

CITY OF MUSKEGON

CITY COMMISSION MEETING

NOVEMBER 9, 2010

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ CALL TO ORDER:
- ❑ PRAYER:
- ❑ PLEDGE OF ALLEGIANCE:
- ❑ ROLL CALL:
- ❑ HONORS AND AWARDS:
 - A. 2010 Employee Service Awards. CIVIL SERVICE
- ❑ INTRODUCTIONS/PRESENTATION:
- ❑ CONSENT AGENDA:
 - A. Approval of Minutes. CITY CLERK
 - B. Contractual Agreement - Michigan Department of State. PUBLIC SAFETY
 - C. Liquor License Request - Ingalls Business Acquisition, Inc., 555 W. Western. CITY CLERK
 - D. Liquor License Request - Carlie & Tracy's Saugatuck Breeze, LLC, 151 Shoreline Drive. CITY CLERK
 - E. Fireworks Display Permit. CITY CLERK
 - F. Transmittal of 6/30/10 Comprehensive Annual Financial Report. FINANCE
- ❑ PUBLIC HEARINGS:
 - A. Request for an Industrial Facilities Exemption Certificate - Fleet Engineers. PLANNING & ECONOMIC DEVELOPMENT
- ❑ COMMUNICATIONS:
- ❑ CITY MANAGER'S REPORT:
- ❑ UNFINISHED BUSINESS:
 - A. SECOND READING: Amendments to the Zoning Ordinance - Modify

Parking Restrictions. PLANNING & ECONOMIC DEVELOPMENT

❑ **NEW BUSINESS:**

A. Rezoning Request for the Property Located at 1823 Commerce Street.

PLANNING & ECONOMIC DEVELOPMENT

B. Master Contract for the Muskegon County Wastewater System. CITY

MANAGER

C. Muskegon Summer Celebration Request. CITY MANAGER

❑ **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 BECKER, CITY CLERK, 933 TERRACE STREET, MUSKEGON, MI 49440 OR BY CALLING (231) 724-6705 OR TDD: (231) 724-4172.

AGENDA ITEM

CITY COMMISSION MEETING

November 9, 2010

TO: Honorable Mayor and City Commissioners
FROM: Karen Scholle, Civil Service Personnel Director
DATE: October 29, 2010
RE: 2010 Employee Service Awards

SUMMARY OF REQUEST:

Commission participation in the 2010 Employee Service Awards presentations during Honors and Awards portion of City Commission meeting.

FINANCIAL IMPACT:

Included in 2010 Civil Service budget.

BUDGET ACTION REQUIRED:

None. This is a 2010 Civil Service Budget item.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff respectfully requests your participation in this year's service awards event.

Date: November 9, 2010
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve the minutes of the City Commission Meeting that was held on Tuesday, October 26, 2010.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

CITY OF MUSKEGON

CITY COMMISSION MEETING

OCTOBER 26, 2010

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 26, 2010.

Vice Mayor Gawron opened the meeting with a prayer from Pastor Marcy Miller from Samuel Lutheran Church after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Vice Mayor Stephen Gawron, Commissioners Sue Wierengo, Steve Wisneski, Chris Carter, Clara Shepherd, and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

Absent: Mayor Stephen Warmington (excused).

2010-89 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the October 11th Commission Worksession Meeting and the October 12th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Liquor License Request – Michigan Commerce Bank. CITY CLERK

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request to transfer all rights to renewal of an escrowed 2009 Class C Licensed Business with Dance-Entertainment Permit, located at 677 W. Laketon, Muskegon, from Cuti's Sports Bar and Grill, Inc. to Michigan Commerce Bank, with licenses to be held in Escrow.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.

C. Amendments to the Zoning Ordinance – Modify Parking Restrictions.
PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Staff initiated request to amend Section 2326 (Off-Street Parking and Loading) of Article XXIII (General Provisions) to modify parking restrictions in the downtown parking overlay district. The amendment would loosen the parking restrictions for small businesses that locate in to a previously existing building.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the zoning ordinance amendment.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their October 14th meeting.

