

CITY OF MUSKEGON

CITY COMMISSION MEETING

NOVEMBER 7, 2011

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ CALL TO ORDER:
- ❑ PRAYER:
- ❑ PLEDGE OF ALLEGIANCE:
- ❑ ROLL CALL:
- ❑ HONORS AND AWARDS:
- ❑ INTRODUCTIONS/PRESENTATION:
- ❑ CONSENT AGENDA:
 - A. Approval of Minutes. CITY CLERK
 - B. Budgeted Equipment Purchase. PUBLIC WORKS
 - C. Construction Engineering Agreement with Dixon Engineering for Roberts and Marshall Elevated Tanks (W-730). ENGINEERING
- ❑ PUBLIC HEARINGS:
- ❑ COMMUNICATIONS:
- ❑ CITY MANAGER'S REPORT:
- ❑ UNFINISHED BUSINESS:
 - A. SECOND READING: Vacant Building Registration Ordinance Amendment. PLANNING & ECONOMIC DEVELOPMENT
- ❑ NEW BUSINESS:
 - A. Special Events - "Love Notes". PLANNING & ECONOMIC DEVELOPMENT
- ❑ ANY OTHER BUSINESS:
- ❑ PUBLIC PARTICIPATION:
 - *Reminder: Individuals who would like to address the City Commission shall do the following:*
 - Fill out a request to speak form attached to the agenda or located in the back of the room.
 - Submit the form to the City Clerk.
 - Be recognized by the Chair.
 - Step forward to the microphone.

- State name and address.
- Limit of 3 minutes to address the Commission.
- (Speaker representing a group may be allowed 10 minutes if previously registered with City Clerk.)

❑ **CLOSED SESSION:**

❑ **ADJOURNMENT:**

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

Date: November 7, 2011
To: Honorable Mayor and City Commissioners
From: Ann Marie Cummings, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes of the City Commission Meeting that was held on Tuesday, October 25, 2011.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 25, 2011

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, October 25, 2011.

Mayor Warmington opened the meeting with a prayer from Pastor Tim Cross from the Living Word Church of Muskegon 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 Clara Shepherd, Lawrence Spataro, Sue Wierengo, and Chris Carter, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Cummings.

Absent: Commissioner Steve Wisneski (excused)

2011-77 HONORS AND AWARDS:

A. 2011 Employee Service Awards.

Mayor Warmington introduced the City employees. The Mayor and Commissioners thanked them for their years of service.

2011-78 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes of the October 10th Commission Worksession Meeting and the October 11th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Change in the Income Guidelines for CDBG Emergency Repair and HOME Weatherization. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve Community & Neighborhood Services to change the Income Guidelines for all CDBG programs and HOME Weatherization programs to 60% Area Median Income (AMI).

CDBG and HOME Weatherization programs are similar in regard to repairs provided with grant funds. It will benefit if staff provides a uniform income calculation range for each of our programs: Emergency Repair, Weatherization and Vinyl Siding.

FINANCIAL IMPACT: We have moved all senior head of households to the Weatherization program in order to accommodate any additional families between 50-60% AMI.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the request.

COMMITTEE RECOMMENDATION: The proposal has already been approved by the Citizen's District Council at their October 4, 2011, meeting.

C. To Impose an Upfront Fee for the CDBG Emergency Repair Program.

COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve Community and Neighborhood Services to charge an upfront fee of \$250 for all Emergency Repair Program recipients who's Area Median Income (AMI) is above 50% up to and including 60% AMI.

We can assist our underserved families in need of assistance if we increase the income requirement to 60% AMI. The additional number of families that we service between 50-60% AMI will contribute to our funding pot by \$250 per family.

FINANCIAL IMPACT: This will produce program income for the CDBG Emergency Repair program.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the request.

COMMITTEE RECOMMENDATION: The proposal has already been approved by the Citizen's District Council at their October 4, 2011, meeting.

