

# CITY OF MUSKEGON

## CITY COMMISSION MEETING

**AUGUST 23, 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 5:33 p.m., Tuesday, August 23, 2005.

Mayor Warmington opened the meeting with a prayer from Reverend Nana Kratochvil from Harbor Unitarian Universalist Congregation 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 Clara Shepherd, Lawrence Spataro, Chris Carter, Kevin Davis, and Stephen Gawron, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Gail Kundinger.

#### **2005-77 CONSENT AGENDA:**

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

SUMMARY OF REQUEST: To approve minutes for the July 28<sup>th</sup> Special Commission Meeting, the August 8<sup>th</sup> Commission Worksession, and the August 9<sup>th</sup> Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

##### **B. FIRST READING - Amendment to the City Code of Ordinances Regarding Sale of Impounded Vehicles. PUBLIC SAFETY**

SUMMARY OF REQUEST: Police Department staff is requesting the Commission amend City Ordinance 46-33 which regulates the sale of impounded vehicles. Language in the current ordinance mandates that we notify the owner in writing and that the notice be "delivered in person or sent by registered mail..." We ask that the language be amended to read "delivered in person or sent by first-class mail..." This new proposed language is the same as state law.

FINANCIAL IMPACT: Reduction in the cost of mailings.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of this request.

**C. FIRST READING – Rezoning Request for Property Located at 137 & 109 E. Laketon Avenue.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone the property located at 137 and 109 E. Laketon Avenue, from R-1, One Family Residential to B-2, Convenience and 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 August 10<sup>th</sup> meeting. The vote was unanimous with B. Mazade absent.

**E. FIRST READING – Zoning Ordinance Amendment for Corner Clearance.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2331 (Landscaping, Fencing, Walls, Screens and Lighting, #16.) of Article XXIII (General Provisions) to add corner clearance requirements for driveways.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend the “Landscaping, Fencing, Walls, Screens and Lighting”, (#16), language to add corner clearance requirements for driveways.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the amendment at their August 11<sup>th</sup> meeting. The vote was unanimous in favor of the amendment, with B. Mazade absent.

**F. Approval of Bid Acceptance for Surplus Surveillance Equipment.** PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The Planning Department has requested bids to sell off surplus surveillance equipment. The piece of equipment is the Pelco brand DX 2000 Series Digital Video Recorder that was used sparingly because the City's surveillance needs have changed. In an attempt to cover the potential costs of buying new equipment to better suit our current needs, bids were requested on the used equipment. The request of the Commission is to approve the highest bid on the digital video recorder.

FINANCIAL IMPACT: The initial purchase cost of the unit was \$2,489 plus shipping.

The highest bid received was \$2,512. That money would be used to purchase new surveillance equipment.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Two bids were received: Pulaski Lodge in the amount of \$2,512 and WMKG in the amount of \$207.39. Staff recommends that the Commission accept Pulaski Lodge's bid of \$2,512 on the City's digital video recorder.

**I. Revocation of a Neighborhood Enterprise Zone Certificate for 1252 Adams Avenue. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: Annie Brown and Daryl Jefferson are in violation of Section 207.781 sec. 11 subsection (4). They have failed to pay 2003 taxes for the property located at 1252 Adams Avenue. Approval or denial by the City Commission is required and must be forwarded to the State Tax Commission. Staff sent the owners a letter and a copy of the past due tax bill on June 30, 2005, giving them until July 31, 2005, to pay the taxes. They remain unpaid.

FINANCIAL IMPACT: The property will no longer be able to take advantage of the certificate number 99-001 which allowed taxation at 50% of the State average for a stated number of years.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve revocation of the Neighborhood Enterprise Zone certificate and have the Mayor and City Clerk sign the resolution and submit it to the State Tax Commission.

**Motion by Commissioner Carter, second by Commissioner Davis to approve the Consent Agenda as read with the exception of items D, G, and H.**

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

**Nays: None**

***MOTION PASSES***

**2005-78 ITEMS REMOVED FROM THE CONSENT AGENDA:**

**D. FIRST READING - Zoning Ordinance Amendment for Exempt Signs. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: Request to amend Section 2334 (Signs, #5.) of Article XXIII (General Provisions) to amend the sign ordinance language to allow one additional flag per premise.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the

Zoning Ordinance to amend the sign ordinance language regarding "Exempt Signs".

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the amendment at their August 11<sup>th</sup> meeting. The vote was unanimous in favor of the amendment, with B. Mazade absent.