D. Donation Program for 2010 Individual Income Tax Returns. INCOME TAX

SUMMARY OF REQUEST: Approval of multiple donations programs for the 2010 income tax returns. Every year our goal is to increase the number of refunds donated to our designated programs. Last year, 463 taxpayers donated their refunds to our donation programs for a grand total of \$2,386.

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 \$2,000. Each donated refund saves the City approximately \$1.25 in checks, fees and postage.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

E. DDA Bond Refunding. FINANCE

SUMMARY OF REQUEST: Historically low interest rates make it possible to refund the remaining bonds outstanding from the 1990 Mall redevelopment effort. The original bonds were restructured and refunded in 2001 at significant savings to the DDA/City. Because the City pledges limited full faith and credit taxing power to repayment of the bonds, both the City and the DDA must take action.

Interest rates are very favorable and a recent analysis shows that these bonds can be refunded a second time with projected present value savings of \$102,858 (after issuance costs). This equates to 5.13% of the outstanding principal. A general rule of thumb is that PV savings should equal at least 2% of bond principal in order to proceed with a refunding.

FINANCIAL IMPACT: Present value savings of \$102,858 (after issuance costs).

\$ 75/per month Hosting

STAFF RECOMMENDATION: Approval.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the contract with InSource Solutions Group.

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

Nays: None

MOTION PASSES

B. 2010 National League of Cities Membership Dues. CITY CLERK

SUMMARY OF REQUEST: The 2010 National League of Cities Membership Dues has been received.

FINANCIAL IMPACT: \$3,813.

BUDGET ACTION REQUIRED: Not budgeted for.

STAFF RECOMMENDATION: None.

Motion by Commissioner Spataro, second by Commissioner Wierengo to approve the National League of Cities membership dues payment.

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

Nays: None

MOTION PASSES

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

753 Oak Avenue (REMOVED PER STAFF REQUEST)

1554 Pine Street (Area 11)

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structure is unsafe, substandard, a public nuisance and that it be demolished within 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: CDBG 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 Wierengo to concur with the Housing Board of Appeals notice and order to demolish 1554

Pine Street.

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

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Public comments were received.

ADJOURNMENT: The City Commission Meeting adjourned at 5:58 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk

City Commission Meeting
Tuesday November 9, 2010

TO: Honorable Mayor and City Commissioners
FROM: Anthony L. Kleibecker, Director of Public Safety
DATE: October 28, 2010
SUBJECT: Contractual Agreement-Michigan Department of State

Summary of Request:

The Director of Public Safety is requesting approval to enter into an agreement with the Michigan Department of State whereby the Department of State will provide driver, vehicle, and related information to the city. The purpose for entering into this agreement is to assist code enforcers with obtaining accurate information to meet district court requirements when completing civil infraction citations.

Financial Impact:

None

Budget Action Required:

None

Staff Recommendation:

Approval of the agreement.

Michigan Department of State Contractual Agreement for Driver, Vehicle, and Related Information

Between the:

MICHIGAN DEPARTMENT of STATE
7064 Crowner Drive
Lansing, Michigan 48918

And: **City of Muskegon**
933 Terrace Street
Muskegon, Michigan 49443

I. PURPOSE AND SCOPE

1. **Purpose:** The purpose of this agreement is to document the terms and conditions under which the Michigan Department of State (the DEPARTMENT) will provide driver, vehicle, and related information maintained by the DEPARTMENT to the above-named organization or governmental agency (the ORGANIZATION).
2. **Scope:** The ORGANIZATION must list below the name and address of each subsidiary or affiliate (parent, sister, branch, division, department or local unit) with which it will be sharing this information. (Enter "NONE" below if information will not be shared with any other subsidiary or affiliate of the ORGANIZATION. Attach an additional page if necessary.)

NONE

The ORGANIZATION will notify the DEPARTMENT within 30 days of a new subsidiary or affiliate with which it will share information purchased under this agreement or of the termination of affiliation with a business entity with which the ORGANIZATION has discontinued sharing information purchased under this agreement.

3. **Programs:** The DEPARTMENT agrees to furnish the ORGANIZATION with information associated with the programs checked below. The DEPARTMENT reserves the right to insert control data into the information obtained under this agreement to identify any inappropriate use or release of the information.