D. Moratorium on Fees for 2012 Vacant Buildings.

PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to approve a moratorium on fees charged to owners of vacant buildings that are entering their fourth year billing cycle in 2012. Eligibility requirements for the moratorium of fees charged are proposed with some minor changes to criteria three, but intended to apply only to buildings in their fourth year billing cycle. Waivers would be determined based on the criteria included on the staff memo.

FINANCIAL IMPACT: Exact amount unknown but should be minimal.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends approval of a fee

moratorium for vacant building invoices meeting the approved criteria.

E. Donation Programs for 2011 Individual Income Tax Returns. INCOME TAX

SUMMARY OF REQUEST: Approval of multiple donations programs for the 2011 income tax returns. Every year our goal is to increase the number of refunds donated to our designated programs. Last year, 480 taxpayers donated their refunds to our donation programs for a grand total of \$2,696.

For 2010 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 \$2,100. Each donated refund saves the City approximately \$1.25 in checks, fees and postage.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval recommended.

F. Extension of Temporary Employment Services Agreement. CITY MANAGER

SUMMARY OF REQUEST: To approve a one-year contract extension with Beacon Services, Inc. for temporary employment services. The current agreement expires at the end of the year and has an option for a one-year extension.

FINANCIAL IMPACT: Costs for services are budgeted by individual departments.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the agreement with Beacon Services, Inc. and authorize the City Manager and City Clerk to execute it.

G. Payrolling Services Agreement. CITY MANAGER

SUMMARY OF REQUEST: To approve an agreement for Beacon Services, Inc. to provide payrolling services to the City. This enables Beacon to be the employer of record for employees assigned to the City.

FINANCIAL IMPACT: Costs are budgeted by individual departments.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the agreement with Beacon Services, Inc. and authorize the City Manager to execute it.

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

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

Nays: None

MOTION PASSES

2011-79 NEW BUSINESS:

A. Approval of Sale of City-Owned Home at 1201 Ransom. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution and instruct the Community and Neighborhood Services department to complete the sales transaction between Mr. Andre Coffee for the totally rehabilitated home at 1201 Ransom Street, which is part of the City's Neighborhood Stabilization Program through the Michigan State Housing Development Authority Office of Community Development. Mr. Coffee's purchase price is \$61,000. This historic three-bedroom, 2-1/2 bath home was previously foreclosed.

FINANCIAL IMPACT: The proceeds from the sale will be used to continue the rehabilitation of vacant houses through NSP to sustain our current investments to stabilize and revitalize neighborhoods.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and direct the CNS staff to complete the sale.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the sale of the City-owned home at 1201 Ransom to Mr. Andre Coffee.

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

Nays: None

MOTION PASSES

B. Approval of Sale of City Owned Home at 1581 Division. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution and instruct the Community and Neighborhood Services department to complete the sales transaction between Mr. Robert A. Mathis for the totally rehabilitated home at 1581 Division Street, which is part of the City's HOME Infill Program through the U. S. Department of Housing and Urban Development. Mr. Mathis' purchase price is \$62,700. This beautiful four-bedroom, 3-bath home was bought through HUD's \$1 program.

FINANCIAL IMPACT: The proceeds from the sale will be used to continue the rehabilitation of vacant houses through the HOME program to sustain our current investments to stabilize and revitalize neighborhoods.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and direct the CNS staff to complete the sale.

Motion by Vice Mayor Gawron, second by Commissioner Wierengo to approve the sale of the City-owned home at 1581 Division to Robert A. Mathis.

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

Nays: None

MOTION PASSES

C. Vacant Building Registration Ordinance Amendment. 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 purposes of adding a two-year waiver for properties that are in probate, being actively rehabbed so it may be occupied, or while a home appears to be occupied but is vacant by definition with proof of each being supplied by the property owner and the property may not be cited by any City department and all fees owed to the City are paid.

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, for the purposes stated.

