

SUMMARY OF REQUEST: Request to amend the final Planned Unit Development at 600 Shoreline Drive (Harbor 31), by Harbor 31, LLC.

Staff consulted with the attorneys at Miller Canfield regarding the public boardwalk issue. It does not appear that Condominium documents make the Boardwalk Easement available for public use. If the easement had a public use component, the Master Deed would have had to state that expressly. The Master Deed does suggest that tenants of the units, guests, employees, and invitees are permitted to use the easement. Since the developer owns most of the land in the condo agreement, it appears that guests of future developments will be able to access the entire boardwalk.

Also, the developer proposes to develop the entire shoreline with boat slips. Units A, B, H and I have what appear to be identical riparian rights under Riparian easements recorded in 2006, which grant each unit owner the right to use the entire lakeshore "to the same extent as if the Benefitted Parcel was adjacent to the Lake," including for the installation of permanent docks and marinas. The land area described as falling with the easement area, however, is the "Common Areas" of the condominium project, an apparent (though not certain) reference to the General Common Elements, which consist of the Boardwalk Easement running along the shoreline and the Walkway Easement between units H and I. Unless Units A, B, H and I are all owned by the developer of the marina, the developer's right to develop beyond the shoreline running parallel to units owned by the developer appears to be an open question.

A motion was made to request to amend the final Planned Unit Development at 600 Shoreline Drive be recommended for approval to the City Commission, with the following conditions as listed in the staff recommendation: 1) that public easements for access to the existing boardwalk and new waterfront gathering space shall be recorded with the Register of Deeds before any building permits are issued, and 2) each separate use/building needs to individually obtain site plan approval. Any variation from the PUD, in terms of use or building placement, is acceptable as long as it meets the underlying zoning (FBC, Mainstreet Waterfront) requirements. The motion was unanimously approved.

STAFF RECOMMENDATION: To approve the amendments to the Planned Unit Development as requested.

Motion by Commissioner Rinsema-Sybenga, second by Commissioner Johnson, to approve the amendments to the Planned Unit Development as requested.

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

Nays: None

MOTION PASSES

G. <u>Street Vacation – Harbor 31</u> Planning (F & G order switched at Commission meeting)

SUMMARY OF REQUEST: Request to vacate a portion of Viridian Drive, east of Terrace Street, by Harbor 31, LLC. The Planning Commission unanimously recommended vacation of the alley as requested.

STAFF RECOMMENDATION: To approve the request to vacate a portion of Viridian Drive, east of Terrace Street, by Harbor 31.

Motion by Commissioner Johnson, second by Commissioner Rinsema-Sybenga, to approve the request to vacate a portion of Viridian Drive, east of Terrace Street, by Harbor 31.

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

Nays: None

MOTION PASSES

PUBLIC COMMENT: Public comments were received.

ADJOURNMENT: The City Commission meeting adjourned at 9:55 p.m.

Respectfully Submitted,

Ann Marie Meisch, MMC – City Clerk