<p>The Michigan Department of State will complete this section.</p> <p>If you are interested in programs in addition to the one(s) checked, please contact the Michigan Department of State Commercial Services Section.</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2" style="text-align: center;">PROGRAM</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Direct Access</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Subscription Service</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Delayed Lookups</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>List Sales/Bulk Information</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Driver/Personal ID</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Vehicle</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Lienholder</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Watercraft</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Snowmobile</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Mobile Home</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Plate Match</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Governmental Research</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Special Statutory Law</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Other _____</td> </tr> </tbody> </table>	PROGRAM		<input checked="" type="checkbox"/>	Direct Access	<input checked="" type="checkbox"/>	Subscription Service	<input type="checkbox"/>	Delayed Lookups	<input checked="" type="checkbox"/>	List Sales/Bulk Information	<input type="checkbox"/>	Driver/Personal ID	<input type="checkbox"/>	Vehicle	<input type="checkbox"/>	Lienholder	<input type="checkbox"/>	Watercraft	<input type="checkbox"/>	Snowmobile	<input type="checkbox"/>	Mobile Home	<input checked="" type="checkbox"/>	Plate Match	<input type="checkbox"/>	Governmental Research	<input type="checkbox"/>	Special Statutory Law	<input type="checkbox"/>	Other _____
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Contractual Agreement for Michigan Driver, Vehicle, and Related Information

II. DISCLAIMER

The DEPARTMENT does not guarantee the timeliness of access to or delivery of information provided under this agreement due to the possibility of unforeseeable events, including the lack of resources or funding, an equipment or data transmission failure, a change in law or policy, acts of God, or other circumstances that may delay or preclude delivery of information.

The DEPARTMENT does not guarantee the accuracy of the information in its files and disclaims the accuracy of any information provided under this agreement.

III. TECHNOLOGY AND SECURITY OF DATA

The ORGANIZATION agrees to access the DEPARTMENT'S data only in a manner approved by the DEPARTMENT. The ORGANIZATION agrees to obtain, update, and maintain, at its expense, any hardware or software required to securely access or transfer information obtained under this agreement.

The ORGANIZATION agrees to implement the following security requirements when personal information (as defined in section 40b of the Michigan Vehicle Code, MCL 257.40b) is accessed, received, stored, used, or transferred under this agreement:

1. Use software and hardware that is technologically adequate to prevent and detect any unauthorized access or use of personal information obtained under this agreement.
2. Establish operational programs to prohibit and detect any unauthorized access or use of personal information obtained under this agreement.
3. Conduct an annual review of its data security policies and procedures and update them as necessary.
4. Notify the DEPARTMENT, in writing, immediately after the ORGANIZATION becomes aware of any known or alleged breach in the security of data provided under this agreement.
5. Establish a policy to notify any and all individuals affected by the unauthorized release or interception of personal information provided under this agreement.

IV. SUBCONTRACTING

The ORGANIZATION may subcontract the processing of information provided under this agreement. Before a subcontractor of the ORGANIZATION may access, receive, store, use, or transfer any information under this agreement, the ORGANIZATION must execute a written agreement with the subcontractor containing the subcontractor's agreement to comply with Section III (Technology and Security of Data) and Section XII (Driver Privacy Compliance) of this agreement. The ORGANIZATION agrees to provide a copy of its subcontractor agreement, at no cost, upon request of the DEPARTMENT. The DEPARTMENT promises confidentiality for any subcontractor agreement submitted by the ORGANIZATION upon the DEPARTMENT'S request.

V. FEES AND PAYMENTS

1. **Government agency:** When the cost to prepare and furnish the information (preparation fee) exceeds \$25.00, the ORGANIZATION agrees to reimburse the DEPARTMENT for the DEPARTMENT'S actual cost of preparing and furnishing the requested information.

