

# CITY OF MUSKEGON

## CITY COMMISSION MEETING

**MAY 22, 2007**

**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, May 22, 2007.

Mayor Warmington opened the meeting with a prayer from Dr. Gordon Aikin, from the Central Assembly of God 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 Kevin Davis, Clara Shepherd, Lawrence Spataro, Sue Wierengo, and Chris Carter, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker

#### **INTRODUCTIONS/PRESENTATION: Introduction of Mike Franzak, Planner II**

#### **2007-41 CONSENT AGENDA:**

##### **A. Approval of Minutes. CITY CLERK**

SUMMARY OF REQUEST: To approve minutes for the May 7<sup>th</sup> Commission Worksession, and the May 8<sup>th</sup> Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

##### **C. Official Termination of Consideration of Fisherman's Landing Land Swap Proposal. FINANCE**

SUMMARY OF REQUEST: Discussion of the Fisherman's Landing "land-swap" idea has not been active for several years. However, formal action to terminate consideration of the idea has not been taken and there is some indication that state grant officials are uncertain of the City's direction in this regard. To clarify matters for the state, it is recommended the City Commission officially terminate consideration of the Fisherman's Landing land swap proposal and authorize staff to send a letter to the Michigan Department of Natural Resources.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to send a letter to the Michigan Department of Natural Resources.

**F. Use of Grant Funds Agreement – Weed & Seed. PUBLIC SAFETY**

SUMMARY OF REQUEST: The Director of Public Safety requests that the Commission authorize the Director to enter into a Use of Grant Funds Agreement with the Muskegon/Muskegon Heights Weed and Seed Corporation. This agreement will designate services that the Muskegon Police Department will provide as a member of this collaborative effort. This agreement will be administered within the provisions of the policies and procedures set forth by the Weed and Seed Steering Committee and the United States Department of Justice.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of this request.

**G. Memorandum of Understanding – Justice Assistance Grant. PUBLIC SAFETY**

SUMMARY OF REQUEST: The Director of Public Safety requests that the Commission authorize the Director and the City Manager to enter into an agreement with the City of Muskegon Heights and Muskegon County in regards to the disbursement of the 2006 Justice Assistance Grant. The money in this grant is shared by the three entities. The \$75,564 in this grant will allow for the continuation of the community prosecution program.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of this request.

**H. Set Public Hearing for Amendment to Brownfield Plan – Sidock Properties, LLC. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: To approve the resolution setting a public hearing for an amendment for the Brownfield Plan, and notifying taxing jurisdictions of the Brownfield Plan Amendment including the opportunity to express their views and recommendations regarding the proposed amendment at the public hearing. The amendment is for the inclusion of property owned by Sidock Properties, LLC, located at 379 W. Western Avenue, in the Brownfield Plan.

FINANCIAL IMPACT: There is no direct financial impact in including the project in the Brownfield Plan, although the redevelopment of the site into a commercial

development will eventually add to the tax base in Muskegon.

BUDGET ACTION REQUIRED: None.

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

COMMITTEE RECOMMENDATION: The Brownfield Redevelopment Authority met on May 15, 2007 and approved the Brownfield Plan Amendment and recommends the approval of the Brownfield Plan Amendment to the Muskegon City Commission. In addition, the Brownfield Redevelopment Authority recommends that the Muskegon City Commission set a public hearing on the Plan Amendment for June 12, 2007.

**L. FIRST READING: Amendment to the Zoning Ordinance – R-1, One Family Residential Districts, Special Land Uses Permitted.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 401 (Special Land Uses Permitted) of Article IV (R-1, One Family Residential Districts) to allow bed and breakfast facilities as an additional special land use.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to allow bed and breakfast facilities as an additional special land use in the R-1 zoning district, with the condition that the City Commission approve the rezoning of the H, Heritage District.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their May 10<sup>th</sup> meeting. The vote was unanimous with T. Michalski and T. Harryman absent.

**M. FIRST READING: Amendment to the Zoning Ordinance – B-3, Central Business District.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 1200 (Principal Uses Permitted # 1) of Article XII (B-3, Central Business District) to clarify allowed retail sales.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to clarify the allowed retail uses in the B-3 zoning district, with the condition that the City Commission approve the rezoning of the H, Heritage District.

COMMITTEE RECOMMENDATION: The Planning Commission recommended

approval of the request at their May 10<sup>th</sup> meeting. The vote was unanimous with T. Michalski and T. Harryman absent.

**N. FIRST READING: Amendment to the Zoning Ordinance – Permitted Signs.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2334 (Signs, #8) of Article XXIII (General Provisions) to remove the reference to the Heritage District.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to remove the reference to the Heritage District from the sign ordinance, with the condition that City Commission approves the H, Heritage District rezoning.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their May 10<sup>th</sup> meeting. The vote was unanimous with T. Michalski and T. Harryman absent.

