

CITY OF MUSKEGON

CITY COMMISSION MEETING

NOVEMBER 25, 2008

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, November 25, 2008.

Mayor Warmington opened the meeting with a prayer from George Monroe from the Evanston Avenue 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 Stephen Gawron, Commissioners Lawrence Spataro, Steve Wisneski, Chris Carter, and Clara Shepherd, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

Absent: Commissioner Sue Wierengo (excused)

2008-98 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Monday, November 10th.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Control System Annual Software Support. WATER FILTRATION

SUMMARY OF REQUEST: Renewal of the annual customer support for the Wonderware control system software at the Water Filtration Plant.

FINANCIAL IMPACT: A one-time cost of \$10,221.23.

BUDGET ACTION REQUIRED: None. This item is budgeted.

STAFF RECOMMENDATION: Staff recommends renewal of the annual software customer support agreement at a cost of \$10,221.23.

C. Vacant Building Registration Ordinance Amendments. PLANNING &

ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend the Code of Ordinances Chapter 10, Section 107, Annual Registration of Vacant Buildings and Registration Fees, for the purpose of making the ordinance easier for property owners to comply with and easier for staff to administer.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of Chapter 10, Section 107 Annual Registration of Vacant Buildings and Registration Fees, specifically to amend sub-section (b)(2) Applicability, sub-section (b)(3) Registration Statement and Fees; Local Agent, sub-section (b)(4) Appeal Rights, sub-section (b)(6) Two-Year Waiver, subsection (b)(7)(d) Exceptions.

D. Adoption of the 2006 Building Code. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety is requesting that the City Commission adopt the 2006 Michigan Building Code and repeal all other ordinances and parts of the ordinances that may conflict with the new code.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the request.

E. Amend Chapter 30 of the Code of Ordinances – Fire Prevention. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety is requesting that the City Commission amend Chapter 30 of the Code of Ordinances concerning Fire Prevention and Protection. This includes the adoption of the 2006 International Fire Code.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the request.

F. Modifications to Traffic Signal Agreement at Laketon and Port City Blvd. between City of Muskegon and Muskegon County Road Commission. ENGINEERING

SUMMARY OF REQUEST: Accept the modification to the 1987 memorandum of understanding between the City of Muskegon and the Muskegon County Road Commission (MCRC) revising traffic signal responsibility from the City to MCRC and the cost sharing from 50% - 50% to 75% - 25% MCRC – City respectively by authorizing the Mayor to sign the Modification to Memorandum of Understanding form. The modifications were the result of the County Road Commission extending

Quarterline to Laketon Avenue.

FINANCIAL IMPACT: None at this time, but the City will realize some energy and maintenance savings due to changes in the percentages.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To accept the modifications and authorize the Mayor to sign the agreement.

G. Budgeted Vehicle Replacement. PUBLIC WORKS

SUMMARY OF REQUEST: Approval to purchase one 580SM III backhoe from West Michigan Power.

FINANCIAL IMPACT: \$65,810 from equipment fund.

BUDGET ACTION REQUIRED: None. There is \$67,500 budgeted for this purchase.

STAFF RECOMMENDATION: Approve purchase of one Case 580SM III backhoe from West Michigan Power.

H. Adoption of the Michigan Water/Wastewater Agency Response Network Resolution. WATER FILTRATION

SUMMARY OF REQUEST: To approve the resolution in support of the Michigan Water/Wastewater Agency Response Network, and to appoint the Water Filtration Plant Supervisor, or his designee, to represent the City of Muskegon with matters concerning Michigan Water/Wastewater Agency Response Network.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the resolution and authorize the Mayor and Clerk to sign the resolution.

I. Donation Program for 2008 Individual Income Tax Returns. INCOME TAX

SUMMARY OF REQUEST: Approval of multiple donations program for the 2008 income tax returns. Last year our goal was to increase the number of tax refunds donated by 20-30%. Our goal was achieved, we increased the number of donated refunds by 20.5% from the 2006 tax year. Each year we will feature two or three donation options for the taxpayers.

For 2008 the three donation programs are Lakeshore Trail Improvements, Muskegon Recreational Center, and the Downtown Main Street.

FINANCIAL IMPACT: The average amount collected each year is \$2,000. Each donated refund saves the City approximately \$1 in check fees.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

J. Financial Policies. FINANCE

SUMMARY OF REQUEST: Periodically the Financial Policies of the City are reviewed and revised to include policy changes or revisions adopted by the Commission or necessitated to come into compliance with state or federal law since the last update. The last time the Policies were updated was October 2006. Included with this update, are changes to the Travel Policy meal reimbursements. The meal reimbursement had not been changed in over ten years. Updates were also made to the Procurement Card Policy to reflect changes made with Fifth Third Bank.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve the City of Muskegon Financial Policies as updated October 2008.