**Motion by Commissioner Carter, second by Commissioner Gawron to approve the amendment of the Zoning Ordinance for "Exempt Signs".**

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

**Nays: None**

***MOTION PASSES***

**G. Revocation of a Neighborhood Enterprise Zone Certificate for 436 Catawba Avenue. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: Charles and Inez Johnson are in violation of Section 207.781 sec. 11 subsection (4). They have failed to pay 2000, 2001, 2002, 2003, and 2004 taxes for the property located at 436 Catawba Avenue. Approval or denial by the City Commission is required and must be forwarded to the State Tax Commission. Staff sent the owners a letter and a copy of the past due tax bill on June 30, 2005, giving them until July 31, 2005, to pay the taxes. They remain unpaid.

FINANCIAL IMPACT: The property will no longer be able to take advantage of the certificate number 94-064 which allowed taxation at 50% of the State average for a stated number of years.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve revocation of the Neighborhood Enterprise Zone certificate and have the Mayor and City Clerk sign the resolution and submit it to the State Tax Commission.

**H. Revocation of a Neighborhood Enterprise Zone Certificate for 186 Mason. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: DLJ Mortgage Capital REO, LLC, is in violation of Section 207.781 sec. 11 subsection (4). They have failed to pay 2000, 2001, 2003, and 2004 taxes for the property located at 186 Mason Avenue. Approval or denial by the City Commission is required and must be forwarded to the State Tax Commission. Staff sent the owners a letter and a copy of the past due tax bill on June 30, 2005, giving them until July 31, 2005, to pay the taxes. They remain unpaid.

FINANCIAL IMPACT: The property will no longer be able to take advantage of the certificate number 94-065 which allowed taxation at 50% of the State

average for a stated number of years.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approve revocation of the Neighborhood Enterprise Zone certificate and have the Mayor and City Clerk sign the resolution and submit it to the State Tax Commission.

**Motion by Commissioner Carter, second by Vice Mayor Larson to approve the revocation of the Neighborhood Enterprise Zone certificates for 436 Catawba and 186 Mason.**

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

Nays: None

***MOTION PASSES***

**2005-79 PUBLIC HEARINGS:**

**A. Review 2004-2005 Consolidated Annual Performance Evaluation Report. COMMUNITY AND NEIGHBORHOOD SERVICES**

SUMMARY OF REQUEST: To conduct a public hearing on August 23, 2005, to review accomplishments and receive comments from the public concerning the 2004-2005 Consolidated Annual Performance Evaluation Report developed by the Community and Neighborhood Services Department. After the public hearing has been conducted and all the comments have been documented, the Community and Neighborhood Services Office request that the Commission direct the staff to submit the required documents to Housing and Urban Development in compliance with 24 CFR 91.520, by no sooner than August 31, 2005.

FINANCIAL IMPACT: The City is required to submit the CAPER Report in order to continue receiving CDBG and HOME funding.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To direct staff to gather comments from the public and to submit the Consolidated Annual Performance Evaluation Report to Housing and Urban Development after the public comment period has elapsed.

The Public Hearing opened at 5:46 p.m. to hear and consider any comments from the public. Wil Griffin gave a PowerPoint presentation. Comments were heard from Susan Coulter-Meyers, Disability Connections and from Edward Spann, 253 Walton.

**Motion by Commissioner Carter, second by Commissioner Shepherd to close the Public Hearing at 6:17 p.m. and approve the review of the 2004-2005 Consolidated Annual Performance Evaluation Report.**

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

**Nays: None**

***MOTION PASSES***

**2005-80 UNFINISHED BUSINESS:**

**A. Concurrence with the Housing Board of Appeals Notice and Order to Demolish 1538 Hudson – Tabled from July 26, 2005. PUBLIC SAFETY**

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structure located at 1538 Hudson, Area 12, is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure 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 Spataro, second by Commissioner Gawron to concur with the Housing Board of Appeals notice and order to demolish 1538 Hudson.**

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

**Nays: None**

***MOTION PASSES***

**2005-81 NEW BUSINESS:**

**A. County Wastewater Bond Contract. CITY MANAGER**

SUMMARY OF REQUEST: To approve the Muskegon County Wastewater System – Number One Series 2005 Bond Contract and Resolution Approving Department of Public Works Contract. These documents commit the City to its share (37.13%) of a \$17.5 million bond issue for improvements to the county wastewater system.

FINANCIAL IMPACT: The City will be required to pledge its limited full faith and credit for the payment of the principal and interest of the bonds.

BUDGET ACTION REQUIRED: This new debt service will need to be accounted for in the 2006 budget and beyond.

STAFF RECOMMENDATION: To approve the contract and resolution, and authorize the Mayor and Clerk to execute them.