**Motion by Commissioner Carter, second by Commissioner Davis to approve the Consent Agenda as read minus items B, D, E, I, J, K, and O.**

**ROLL VOTE: Ayes: Wierengo, Carter, Davis, Gawron, Shepherd, Spataro, and Warmington**

**Nays: None**

***MOTION PASSES***

**2007-42 ITEMS REMOVED FROM THE CONSENT AGENDA:**

**B. Resolution for Millionaire Party License.** CITY CLERK

SUMMARY OF REQUEST: Nutritional Services/Meals on Wheels is requesting a resolution recognizing them as a non-profit organization operating in the City for the purpose of obtaining a Millionaire Party license. A Millionaire Party license is a Las Vegas style event where bets are placed using imitation money or chips in games associated with a gambling casino, such as Black Jack, roulette, or Texas Hold'em. They have been recognized as a 501(c)(3) organization by the State.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

**Motion by Commissioner Carter, second by Commissioner Davis to approve the resolution for a Millionaire Party License for Nutritional Services/Meals on Wheels.**

**ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Carter, Davis, Gawron, and Shepherd**

**Nays: None**

**MOTION PASSES**

**D. FIRST READING: Ordinance Amendment – Control and Restraint of Animals. CITY MANAGER**

SUMMARY OF REQUEST: To amend Section 6-1 of the Code of Ordinances of the City of Muskegon to better define the requirement to restrain animals by their owners. The amendment now requires that all dogs and cats are on a leash no greater than six feet (6') in length.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the proposed ordinance amendment.

COMMITTEE RECOMMENDATION: This proposed change was recommended at the April, 2007 City Commission Worksession.

**Motion by Commissioner Davis, second by Commissioner Carter to approve the ordinance amendment for control and restraint of animals.**

**ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Carter, and Davis**

**Nays: None**

**MOTION PASSES**

**E. 2007-2008 Michigan Municipal League (MML) Membership. CITY MANAGER**

SUMMARY OF REQUEST: To obtain authorization from the City Commission to remit MML annual membership dues of \$9,634, in accordance with City of Muskegon Purchasing Policies and Procedures governing expenditures exceeding \$8,000.

FINANCIAL IMPACT:	MML Membership Dues	\$7,896
	Environment Affairs Assessment	\$ 948
	Legal Defense Fund	<u>\$ 790</u>
	Total	\$9,634

BUDGET ACTION REQUIRED: None, expense will be applied to proper budget line items.

STAFF RECOMMENDATION: To approve the request.

**Motion by Commissioner Davis, second by Commissioner Carter to approve the renewal membership with the Michigan Municipal League.**

**ROLL VOTE: Ayes: Carter, Davis, Gawron, Shepherd, Spataro, Warmington, and Wierengo**

Nays: None

**MOTION PASSES**

**O. FIRST READING: Amendment to the Zoning Ordinance – Residential Parking Requirements Downtown. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: Request to amend Section 2326 (Off Street Parking, # 12) of Article XXIII (General Provisions) to reduce the residential parking requirement in the Downtown Parking Overlay District.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to reduce the residential parking requirement in the Downtown Parking Overlay District.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their May 10<sup>th</sup> meeting. The vote was unanimous with T. Michalski and T. Harryman absent.

**Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the amendment to the Zoning Ordinance regarding residential parking requirements downtown.**

**ROLL VOTE: Ayes: Warmington, Wierengo, Carter, Gawron, Shepherd, and Spataro**

**Nays: Davis**

**MOTION PASSES**

**Requires Second Reading**

**I. FIRST READING: Rezoning Request for Properties Located Within the H, Heritage District. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: Request to rezone multiple properties located within the H, Heritage District (roughly bounded by Western Ave., Ninth St., Muskegon Ave., and Second St.).

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their May 10<sup>th</sup> meeting. The vote was unanimous with T. Michalski and T. Harryman absent.

**Item I, J and K were voted on together.**

**J. FIRST READING: Amendment to the Zoning Ordinance – Remove H, Heritage District Language. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: Request to amend Article XX (H, Heritage Districts) to remove the language from the Zoning Ordinance.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to remove the language for the H, Heritage Districts, with the condition that the City Commission approve the rezoning of the H, Heritage District.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their May 10<sup>th</sup> meeting. The vote was unanimous with T. Michalski and T. Harryman absent.

**Item I, J and K were voted on together.**

**K. FIRST READING: Amendment to the Zoning Ordinance – B-3, Central Business, Special Land Uses Permitted. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: Request to amend Section 1202 (Special Land Uses Permitted) of Article XII (B-3, Central Business District) to allow additional special land uses.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to allow additional special land uses in the B-3 zoning district, with the condition that the City Commission approve the rezoning of the H, Heritage District.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their May 10<sup>th</sup> meeting. The vote was unanimous with T. Michalski and T. Harryman absent.

**Motion by Commissioner Spataro, second by Commissioner Carter to approve the rezoning request for properties located within the H, Heritage District; the amendment to the Zoning Ordinance to remove H, Heritage District Language; and the amendment to the Zoning Ordinance to the B-3, Central Business, Special Land Uses Permitted.**

**ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Carter, Davis, and Gawron**

**Nays: None**

**MOTION PASSES**

**2007-43 PUBLIC HEARINGS:**

**A. Request for an Industrial Facilities Exemption Certificate – Re-Source Industries. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, Re-Source Industries, 1485 S. Getty, has requested the issuance of an Industrial Facilities Exemption Certificate for the property located at 1485 S. Getty, Muskegon. The total capital investment is approximately \$159,134 in personal property. This request qualifies Re-Source Industries for a six-year exemption for personal property. Re-Source Industries current workforce is 35.