Motion by Commissioner Carter, second by Commissioner Wierengo to approve the vacant building registration ordinance amendment.

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

Nays: None

MOTION PASSES (REQUIRES SECOND READING)

D. Transmittal of 6/30/11 Comprehensive Annual Financial Report. FINANCE

SUMMARY OF REQUEST: The City's *June 30, 2011 Comprehensive Annual Financial Report* (CAFR) has previously been distributed to City Commissioners via both email and hard copy. The CAFR is also available on the City's website at www.shorelinecity.com. This audit covers the first full twelve-month fiscal period since the City changed its fiscal year from a 12/31 to a 6/30 end date. At this time the CAFR is being formally transmitted to the Commission in accordance with state law. The CAFR has been prepared in accordance

with GASB accounting standards. The CAFR also includes the single-audit of federal grants received by the City.

FINANCIAL IMPACT: The CAFR report summarizes the City's financial activities for the year and includes the independent auditor's unqualified opinion on the City's financial statements.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Acceptance of the CAFR for the period ended 6/30/11.

Motion by Vice Mayor Gawron, second by Commissioner Carter to accept the *Comprehensive Annual Financial Report* for the period ended June 30, 2011.

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

Nays: None

MOTION PASSES

E. First Quarter 2011-12 Budget Reforecast. FINANCE

SUMMARY OF REQUEST: At this time staff is transmitting the *First Quarter 2011-12 Budget Reforecast* which outlines proposed changes to the original budget that have come about as result of changes in revenue projections, policy priorities, labor contracts, updated economic conditions, or other factors.

FINANCIAL IMPACT: Specific proposed changes to the budget include:

- The beginning fund balance for the General Fund is \$4,511,382 (as audited) up from \$4,187,864 estimated at the time the budget was prepared;
- Overall the general fund revenue reforecast is 2% higher than originally budgeted. The increase is mostly attributable to the following changes:
 - * Increase in estimated income tax revenues from \$6.5 to \$6.6 million based on recent collection figures and trends;
 - * Increase in state shared revenue estimate from \$3.05 million to \$3.425 million based on the City's expected compliance with the EVIP program and the most current revenue projection data available from the state;
- Expenditures at this point are generally on target with original budget projections. However, two notable changes are proposed:
 - * The Assessing Services budget is recommended to increase \$50,000 to cover costs for outside expertise and assistance with complex, high value tax appeals;
 - * An unbudgeted transfer of \$75,000 to the Engineering Services fund is recommended to erase a fund deficit that has now persisted for several years.

BUDGET ACTION REQUIRED: Self-explanatory.

STAFF RECOMMENDATION: Approval.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the First Quarter 2011-12 Budget Reforecast.

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

Nays: None

MOTION PASSES

F. Consideration of 2012 COLA for Retirees. FINANCE

SUMMARY OF REQUEST: It is time to consider whether an annual 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. The last COLA increase was in 2009, when a 0.50% COLA was granted.

The actuary has computed the cost of a 1% COLA adjustment as follows:

Group	Cost
<i>Eligible General Retirees</i>	\$21,456
<i>Eligible P&F Retirees</i>	\$53,280

The City's retirement system remains financially sound but continues to feel the impact of the collapse of the financial markets in late 2008. The most recent annual actuarial valuation contains this important warning:

"The actuarial value of assets (funding value), used to determine both your funded status and your required employer contribution, is based on a 10-year smoothed value of assets. Only a portion (three-tenths, for 2008, 2009, and 2010) of the 2008 investment market losses were recognized in this actuarial valuation report. This reduces the volatility of the valuation results, which affects your required employer contribution and actuarial funded percentage.