Motion by Vice Mayor Larson, second by Commissioner Spataro to approve the Muskegon County Wastewater System – Number One Series 2005 bond contract and resolution approving Department of Public Works contract.

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

Nays: None

*MOTION PASSES*

**B. Designation of Voting Delegates for Michigan Municipal League Conference.** CITY CLERK

SUMMARY OF REQUEST: To designate by action of the Commission, one of our officials who will be in attendance at the Convention as an official representative to cast the vote of the municipality at the annual meeting; and, if possible, to designate one other official to serve as alternate.

STAFF RECOMMENDATION: Approval

Motion by Commissioner Carter, second by Commissioner Davis to designate Commissioner Shepherd as the official representative to the Michigan Municipal League as the voting delegate.

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

Nays: None

Absent: Spataro and Warmington (stepped out of the room)

*MOTION PASSES*

Motion by Commissioner Davis, second by Commissioner Carter to designate Gail Kundinger as the alternate.

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

Nays: None

Absent: Spataro (stepped out of the room)

*MOTION PASSES*

**C. Exterior Vehicle Cleaning.** PUBLIC SAFETY

SUMMARY OF REQUEST: Bids were solicited and have been accepted for the exterior cleaning of police vehicles for the City of Muskegon. This bid covers a two-year contract beginning September 1, 2005 – August 31, 2007.

Four companies submitted bids. They were (1) West Shore Wash, 1931 E. Sherman; (2) Letavis, 8478 Miller Rd., Swartz Creek; (3) The Bird Bath, 2417 S. Getty; and (4) Van's Car Wash, 1230 W. Sherman.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Based upon the bid proposals, we recommend that Van's Car Wash be awarded this contract.

**Motion by Vice Mayor Larson, second by Commissioner Gawron to award the contract for exterior vehicle cleaning to Van's Car Wash.**

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

**Nays: None**

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

***MOTION PASSES***

**D. Purchase of Replacement Body Armor. PUBLIC SAFETY**

SUMMARY OF REQUEST: We received notice from Second Chance Body Armor on June 23<sup>rd</sup> of this year advising us that the body armor currently being worn by members of the Police Department may be subject to unexpected failure. We immediately began the process of seeking out a replacement vest with two guidelines in mind. First, the vest must be custom fit. Second, it must meet the criteria for Level II protection (national standard).

There are two custom-fit body armor products currently available to us; Gatorhawk, which is provided by Nye Uniform in Grand Rapids and First Choice, which is sold by Michigan Police Equipment of Charlotte, Michigan. Both vendors currently serve this department.

Based upon field tests and feedback from our officers, I am recommending the purchase of the First Choice MF8 vest. This vest meets our guidelines. The price quoted to us of \$398 per unit includes two vest carriers and a soft trauma pack. The vest does not contain Zylon. Based upon the fact that we need to replace 80 vests, I am requesting that you authorize the expenditure of \$32,000 from the State Criminal forfeiture Fund in order to complete this purchase.

FINANCIAL IMPACT: Expend \$32,000 from the State Criminal Forfeiture Fund which leaves a balance of approximately \$37,000.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of this request.

**Motion by Vice Mayor Larson, second by Commissioner Gawron to authorize the expenditure of \$32,000 from the State Criminal Forfeiture Fund for the purchase of replacement body armor.**

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

**Nays: None**

***MOTION PASSES***

**E. Sale of Parcel in Seaway Industrial Park. PLANNING & ECONOMIC DEVELOPMENT**

SUMMARY OF REQUEST: To approve the sale of Lot #6 in Seaway Industrial Park to Wood Trucking Company, 2540 Lakeshore Drive, Muskegon, Mi 49441. The purchase price is \$61,000 (asking price \$64,000). This company is currently located on the Sappi property, and will need to move in light of the recent downsizing of the Sappi plant. They plan to invest \$100,000 in a 4,000 sq. ft. building, plus a parking lot. Presently they employ 15-22 people, depending on the season. Of these jobs, 4-5 are directly related to work performed for Sappi. They may be initially lost due to the loss of work, however, the hope is that once Wood Trucking relocates and can pick up other business, those employees would be recalled to work.

FINANCIAL IMPACT: The sale of this lot, while it is located in a Renaissance Zone, will still generate City of Muskegon income tax.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution and to authorize both the Mayor and the Clerk to sign said resolution, deed, and all other necessary documents.