To be completed by Michigan Department of State only		
For this agreement, the DEPARTMENT agrees to waive all preparation fees.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

2. **Commercial or non-profit customer:** A commercial or non-profit ORGANIZATION agrees to pay the DEPARTMENT the fee specified by the legislature or prescribed by the DEPARTMENT and allowed by law for information received under this agreement. Payments shall be made through an Electronic Fund Transfer (EFT) if requested in writing by the DEPARTMENT.

VI. SURETY BOND

1. **Government agency:** A surety bond is not required.
2. **Commercial or non-profit customer:** A commercial or non-profit ORGANIZATION agrees to furnish and maintain an Information Purchaser's Surety Bond in the amount of \$25,000. A surety bond company licensed to do business in Michigan shall execute the bond. The bond shall indemnify or reimburse the DEPARTMENT or any person whose personal information is accessed or obtained under this agreement for any damage caused by the use of that personal information in a manner contrary to this agreement or federal or Michigan law. The ORGANIZATION agrees to indemnify or reimburse the DEPARTMENT or any person whose personal information is accessed or obtained whether the improper use was made by the ORGANIZATION, by a subsidiary, affiliate agent, employee, or subcontractor of the ORGANIZATION, or by a person who acquired the information through the ORGANIZATION. The bond shall also indemnify or reimburse the DEPARTMENT for any payment due the DEPARTMENT for information obtained under this agreement.
3. **Subscription Service Only Customers:** The requirement for a surety bond is waived for customers who are only enrolled in the Subscription Service Program.

VII. TERM OF AGREEMENT

1. **Duration:** This agreement is in effect until it is canceled or terminated.
2. **Change of Name or Ownership:** In the event of a change of name or ownership of the ORGANIZATION, a new agreement is required. The ORGANIZATION will notify the DEPARTMENT immediately of a change of name or ownership, and the DEPARTMENT will forward a new agreement application. If this new agreement application has not been returned to the DEPARTMENT within 90 days from the time it was forwarded to the organization, the account may be suspended or terminated.
3. **Suspension:** The DEPARTMENT may suspend access to the DEPARTMENT'S records while investigating allegations of material breaches of this agreement.
4. **Cancellation:** The DEPARTMENT or the ORGANIZATION may cancel this agreement for any reason by giving the other party a 30-day written notice. Cancellation notices to the DEPARTMENT will be sent to: Michigan Department of State, Information Services Division, 7064 Crowner Drive, Lansing, Michigan 48918.
5. **Termination:** The DEPARTMENT may immediately terminate this agreement for cause by giving the ORGANIZATION a written notice. Cause for termination includes: failure to pay in accordance with the terms of the ORGANIZATION'S account with the DEPARTMENT; the use of data for marketing or solicitation or any other purpose not permitted by law; or a material breach of any agreement provision, including but not limited to the driver privacy compliance, security of data, or employee sanction provisions.

VIII. AMENDMENTS

The DEPARTMENT may amend this agreement, including but not limited to the fees described in Section V of this agreement, by providing the ORGANIZATION with a 30-day written notice.

IX. ASSIGNABILITY

The ORGANIZATION will not assign, license, or transfer any right, duty, or obligation under this agreement.

X. INDEMNIFICATION

1. **Government Agency:** Not applicable
2. **Commercial or non-profit customer:** The ORGANIZATION will indemnify and hold harmless the State of Michigan and the DEPARTMENT, and any of the State of Michigan's or the DEPARTMENT'S officers, agents, or employees, with respect to any claim asserted against them under federal or state privacy laws for information provided to the ORGANIZATION under this agreement.

XI. GOVERNING LAWS AND JURISDICTION

This agreement shall be construed in accordance with the laws of the State of Michigan. The ORGANIZATION agrees that any dispute that arises under this agreement that cannot be amicably resolved by the parties shall be submitted to a court of competent jurisdiction in the State of Michigan. The ORGANIZATION agrees to submit to the jurisdiction of that court.

XII. DRIVER PRIVACY COMPLIANCE

1. This section only applies to the release of personal information (as defined in section 40b of the Michigan Vehicle Code, MCL 257.40b) maintained by the DEPARTMENT.