As of December 31, 2010 the actuarial value of assets is 116% of market value (down from 125% in 2009). This means that meeting the actuarial assumption in the next few years will require average annual market returns that exceed the 8% investment return assumption. If the December 31, 2010 valuation results were based on market value on that date instead of 10-year smoothed funding value: i) the funded percent of your entire municipality would be 86%

(instead of 100%); and ii) your total employer contribution requirement for the fiscal year starting July 1, 2012 would be \$3,629,328 (instead of \$1,012,440). If the investment markets do not fully make-up for the 2008 losses, employer contribution requirements may rise. "

Given the above and the numerous other financial challenges facing the City, staff does not believe it is prudent to commit to an additional long-term cost at this time. Therefore, it is recommended no retiree COLA be awarded for the year beginning January 1, 2012.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Commission action affirming staff's recommendation that no retiree COLA increase be granted for 2012.

Motion by Vice Mayor Gawron, second by Commissioner Carter to affirm staff's recommendation that no retiree COLA increase be granted for 2012.

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

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Mayor Warmington introduced County Commissioner Ben Cross who stated the proposed lease agreement that could eventually lead to construction of a wind farm on Muskegon County's wastewater site was approved.

Mayor Warmington recognized and thanked Finance Director Tim Paul for 26 years of dedicated service to the City of Muskegon.

PUBLIC PARTICIPATION: Public comments received.

ADJOURNMENT: The City Commission Meeting adjourned at 6:15 p.m.

Respectfully submitted,

Ann Marie Cummings, MMC
City Clerk

Date: 11/7/2011
To: Honorable Mayor and City Commission
From: Equipment Division
RE: Budgeted Equipment Purchase

SUMMARY OF REQUEST: Authorize staff to purchase one (1) 2012 full size Ford F-150 4X4 pick-up truck for fleet replacement from Vanderhyde Ford who was the lowest responsible bidder. See bid tabulation. This vehicle will replace Water Dept. truck # 30582 (2003).

FINANCIAL IMPACT: \$ 22,085.00 Equipment Fund

BUDGET ACTION REQUIRED: None; the price of this truck is within the amount budgeted.

STAFF RECOMMENDATION: Authorize staff to purchase one (1) 2012 Ford F-150 4X4 pick-up from Vanderhyde Ford.

Date: October 7, 2011

To: Honorable Mayor and City Commissioners

From: Engineering

RE: Construction Engineering Agreement With:
Dixon Engineering for Roberts and Marshall
Elevated Tanks (W-730)

SUMMARY OF REQUEST:

Authorize staff to enter into engineering services agreement with Dixon Engineering for a total cost of \$30,860.00 to perform the necessary inspection on the painting of the Marshall & Roberts elevated tanks. Dixon is being recommended since they were designer on this project.

FINANCIAL IMPACT:

The contract cost of \$30,860.00

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Authorize staff to enter into an engineering service agreement with Dixon Engineering.

COMMITTEE RECOMMENDATION:

**Proposal/Contract Agreement
for Elevated Water Storage Tank
1,000,000 Gallon Radial Arm (Roberts), #22-61-06-02**

The agreement is between Dixon Engineering, Inc. (DIXON) and the Muskegon, Michigan (OWNER) to contract with DIXON for technical services for the 1,000,000 Gallon Radial Arm (Roberts) (PROJECT). This agreement inclusive together with any expressly incorporated appendix or Schedules, constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument. This agreement includes pages 1 through 4 and Schedules A, B, and C.

1.01 BASIC AGREEMENT

DIXON shall provide, or cause to be provided, services detailed in Scope of Services and OWNER agrees to pay DIXON as compensation for their services the fee of **Fifteen Thousand, Four Hundred, and Thirty** dollars (\$**15,430.00**). Terms of charges and payments per details in Schedule B. (Prices quoted are subject to change 90 days after proposal date, if not contracted.)