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 six years for personal property.

The Public Hearing opened to hear and consider any comments from the public.

**Motion by Commissioner Shepherd, second by Commissioner Spataro to close the Public Hearing and approve the request for an Industrial Facilities Exemption Certificate for Re-Source Industries.**

**ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Carter, Davis, Gawron, and Shepherd**

**Nays: None**

**MOTION PASSES**

**2007-44 NEW BUSINESS:**

**A. FIRST READING: Ordinance Amendment - Vehicles for Hire. CITY CLERK**

SUMMARY OF REQUEST: To repeal Chapter 102 of the Muskegon Code of Ordinances concerning Vehicles for Hire.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval

COMMITTEE RECOMMENDATION: The Commission recommended approval at the May 7<sup>th</sup> Worksession.

**Motion by Commissioner Spataro, second by Commissioner Carter to approve the ordinance amendment to repeal Chapter 102 of the Muskegon Code of Ordinances concerning Vehicles for Hire.**

**Motion by Commissioner Spataro, second by Commissioner Shepherd to table this item until the June 12<sup>th</sup> Commission Meeting.**

**ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Carter, and Davis**

**Nays: None**

***MOTION TO TABLE PASSES***

**B. Building Permit Moratorium - Subsidized Housing. COMMISSIONERS  
DAVIS & WIERENGO**

SUMMARY OF REQUEST: To consider a moratorium on building permits for government-financed subsidized housing complexes in the City of Muskegon.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

**Motion by Commissioner Davis, second by Commissioner Wierengo to approve the moratorium.**

**ROLL VOTE: Ayes: Davis, Shepherd**

**Nays: Carter, Gawron, Spataro, Warmington, and Wierengo**

***MOTION FAILS***

**C. Concurrence with the Housing Board of Appeals Notice and Order to Demolish: PUBLIC SAFETY**

**500 Amity – Area 11 **REMOVED PER STAFF REQUEST****

**856 Fork – Area 11**

**318 Merrill – Area 10**

**790 Terrace**

**1178 Chestnut – Area 13**

SUMMARY OR REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures are unsafe, substandard, a public nuisance and that they be demolished within 30 days. It is further requested that administration be directed to obtain bids for the demolition of the structures and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: General Funds.

BUDGET ACTION REQUIRED: None.

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

**Motion by Commissioner Shepherd, second by Commissioner Spataro to concur with the Housing Board of Appeals notice and order to demolish 318 Merrill, 856 Fork, and 1178 Chestnut.**

**ROLL VOTE: Ayes: Davis, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Carter**

**Nays: None**

***MOTION PASSES***

**Motion by Commissioner Spataro, second by Vice Mayor Gawron to concur with the Housing Board of Appeals notice and order to demolish 790 Terrace.**

**ROLL VOTE: Ayes: Gawron, Spataro, and Warmington**

**Nays: Wierengo, Carter, Davis, and Shepherd**

***MOTION FAILS***

**D. Travel Writers Visit - Special Event Request. CITY MANAGER**

SUMMARY OF REQUEST: Muskegon has been selected for a visit by travel writers on June 9<sup>th</sup>. It is requested that they have an event at Pere Marquette Park and they would like to serve alcohol (beer and wine), which is prohibited in City parks unless approved by the City Commission.

**Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the special event request.**

**ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Davis, Gawron, and Shepherd**

**Nays: None**

**Absent: Carter (stepped out of the room)**

***MOTION PASSES***

**ANY OTHER BUSINESS:**

Commissioner Shepherd thanked City Manager Bryon Mazade for his work on the Muskegon Summer Celebration Board.

Commissioner Davis attended the West Michigan Shoreline Regional Meeting in Baldwin. He also encouraged everyone to be an organ donor.

**PUBLIC PARTICIPATION:** Various comments were heard from the public.

**2007-45 CLOSED SESSION: To discuss pending litigation.**

**Motion by Commissioner Carter, second by Commissioner Spataro to go into Closed Session at 7:32 p.m.**

**ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Carter, Davis, and Gawron**

Nays: None

***MOTION PASSES***

Motion by Commissioner Shepherd, second by Commissioner Davis to go into Open Session at 7:55 p.m.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Carter, Davis, Gawron, and Shepherd

Nays: None

***MOTION PASSES***

Motion by Commissioner Shepherd, second by Vice Mayor Gawron to concur with the City Attorney's opinion.

ROLL VOTE: Ayes: Warmington, Wierengo, Carter, Davis, Gawron, Shepherd, and Spataro

Nays: None

***MOTION PASSES***

**ADJOURNMENT:** The City Commission Meeting adjourned at 8:00 p.m.

Respectfully submitted,

Ann Marie Becker, MMC  
City Clerk