Motion by Vice Mayor Gawron, second by Commissioner Carter to approve the Consent Agenda as presented.

ROLL VOTE: Ayes: Warmington, Wisneski, Carter, Gawron, Shepherd, and Spataro

Nays: None

MOTION PASSES

2008-99 PUBLIC HEARINGS:

A. Spreading of the Special Assessment Roll for Roblane Avenue, Quarterline Road to Marlane Street. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the spreading of the special assessment for Roblane Avenue from Quarterline Road to Marlane Street and to adopt the resolution confirming the special assessment roll.

FINANCIAL IMPACT: A total of \$25,027.20 would be spread against the five parcels abutting the project.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the special assessment roll and adopt the resolution.

The public hearing opened to hear and consider any comments from the public. No comments were made.

Motion by Commissioner Carter, second by Commissioner Wisneski to close the public hearing and approve the spreading of the special assessment roll for Roblane Avenue, Quarterline Road to Marlane Street.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

Julius Lakatos, 462 Quarterline, spoke at the end of the meeting.

B. Spreading of the Special Assessment Roll for Isabella Avenue, Ambrosia Street to Williams Street. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the spreading of the special assessment for Isabella Avenue from Ambrosia Street to Williams Street and to adopt the resolution confirming the special assessment roll.

FINANCIAL IMPACT: A total of \$22,162.50 would be spread against the 26 parcels abutting the project.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the special assessment roll and adopt the resolution.

The public hearing opened to hear and consider any comments from the public. Comments were heard from Alicia Burns and Vanessa Lyons-Ingraham, reference 356 E. Isabella.

Motion by Commissioner Carter, second by Commissioner Wisneski to close the Public Hearing and approve the spreading of the special assessment roll for Isabella Avenue, Ambrosia Street to Williams Street.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

C. Spreading of the Special Assessment Roll for Jiroch Street, Southern Avenue to Irwin Avenue. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the spreading of the special assessment for Jiroch Street from Southern Avenue to Irwin Avenue and to adopt the resolution confirming the special assessment roll.

FINANCIAL IMPACT: A total of \$48,691.12 would be spread against the 30 parcels abutting the project.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the special assessment roll and adopt the resolution.

The Public Hearing opened to hear and consider any comments from the public. Comments in opposition were heard from Paul Kurek, 1544 Jiroch and Sam Turnipseed, 112 E. Grand.

Motion by Commissioner Spataro, second by Commissioner Wisneski to close the public hearing and approve the spreading of the special assessment roll for Jiroch

Street, Southern Avenue to Irwin Avenue.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, and Wisneski

Nays: None

MOTION PASSES

D. Spreading of the Special Assessment Roll for Dale Avenue, Sanford Street to Peck Street. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the spreading of the special assessment for Dale Avenue from Sanford Street to Peck Street and to adopt the resolution confirming the special assessment roll.

FINANCIAL IMPACT: A total of \$9,024 would be spread against the four parcels abutting the project.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the special assessment roll and adopt the resolution.

The Public Hearing opened to hear and consider any comments from the public. No comments were made.

Motion by Commissioner Carter, second by Vice Mayor Gawron to close the public hearing and approve the spreading of the special assessment roll for Dale Avenue, Sanford Street to Peck Street.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wisneski, and Carter

Nays: None

MOTION PASSES

E. Spreading of the Special Assessment Roll for Seventh Street, Muskegon Avenue to Webster Avenue. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the spreading of the special assessment for Seventh Street from Muskegon Avenue to Webster Avenue and to adopt the resolution confirming the special assessment roll.

FINANCIAL IMPACT: A total of \$12,032 would be spread against the seven parcels abutting the project.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the special assessment roll and adopt the resolution.

The Public Hearing opened to hear and consider any comments from the public. No comments were made.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to close the

public hearing and approve the spreading of the special assessment roll for Seventh Street, Muskegon Avenue to Webster Avenue.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

F. Spreading of the Special Assessment Roll for Pine Street, Apple Avenue to Western Avenue. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the spreading of the special assessment for Pine Street from Apple Avenue to Western Avenue and to adopt the resolution confirming the special assessment roll.

FINANCIAL IMPACT: A total of \$93,118.80 would be spread against the 35 parcels abutting the project.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the special assessment roll and adopt the resolution.

The Public Hearing opened to hear and consider any comments from the public. Comments in objection were heard from Bill Lee representing Burger King, 928 Terrace.

Motion by Commissioner Spataro, second by Commissioner Shepherd to close the public hearing and approve the spreading of the special assessment roll for Pine Street, Apple Avenue to Western Avenue.