**Motion by Commissioner Gawron, second by Commissioner Spataro to approve the sale of lot #6 in Seaway Industrial Park to Wood Trucking Company.**

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

**Nays: None**

***MOTION PASSES***

**F. Approval of Sale of City Owned Home at 253 Walton. COMMUNITY AND NEIGHBORHOOD SERVICES**

SUMMARY OF REQUEST: To approve the resolution and instruct the Community and Neighborhood Services Department to complete the sale transaction between Mr. Edward Spann for the new Infill home at 253 Walton which is part of the Operation Walton Renaissance also known as Hill Top View, which is a joint project between the City of Muskegon, Fifth Third Bank, and Neighborhood Investment Corporation. Mr. Spann's purchase price is \$134,000 with a subsidy of \$39,000.

The land where the new home now stands is a former Urban Renewal area overlooking the City's present Farmers Market and is another example of the City's continuing efforts to redevelop its urban neighborhoods by attracting home purchasers, especially young purchasers, to the City of Muskegon.

FINANCIAL IMPACT: The majority of the \$95,000 proceeds from the sale will be used to reimburse Fifth Third Bank for their \$60,000 invest in the project which

was used to finance the cost of the new street between Murphy and Emerald.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution.

**Motion by Commissioner Shepherd, second by Commissioner Spataro to approve the resolution and instruct the Community and Neighborhood Services Department to complete the sale transaction between Mr. Edward Spann for the new Infill home at 253 Walton.**

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

**Nays: None**

***MOTION PASSES***

**G. Approval of Sale of City Owned Home at 259 Walton. COMMUNITY AND NEIGHBORHOOD SERVICES**

SUMMARY OF REQUEST: To approve the resolution and instruct the Community and Neighborhood Services Department to complete the sale transaction between Mr. Tyrone Marshall for the new Infill home at 259 Walton which is part of the Operation Walton Renaissance also known as Hill Top View, which is a joint project between the City of Muskegon, Fifth Third Bank and Neighborhood Investment Corporation. Mr. Marshall's purchase price is \$155,000 with a subsidy of \$60,000.

The land where the new home now stands is a former Urban Renewal area overlooking the City's present Farmers Market and is another example of the City's continued efforts to redevelop its urban neighborhoods by attracting home purchasers, especially young purchasers, to the City of Muskegon.

FINANCIAL IMPACT: The majority of the \$95,000 proceeds from the sale will be used to reimburse Fifth third Bank for their \$60,000 invest in the project which was used to finance the cost of the new street between Murphy and Emerald.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution.

**Motion by Commissioner Spataro, second by Commissioner Gawron to approve the resolution and instruct the Community and Neighborhood Services Department to complete the sale transaction between Mr. Tyrone Marshall for the new Infill home at 259 Walton.**

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

**Nays: None**

***MOTION PASSES***

**H. County / City Community Development Block Grant Agreement.** CITY  
MANAGER

SUMMARY OF REQUEST: To approve the Agreement between the City and the County for the expenditure of Community Development Block Grant funds for the Downtown Western Avenue Redevelopment project.

FINANCIAL IMPACT: The City will receive \$1 million in grant funds from the State of Michigan, through the County of Muskegon for the project.

BUDGET ACTION REQUIRED: None.

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

**Motion by Vice Mayor Larson, second by Commissioner Spataro to approve the agreement between the City and the County for expenditure of Community Development Block Grant funds for the Downtown Western Avenue Redevelopment project.**

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

**Nays: None**

***MOTION PASSES***

**I. Award Infrastructure Contract for Western Avenue.** CITY MANAGER

SUMMARY OF REQUEST: To award the contract to construct Western Avenue from Third Street to Terrace Street to Milbocker and Sons for the amount of \$1,246,574.88.

FINANCIAL IMPACT: \$1,246,574.88; it is anticipated that decorative concrete work (\$477,920.57) will be added at a later date through a change order.

BUDGET ACTION REQUIRED: The 3<sup>rd</sup> quarter 2005 and 2006 budgets will be adjusted to accommodate this project.

STAFF RECOMMENDATION: To award the contract to Milbocker and Sons in the amount of \$1,246,574.88 and authorize the Mayor and Clerk to execute the contract.

COMMITTEE RECOMMENDATION: The City Commission met on August 9, 2005, and determined that Milbocker alternative #3 would be selected, which would include beginning the construction in 2005, but the concrete work would be done in 2006, thus allowing the concrete work to be awarded to a minority contractor (Martin J. Concrete).

**Motion by Commissioner Spataro, second by Commissioner Shepherd to award the infrastructure contract for Western Avenue to Milbocker and Sons using alternative #3.**

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

Nays: None

***MOTION PASSES***

**PUBLIC PARTICIPATION:** Various comments were heard.

**ADJOURNMENT:** The City Commission Meeting adjourned at 7:18 p.m.

Respectfully submitted,

Gail A. Kunding, MMC  
City Clerk