2.01 SCOPE OF SERVICES

Project Administration, Pre-Construction Meeting, and Paint Inspection, per Schedule A

3.01 SIGNATURES

Ira M. Gabin, P.E., Vice President

PROPOSED by DIXON (Not a contract until approved by an officer)

January 11, 2011

PROPOSAL DATE

CONTRACT APPROVED by OWNER

POSITION

DATE

CO SIGNATURE (if required)

POSITION

DATE

CONTRACT APPROVED by DIXON OFFICER

EFFECTIVE CONTRACT DATE

**Proposal/Contract Agreement
for Elevated Water Storage Tank
1,000,000 Gallon Radial Arm (Marshall), #22-61-06-03**

The agreement is between Dixon Engineering, Inc. (DIXON) and the Muskegon, Michigan (OWNER) to contract with DIXON for technical services for the 1,000,000 Gallon Radial Arm (Marshall) (PROJECT). This agreement inclusive together with any expressly incorporated appendix or Schedules, constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument. This agreement includes pages 1 through 4 and Schedules A, B, and C.

1.01 BASIC AGREEMENT

DIXON shall provide, or cause to be provided, services detailed in Scope of Services and OWNER agrees to pay DIXON as compensation for their services the fee of **Fifteen Thousand, Four Hundred, and Thirty** dollars (**\$15,430.00**). Terms of charges and payments per details in Schedule B. (Prices quoted are subject to change 90 days after proposal date, if not contracted.)

2.01 SCOPE OF SERVICES

Project Administration, Pre-Construction Meeting, and Paint Inspection, per Schedule A

3.01 SIGNATURES

Ira M. Gabin, P.E., Vice President

January 11, 2011

PROPOSED by DIXON (Not a contract until approved by an officer)

PROPOSAL DATE

CONTRACT APPROVED by OWNER

POSITION

DATE

CO SIGNATURE (if required)

POSITION

DATE

CONTRACT APPROVED by DIXON OFFICER

EFFECTIVE CONTRACT DATE

Commission Meeting Date: October 25, 2011

Date: October 14, 2011
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Vacant Building Registration Ordinance Amendment

SUMMARY OF REQUEST:

Request to amend the Code of Ordinances Chapter 10, Section 107, Annual Registration of Vacant Buildings and Registration Fees, for the purposes of adding a two-year waiver for properties that are in probate, being actively rehabbed so it may be occupied, or while a home appears to be occupied but is vacant by definition with proof of each being supplied by the property owner and the property may not be cited by any city department and all fees owed to the city are paid.

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, for the purposes stated.

COMMITTEE RECOMMENDATION:

None

Vacant Building Ordinance changes

1. (6) *Two-year waiver.*

- (iii.) Upon application by the homeowner(s) or a legal representative(s), the committee may grant a renewable two-year waiver of the registration fee. To be eligible for a two-year waiver of fee, satisfactory proof that the structure will only be temporarily vacant due to property being in probate court, being actively rehabbed to city code so it may become occupied or the structure is in good repair and has the presence that the structure is not vacant (per zoning code for allowable uses), and free of any enforcement actions by city departments. Should the structure or property not be properly maintained or in violation of city code, the waiver may be revoked by the appeal committee.

Sec. 10-107. Annual registration of vacant buildings and registration fees.