ROLL VOTE: Ayes: Spataro, Warmington, Wisneski, Carter, Gawron, and Shepherd

Nays: None

MOTION PASSES

2008-100 NEW BUSINESS:

A. Agreement – Digital Spectrum Enterprises. FINANCE

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 May 2006 and was for a two-year period (with a one-year renewal option). The renewal option was never formally exercised. Proposed is a three-year agreement renewal with DSE. Terms of the agreement are substantially the same as before but there are some adjustments:

1. Term is three years expiring November 30, 2011
2. Indemnification and Ownership clauses strengthened per City Attorney

3. Removed requirements for annual submission of financial statements and board membership, instead making this information accessible to the City, upon request. This is consistent with other contractual relationships the City maintains.

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.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the agreement between the City and Digital Spectrum Enterprises.

ROLL VOTE: Ayes: Warmington, Wisneski, Carter, Shepherd, and Spataro

Nays: None

Absent: Gawron (stepped out of the room)

MOTION PASSES

Ann Bratsburg, Digital Spectrum Enterprises, gave an update and thanked the Commission.

B. Endorsement of the 2008 Update of the City of Muskegon Downtown and Lakeshore Redevelopment Plan. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to endorse the Downtown and Lakeshore Redevelopment Plan, with recommendations.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends endorsing the plan, with the recommendations provided by Planning Commission.

COMMITTEE RECOMMENDATION: The Planning Commission recommended endorsing the plan, with specific recommendations, to adjust Map 4 to expand the Core Planning Area along Western Avenue to 7th Street at their November 13th meeting. The vote was unanimous with S. Warmington and J. Aslakson absent.

Motion by Commissioner Carter, second by Commissioner Wisneski to approve the endorsement of the 2008 update of the City of Muskegon Downtown and Lakeshore Redevelopment Plan.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

C. Police Command Agreement. CITY MANAGER

SUMMARY OF REQUEST: To approve a collective bargaining agreement with the Police Command Unit (Command Officers Association of Michigan) for 2007 – 2009.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the proposed contract and authorize the Mayor and Clerk to sign it.

Motion by Commissioner Spataro, second by Commissioner Shepherd to approve the Police Command Agreement.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

D. Consideration of 2009 Cost of Living Adjustment for Retirees. FINANCE

SUMMARY OF REQUEST: It is time to consider whether a cost of living adjustment (COLA) should be awarded to City retirees. Under the City's COLA program, permanent cost of living increases are made to pensioners retired five years or more. COLA payments are capped at 75% of the CPI and are payable only when investment performance exceeds estimates and the COLA is deemed affordable. In 2007, a 1.80% COLA was granted. This was split into two 0.90% pieces awarded on July 1, 2007, and January 1, 2008, in order to move to a January 1 cycle.

The lump sum cost for a 2% benefit increase is \$647,941. The actuary advises that costs for lesser increases can be prorated - i.e., 1.0% COLA costs \$323,970; 0.50% costs \$161,985. The actuary further advises that the dramatic investment losses suffered by pension systems in recent months will likely push the City's retiree group to a funded status below 100% as of the next valuation – regardless of whether a COLA is awarded.

Given the unprecedented economic and investment environment we are in, staff recommends that a 0.50% retiree COLA be awarded January 1, 2009.

FINANCIAL IMPACT: The actuarial cost of this benefit enhancement is \$161,985. The most recent (12/31/07) actuarial valuation showed that the retiree group was fully funded and required no City contribution for 2009. However, the economic downturn and resultant investment losses almost certainly will mean a required City contribution for 2010.

BUDGET ACTION REQUIRED: None at this time. Will require additional contribution beginning 2010.

STAFF RECOMMENDATION: Approval of the resolution authorizing MERS to pay a 0.50% COLA to retirees retired five years as of January 1, 2009.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the resolution authorizing MERS to pay an additional 0.50% COLA to retirees retired five years as of January 1, 2009.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, and Wisneski

Nays: None

MOTION PASSES

E. Fiber Optic Cable to Water Filtration Plant. CITY MANAGER

SUMMARY OF REQUEST: To approve a proposal to run fiber optics from an existing cable at Bluffton School to the Water Filtration Plant in conjunction with the Pier Safety program. The fiber will then be run from the plant to Pere Marquette Beach to provide better access to the emergency beach camera. The fiber connection at the Water Filtration Plant will provide better connectivity to other City facilities. The City will pay a portion of the cost from Bluffton School to the Water Filtration Plant.

FINANCIAL IMPACT: City to pay \$4,500 of the \$8,500 cost.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve this request.

Motion by Vice Mayor Gawron, second by Commissioner Carter to approve the request to run the fiber optic cable to Water Filtration Plant.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wisneski, and Carter

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Julius Lakatos, 462 Quarterline, spoke at this time in objection to the spreading of the special assessment of Roblane Avenue, Quarterline Road to Marlane Street.

ADJOURNMENT: The City Commission Meeting adjourned at 6:45 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk