

CITY OF MUSKEGON

CITY COMMISSION MEETING

APRIL 12, 2005

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, April 12, 2005.

Mayor Warmington opened the meeting with a prayer from Pastor Sarah Johnson of the Word of Truth Outreach after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

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

2005-32 HONORS AND AWARDS:

A. **Sarah Johnson.** Commissioner Clara Shepherd presented Dr. Sarah Johnson with a Certificate of Recognition from the City Commission.

2005-33 CONSENT AGENDA:

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

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, March 22, 2005, and the Special Commission Meeting that was held on Tuesday, March 29, 2005.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. **Resolution for Charitable Gaming License - Muskegon Community Health Project.** CITY CLERK

SUMMARY OF REQUEST: Muskegon Community Health Project, 565 W. Western Avenue, is requesting a resolution recognizing them as a non-profit organization operating in the City for the purpose of obtaining a gaming license. They have been recognized as a 501(c)(3) organization by the State.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

C. SECOND READING: Zoning Ordinance Amendment to Article II (Definitions) of the Zoning Ordinance for "Setback, Front". PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Article II (Definitions) to clarify the definition for "Setback, Front".

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to clarify the definition for "Setback, Front".

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the amendment at their 3/10/05 meeting. The vote was unanimous in favor of the amendment, with B. Turnquist and S. Warmington absent.

D. SECOND READING: Zoning Ordinance Amendment to Article II (Definitions) of the Zoning Ordinance for "Informational Sign". PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Article II (Definitions) to add a definition for "Informational Sign".

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to add a definition for "Informational Sign".

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the amendment at their 3/10/05 meeting. The vote was unanimous in favor of the amendment, with B. Turnquist and S. Warmington absent.

E. SECOND READING: Zoning Ordinance Amendment to the Sign Ordinance for Campus Signage. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2334(10.) of Article XXIII (General Provisions) to amend the sign ordinance language regarding campus signage.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend the sign ordinance language regarding campus signage.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the amendment at their 3/10/05 meeting. The vote was unanimous in favor of the amendment, with B. Turnquist and S. Warmington absent.

F. SECOND READING: Rezoning Request for Properties Located at 704, 714,

724, and 734 E. Apple Avenue. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone properties located at 704, 714, 724, and 734 E. Apple Avenue, from R-1, Single Family Residential to B-2, Convenience & Comparison Business.

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 3/10/05 meeting. The vote was unanimous in favor of the amendment, with B. Turnquist and S. Warmington absent.

G. Procurement of Police Patrol Rifles. PUBLIC SAFETY

SUMMARY OF REQUEST: The Muskegon Police Department currently has in its possession two (2) Thompson and four (4) Uzi machine guns. The department has been in possession of these weapons for many years. While these weapons are of great interest to collectors, they are useless as to our needs. At this same time, we are in need of replacing our current stock of patrol shotguns and there are a number of reasons for doing so.

First, the shotguns are aging and require a great deal of care. Secondly, the shotgun is heavy and can be difficult for many of us to handle. In this regard, I also have concerns about the control of pellets or a slug when the shotgun is fired. Finally, our current patrol-level tactical training calls for the use of a rifle. We are currently training patrol officers in what is known as "Active Shooter" situations. Primarily designed to prepare officers to respond to shooting incidents in schools or businesses, it calls for the use of an accurate shoulder-fired weapon. The shotgun does not meet this need.

Realizing that we do not have the funds to purchase such weapons, our Firearms Training Team has been talking with collectors and dealers. Some have offered to purchase the machine guns while others have offered to us a variety of trades. Recently we were contacted by Cinema Weaponry LLC of Glendale, California. This company provides weapons for the movie industry. Cinema Weaponry has offered to trade to us twenty (20) new Colt Law enforcement M4 semi-automatic carbines with accessories in return for the six machine guns. They would also pay for the shipping costs. Our firearms team had already settled on the M4 as the rifle of choice and has recommended to me that this trade would meet our needs. The purchase price of an M4 is approximately \$950. Therefore, this trade would result in a savings to us of \$19,000 if we were to have to purchase these rifles.

We have been in contact with the Bureau of Alcohol, Tobacco and Firearms in regards to this transaction. They have advised us that this trade is legal and will provide guidance with the appropriate paperwork. I have also asked our City

Attorney to review this transaction and to assist us with the appropriate legal agreement.

To us during these tight budget times it makes sense to trade these weapons that we will never be able to use for weapons that we can use. We ask for your consideration in approving this trade.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Consideration of this request.

H. Resolution Opposing the Elimination of the Community Development Block Grant Program. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the resolution and instruct the Community and Neighborhood Services Department to submit it to the Federal Administration.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution.

I. Resolution to Support Additional Municipal Service Cooperation throughout Muskegon County.

Motion by Commissioner Gawron, second by Commissioner Carter to approve the Consent Agenda with the exception of item J.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, and Carter
Nays: None

MOTION PASSES

2005-34 ITEM REMOVED FROM THE CONSENT AGENDA:

J. Policy Regarding Local Preference Purchasing / Contracting.

Motion by Vice Mayor Larson, second by Commissioner Davis to adopt the policy with change.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis
Nays: None

MOTION PASSES

2005-35 UNFINISHED BUSINESS:

A. Create a Special Assessment District for Ireland Avenue, Franklin to Davis (Tabled from 3-22-05). ENGINEERING

SUMMARY OF REQUEST: To create the special assessment district and appoint two

City Commissioners to the Board of Assessors if it is determined to proceed with the project.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To create the special assessment district and assign two City Commissioners to the Board of Assessors by adopting the resolution.

Motion by Commissioner Spataro, second by Commissioner Gawron to create the special assessment district for Ireland, Davis to Franklin and assign two City Commissioners to the Board of Assessors.

**ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, and Gawron
Nays: None**

MOTION PASSES

Commissioner Gawron and Spataro were appointed to the Board of Assessors.

B. Create a Special Assessment District for Franklin Street, Laketon to Ireland (Tabled from 3-22-05). ENGINEERING

SUMMARY OF REQUEST: To create the special assessment district and appoint two City Commissioners to the Board of Assessors if it is determined to proceed with the project.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To create the special assessment district and assign two City Commissioners to the Board of Assessors by adopting the resolution.

Motion by Commissioner Spataro, second by Commissioner Gawron to create the special assessment district for Franklin, Laketon to Ireland and assign two City Commissioners to the Board of Assessors.

**ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson
Nays: None**

MOTION PASSES

Commissioner Gawron and Spataro were appointed to the Board of Assessors.

2005-36 NEW BUSINESS:

A. MDNR Agreement Amendment for Lakeshore Trail. CITY MANAGER

SUMMARY OF REQUEST: To adopt a resolution to approve a Project Agreement amendment between the City and MDNR for the Lakeshore Trail project. This is necessary to complete the Chase Hammond Golf Course conversion.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution.

Motion by Commissioner Spataro, second by Vice Mayor Larson to approve the MDNR Agreement and resolution.

**ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, and Shepherd
Nays: None**

MOTION PASSES

B. Approval of the 2005-2006 Action Plan. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the 2005-2006 Action Plan for the City of Muskegon Community Development Block Grant/HOME activity. If the Action Plan is approved, the CNS will continue the comment period of the Action Plan as amended if needed until April 17, 2005. On April 18, 2005, the CNS office will submit the Action Plan to the U.S. Housing and Urban Development as required in order to request the release of funds for the 2006-2007 fiscal year.

FINANCIAL IMPACT: Action Plan establishes the 2005-2006 budget.

BUDGET ACTION REQUIRED: None at this time, budget established by Action Plan.

STAFF RECOMMENDATION: To approve the Action Plan.

Motion by Vice Mayor Larson, second by Commissioner Shepherd to approve the 2005-2006 Action Plan.

**ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, and Spataro
Nays: None**

MOTION PASSES

C. Public Service Building Modifications. PUBLIC WORKS

SUMMARY OF REQUEST: We are requesting approval to purchase one heating and air conditioning unit to service 2 offices being created in a shop area. This equipment will also replace aging equipment for the conference room and 3 other interior offices. By centralizing to one unit and eliminating 4 other units, energy savings are anticipated.

FINANCIAL IMPACT: \$11,553.67. \$50,000 has been earmarked for capital needs at the Public Service Building in 2005.

BUDGET ACTION REQUIRED: None needed.

STAFF RECOMMENDATION: Recommend approval.

Motion by Vice Mayor Larson, second by Commissioner Carter to approve the Public Service Building modifications and award the bid to Bowen Refrigeration, Heating & Cooling.

**ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, and Warmington
Nays: None**

MOTION PASSES

D. Signal Maintenance for Public Crossing over CSX's Tracks. ENGINEERING

SUMMARY OF REQUEST: Authorize staff to issue a payment of \$30,000 due CSX from the City for the nine (9) public crossing over active CSX tracks. The Attorney's Office reviewed the claims by CSX and found them to be accurate in their demand for compensation as called for in Public Act 354, adopted in 1994. Staff was not aware of such charges until the bill was received in March of 2005. The amount requested was negotiated down with CSX to \$30,000 from the amount originally requested of \$37,530.

FINANCIAL IMPACT: \$30,000.

BUDGET ACTION REQUIRED: This additional expense will be reported on the upcoming quarterly budget update.

STAFF RECOMMENDATION: Authorize payment to CSX for \$30,000.

Motion by Commissioner Spataro, second by Vice Mayor Larson to authorize payment.

**ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, and Carter
Nays: None**

MOTION PASSES

E. Consideration of Bids for Pine Street, Laketon to Dale. ENGINEERING

SUMMARY OF REQUEST: The milling and resurfacing contract (H-1601) on Pine Street between Laketon Avenue and Dale Avenue be awarded to Asphalt Paving, Inc. out of Muskegon, MI. Asphalt Paving, Inc. was the lowest responsible bidder with a bid price of \$33,445.60.

FINANCIAL IMPACT: The construction cost of \$33,445.60 plus related engineering expenses.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Award the contract to Asphalt Paving, Inc.

Motion by Vice Mayor Larson, second by Commissioner Gawron to award the contract to Asphalt Paving, Inc.

**ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis
Nays: None**

MOTION PASSES

F. Transmittal of 2004 Comprehensive Annual Financial Report. FINANCE

SUMMARY OF REQUEST: The City's 2004 *Comprehensive Annual Financial Report*

(CAFR) has previously been distributed to City Commissioners. At this time the CAFR is being formally transmitted to the Commission in accordance with state law. The 2004 CAFR has been prepared in accordance with GASB 34 accounting standards. The 2004 CAFR also includes the "single-audit" of federal grants. Previously, the single audit was filed as a separate report.

FINANCIAL IMPACT: None. The CAFR report summarizes the City's financial activities for 2004 and includes the independent auditor's unqualified opinion on the City's financial statements.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Acceptance of the 2004 CAFR.

Motion by Commissioner Carter, second by Commissioner Gawron to approve the 2004 CAFR.

**ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, and Gawron
Nays: None**

MOTION PASSES

G. Request for Encroachment Agreement By: Lake Express LLC. ENGINEERING

SUMMARY OF REQUEST: Lake Express LLC has requested your permission to erect directional sign on the Lakeshore Drive public right of way. The proposed location of the sign is the northwesterly corner of the intersection of Lakeshore Drive and Estes (assumption is Estes is a north-south direction). The sign will be a double face lit-up and raised about 10' above the sidewalk surface.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

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

Motion by Vice Mayor Larson, second by Commissioner Spataro to approve the encroachment agreement with supplemental conditions.

**ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson
Nays: None**

MOTION PASSES

H. Consideration of Bids: Janitorial Services for 2005 – 2008. ENGINEERING

SUMMARY OF REQUEST: To award a janitorial services contract to Reliant Professional Cleaning out of Grand Haven to clean City Hall/Police Department and the Public Service Building for the next 3-years starting May 1, 2005, and thru April 30, 2008, with an option on a fourth year. Reliant was the lowest responsible bidder with bid price as follows:

	2005-06	2006-07	2007-08	Total
City Hall & P.D.	\$40,435.04	\$40,435.04	\$41,166.04	\$122,036.12
Public Service Building	\$12,459.60	\$12,459.60	\$12,699.60	\$37,618.80
Totals	\$52,894.64	\$52,894.64	\$53,865.64	\$159,654.92

FINANCIAL IMPACT: The above stated annual costs.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To award a three-year contract to Reliant Professional Cleaning with an optional fourth.

Motion by Commissioner Gawron, second by Commissioner Spataro to award a three-year contract with option for fourth to Reliant Professional Cleaning.

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

Nays: None

MOTION PASSES

I. LEAD Program – City Participation in GEAR UP 2011 Grant Proposal.

ASSISTANT CITY MANAGER

SUMMARY OF REQUEST: Muskegon Public Schools is requesting the City's partnership in the above-referenced program. Giving their tight timeline (they requested a response on March 29, 2005) and the fact that what was requested of the City complies with the City Commission's goal to "Foster Opportunities for City Youth", with the City Manager's approval we consented to participate contingent upon City Commission approval. I have also provided a summary breakdown of the type of in-kind services the City might offer in exchange for students volunteer services at City activities.

FINANCIAL IMPACT: Largely in-kind service.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends partnering with Muskegon Public School to apply for GEAR UP 2011 Grant Proposal.

Motion by Commissioner Spataro, second by Commissioner Gawron to approve partnering with Muskegon Public School to apply for GEAR UP 2011 Grant Proposal.

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

Nays: None

MOTION PASSES

J. Accept Shoreline Dr. East (First to Eastern) into the City's Street System.

ENGINEERING

SUMMARY OF REQUEST: Adopt the resolution, including exhibit A, accepting Shoreline Drive East from First Street to Eastern Avenue and the realigned section of Ottawa Street between Ottawa and Western Avenue into the City's street system.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Adopt the resolution.

Motion by Commissioner Spataro, second by Commissioner Carter to accept Shoreline Drive East into the City's Street System.

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

Nays: None

MOTION PASSES

2005-37 PUBLIC PARTICIPATION: Martha Bottomley explained the Title V Grant.

Motion by Commissioner Spataro, second by Commissioner Gawron to approve the request to apply for the second year renewal of Title V Grant.

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

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 7:04 p.m.

Respectfully submitted,

Gail A. Kunding, MMC
City Clerk