- (a) *Purpose.* The purpose of this section requiring the registration of all vacant buildings, including dwellings that are subject to Chapter 10 as referenced below, and the payment of registration fees is to assist the city government, particularly the Department of Public Safety (DPS) and Planning Departments in protecting the public health, safety and welfare, to monitor the number of vacant buildings in the city, to assess the effects of the condition of those buildings on nearby businesses and the neighborhoods in which they are located, particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to require of the owners of such vacant buildings their registration and the payment of related fees, and to promote substantial efforts to rehabilitate such vacant buildings. The provisions of this section are applicable to the owners of such vacant buildings as set forth herein and are in addition to and not in lieu of any and all other applicable provisions of this chapter, the health and sanitation code, and any other applicable provisions of the Muskegon City Code.
- (b) *Definitions and applicability; registration statement and fees.*
- (1) *Definitions.* For purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:
- (A) *Boarded:* A building or structure subject to the provisions of this section shall be deemed to be “boarded” if in place of one or more exterior doors, other than a storm door, or of one or more windows, there is a sheet or sheets of plywood or similar material covering the space for such door or window.
- (B) *Exterior maintenance and major systems:* The phrase “exterior maintenance and major systems” shall mean the safe and lawful maintenance of the façade, windows, doors, roof, and other parts of the exterior of the building and the maintenance of its major systems consisting of the roof, the electrical and plumbing systems, the water supply system, the sewer system, and the sidewalk, drive-way, if any, area of the lot, as applicable and as enforced by the DPS, particularly in connection with subsection 10-82 (inspection of unoccupied building) and 10-101 (abatement of dangerous buildings) of this section of this code.
- (C) *Occupied:* Any building or structure shall be deemed to be occupied if one or more persons actually conducts a lawful business or resides in all or any part of the building as the licensed business-occupant, or as the legal or equitable owner/occupant(s) or tenant(s) on a permanent, nontransient basis, or any combination of the same. For purposes of this section, evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services; a valid city business license, or the most recent, federal, state, or city income tax statements indicating that the subject property is the official business or residence address of the person

or business claiming occupancy; or proof of pre-rental inspection.

- (D) *Open*: A building or structure subject to the provisions of this section shall be deemed to be “open” if any one or more exterior doors other than a storm door is broken, open and, or closed but, without a properly functioning lock to secure it, or if one or more windows is broken or not capable of being locked and secured from intrusion, or any combination of the same.
 - (E) *Owner*: An owner of the freehold of the premises or any lesser estate therein, a mortgagee, a vendee-in-possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation that is directly or indirectly in control of a building subject to the provisions of this section, and as set forth below.
 - (F) *Seasonal Residence*: A legal residential structure that has been used as a residence by the owner for a period of at least three consecutive months within the previous nine months and the same owner intends to resume residing at the property. A non-owner occupied home does not qualify as a Seasonal Residence.
 - (G) *Vacation Home*: A secondary legal residential dwelling used by the owner or one or more immediate member of the owner’s family, such as a son or daughter, for a period less than three consecutive months out of the previous nine months but still has verifiable occupancy periods spread throughout the year. If the home is rented or leased it does not qualify as a Vacation Home.
 - (H) *Vacant*: A building or structure shall be deemed to be vacant if no person or persons actually, currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupants, or tenant(s) on a permanent, nontransient basis, unless the structure is legally being used for storage purposes. Such storage use must be a legally allowed principal use of the zoning district where the structure is located and the use must be in compliance with all appropriate provisions of city ordinances, building and fire codes pertaining to the storage use.
- (2) *Applicability*. The requirements of this section shall be applicable to each owner of any building that is not a dwelling that shall have been vacant for more than 90 consecutive days and to each owner of residential property consisting of one or more vacant dwellings that shall have been vacant for more than 90 consecutive days. Each such owner shall cause to be filed a registration statement, which shall include the street address and parcel number of each such vacant building, the names and addresses of all owners, as hereinafter described, and any other information deemed necessary by the city. The registration fee(s) as required by subsection (b)(3) of this section shall be billed annually by the city and shall be paid within 30 days of the invoice-date. For purposes of this section, the following shall also be applicable:
- (A) If the owner is a corporation or a limited liability corporation, the

registration statement shall provide the names and residence addresses of all officers, directors and/or members and shall be accompanied by a copy of the most recent annual tax report filed with the State of Michigan;

- (B) If an estate, the name and business address of the executor of the estate;
 - (C) If a trust, the name and address of all trustees, grantors, and beneficiaries;
 - (D) If a partnership, the names and residence addresses of all partners with an interest of ten percent or greater;
 - (E) If any other form of unincorporated association, the names and residence addresses of all principals with an interest of ten percent or greater;
 - (F) If an individual person, the name and residence address of that individual person.
- (3) *Registration statement and fees; local agent.* If none of the persons listed, as above, is shown at an address within the state or the home is a qualified vacation home or seasonal residence, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owners and who shall be designated as a responsible, local party or agent, both for purposes of notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith. Registration shall be required for all vacant buildings, whether vacant and secure, vacant and open or vacant and boarded, and shall be required whenever any building has remained vacant for 90 consecutive days or more. In no instance shall the registration of a vacant building and the payment of registration fees be construed to exonerate the owner, agent or responsible party from responsibility for compliance with any other building code or housing code requirement. The owner of the vacant property at the time of billing shall be responsible for the payment of the non-refundable registration fee. Said fee shall be billed annually by the city and based on the duration of the vacancy as determined by the master fee resolution.
- (4) *Appeal rights.* The owner shall have the right to appeal the imposition of the registration fees to a committee appointed by the City Manager, upon filing an application in writing with the applicable \$50 non-refundable filing fee to the City Manager's Office no later than 30 calendar days after the date of the billing statement. On appeal, the owner shall bear the burden of providing satisfactory objective proof of occupancy.
- (5) *One time waiver of registration fee.* A one-time waiver of the registration fee may be granted by the committee appointed by the City Manager upon application of the owner, if all taxes and fees, such as, but not limited to, property taxes, mowing charges, past vacant building registration fees, landlord registrations, business registrations, utilities

and any other applicable charges have been paid prior to application for the waiver. If the owner:

- (i.) Demonstrate with satisfactory proof that he/she is in the process of demolition, rehabilitation, or other substantial repair of the vacant building; and
- (ii.) Objectively demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant building; or
- (iii.) Provides satisfactory proof that he/she was actively attempting to sell or lease the property during the vacancy period.

(6) *Two-year waiver.*

- (i.) Upon application by the owner and satisfaction of subsection (b)(5) above, the committee appointed by the City Manager may grant a two-year waiver of the registration fee if the owner meets the criteria for non-profit organizations as defined by Section 501(c)(3) of the Internal Revenue Code; or
- (ii.) Upon application by the homeowner(s) who are temporarily residing in a medical care facility, or a legal representative of the homeowner(s), the committee may grant a renewable two-year waiver of the registration fee. To be eligible for a two-year waiver of fee, satisfactory proof that the structure will only be temporarily vacant and the property and structures must remain in good repair and free of any enforcement actions by city departments. Should the structure or property not be properly maintained or in violation of city code, the waiver may be revoked by the appeal committee.
- (iii.) ***Upon application by the homeowner(s) or a legal representative(s), the committee may grant a renewable two-year waiver of the registration fee. To be eligible for a two-year waiver of fee, satisfactory proof that the structure will only be temporarily vacant due to property being in probate court, being actively rehabbed to city code so it may become occupied or the structure is in good repair and has the presence that the structure is not vacant (per zoning code for allowable uses), and free of any enforcement actions by city departments. Should the structure or property not be properly maintained or in violation of city code, the waiver may be revoked by the appeal committee.***

(7) *Delinquent registration fees as a lien.* After the owner is given notice of the amount of the registration fee due, except for those owners that have properly perfected an appeal pursuant to subsection (b)(4) above, and the owner fails to pay the amount due, said amount shall constitute a debt

due and owing to the city, and the city may commence a civil action to collect such the unpaid debt.

- (c) *Duty to amend registration statement.* If the status of the registration information changes during the course of any calendar year, it is the responsibility of the owner, responsible party or agent for the same to contact the Planning Department within 30 days of the occurrence of such change and advise the department in writing of those changes. Except that valid seasonal residence or vacation home, as defined by the ordinance, are not required to notify the city of changes in occupancy status.
- (d) *Exceptions.* The fees imposed by this section shall not apply to any legitimate vacation or seasonal residence, as defined by this ordinance, or any building owned by the United States, the state, the city, nor to any of their respective agencies or political subdivisions but registration of all structures outlined in this section is still required.
- (e) *Violations; penalties.* The failure or refusal for any reason of any owner, or agent of an owner acting on behalf of the owner, to register a vacant building or to pay any fees required to be paid pursuant to the provisions of this section, within 30 days after they become due, shall constitute a violation punishable upon conviction thereof by a fine in the amount of not less than \$100 nor more than \$500 for each failure or refusal to register, or for each failure or refusal to pay a required vacant building fee, as applicable. In such cases, whenever the minimum fine of \$100 is imposed, it shall not be subject to suspension or reduction for any reason.

(Ord. No. 2240, 1-8-2008; Ord. No. 2256, 12-9-2008; Ord. No. 2260, 7-14-2009; Ord. No. 2276, 4-27-2010)

Secs. 10-108 --10-130. Reserved.

Commission Meeting Date: November 7, 2011

Date: October 24, 2011
To: Honorable Mayor & City Commission
From: Planning & Economic Development Department
RE: Special Events- "Love Notes"

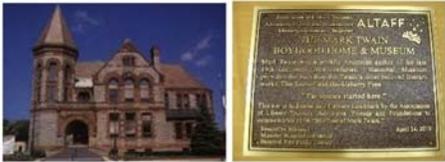
SUMMARY OF REQUEST: The Community Foundation, in celebration of its 50th year, provided \$3,000 for six, \$500 "Love Notes" mini-grants to individuals, businesses and organizations in the community. The idea for "love notes" was generated from a workshop conducted by consultant Peter Kageyama, which was attended by community members, including several representatives from the City of Muskegon. The winners were decided through the Foundation's Facebook page. Since some of the "love notes" may require a Special Event permit, staff is requesting that the permit fee be waived for the first year of the "event", as a gesture of the City's partnership in this creative (and fun) endeavor. However, if any City services are required, there may be a charge for those services.

FINANCIAL IMPACT: The special event permit application fee will be waived, resulting in a loss of \$50.00 per permit required (not all "love notes" will require a permit), for the first year of the event.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To allow a fee waiver for any "love notes" that require a special event permit for the first year of the event.

Hackley Public Library Becomes National Literary Landmark Sample Literary Landmark Plaque



Literary Landmark—Friends of the Hackley Public Library

Caldecott Award-winning author Verna Aardema called Hackley Library “home.” This earned the library the distinction of becoming a Literary Landmark (there are only 7 in the state!) . This love note will fund a celebration—and plaque dedication—in Honor of the library’s achievement.



Movies on the Beach—Kerry L. Halloran and Cindy Beth Davis-Dykema

Moonlight Movies on the Beach! Bring your beach chairs, blankets, picnic basket, & popcorn to the shores of Lake Michigan. This FREE family even will be held twice a month from June—August. Enjoy a family favorite or old classic under the stars!



“White Lake Love” Public Art at the Playhouse—Howmet Playhouse

Children from the White Lake area will create clay tiles illustrating their favorite part of living in White Lake...and these tiles will form a colorful mural for all to see in front of the Howmet Playhouse. Whitehall Artist Cara O’Brien will glaze and fire the tiles, and create and install the mural.



Play it Forward—Kenneth Johnson

Think this sculpture is cool? Imagine a party to raise \$\$ to make it a reality in downtown Muskegon! Local bands will pull together to celebrate Muskegon’s contribution to snowboarding, as well as showcase the tremendous talent of our local musicians. What an inspiration!



Linenbottom and His Amazing Wowsical Traveling Show—Love Community Garden

Linenbottom and his posse are rehearsed and ready to show up on a street corner near you—but we need a ride! This love note will make the show mobile, hooking his stage to a bike for easy transport. All shows are free—but Linenbottom does appreciate carrots!



Lakeside Community Pocket Park— Lakeside Neighborhood Association/Lakeside District Association

Started in summer of 2010, this little park features planter boxes, a new fence, and native plants. We are looking to start a sidewalk and patio area, and need your help!