Driver Privacy Compliance: By executing this agreement, the ORGANIZATION certifies that personal information obtained will be used in compliance with the federal Driver Privacy Protection Act of 1994, as amended (18 USC §2721-2725 *et seq.*) and related Michigan driver privacy protection laws (e.g., MCL 28.292, 257.208c, 257.232, 257.307, 257.310, 324.80130c, 324.80315c, 324.81114c, and 324.82156c).

2. **Permissible Use(s):** The DEPARTMENT provides the agreed upon personal information only for the permissible use(s), as declared by the ORGANIZATION below:

- a. For use by a federal, state, or local governmental agency, including a court or law enforcement agency, in carrying out the agency's functions, or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions.
- b. For use in connection with matters of motor vehicle and driver safety or auto theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles; motor vehicle market research activities, including survey research; and the removal of non-owner records from the original records of motor vehicle manufacturers.
- c. For use in the normal course of business by a legitimate business, including the agents, employees, and contractors of the business, but only to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as so submitted is no longer correct, to obtain the correct information, for the sole purpose of preventing fraud by pursuing legal remedies against, or recovering a debt against, the individual.
- d. For use in connection with a civil, criminal, administrative, or arbitration proceeding in a federal, state, or local court or governmental agency or before a self-regulatory body, including use for service of process, investigation in anticipation of litigation, and the execution of enforcement of judgments and orders, or pursuant to an order of a federal, state or local court, an administrative agency, or a self-regulatory body.
- e. For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, if the personal information is not published, re-disclosed, or used to contact individuals.
- f. For use by an insurer or insurance support organizations, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigating activity, antifraud activity, rating, or underwriting.
- g. For use in providing notice to the owner of an abandoned, towed, or impounded vehicle.
- h. For use either by a private detective or private investigator licensed under the Private Detective License Act of 1965, as amended (1965 PA 285; MCL 338.821 to 338.851), or by a private security guard agency or alarm system contractor licensed under the Private Security Guard Act of 1968, as amended (1968 PA 330; MCL 338.1051 to 338.1085), only for another permissible purpose listed here.

List the letter for other permissible use(s):

List occupational license number:

- i. For use by an employer, or the employer's agent or insurer, to obtain or verify information relating either to the holder of a commercial driver's license that is required under federal law or to the holder of a chauffeur's license that is required under Chapter 3 of the Michigan Vehicle Code.
- j. For use by a car rental business, or its employees, agents, contractors, or service firms, for the purpose of making rental decisions.
- k. For use in connection with the operation of private toll transportation facilities.
- l. For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety.
- m. For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the Secretary of State provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

Contractual Agreement for Michigan Driver, Vehicle, and Related Information

3. **Restrictions:**

a. Sale or Release of Personal Information to a Third Party:

1. A non-governmental ORGANIZATION may sell or furnish personal information obtained under this agreement to third parties, subject to the limitations stated in this agreement, and only for permissible use(s). The ORGANIZATION agrees to obtain a written certification from a third party as to the permissible use(s) for which the third party seeks personal information.
 2. If any ORGANIZATION furnishes personal information obtained under this agreement to a third party, the ORGANIZATION will maintain a record to identify each person or entity that obtained the personal information from the ORGANIZATION and the legally permissible use(s) for which it was obtained. These records shall be retained for a period of not less than five years following the transfer of information to the third party.
- b. The ORGANIZATION will adopt and implement a privacy policy and a personnel policy concerning the unauthorized release of information. The ORGANIZATION'S personnel policy will, at a minimum, establish that personal information shall not be disclosed to anyone unless the recipient is legally entitled to receive the information, and that employees may not access or release information contained in the records and files of the DEPARTMENT, except in connection with their duties and only to authorized third parties in accordance with work area procedures. Further, if an employee is approached to provide information inappropriately, the employee must refuse to release the requested information and immediately advise supervision. A violation of this policy shall be cause for disciplinary action up to and including dismissal. In addition, the employee may be subject to criminal charges that may result in a felony conviction. Upon the DEPARTMENT'S request, the ORGANIZATION also agrees to furnish to the DEPARTMENT a copy of its privacy policy and its personnel policy on the unauthorized release of information, at no cost to the DEPARTMENT. The DEPARTMENT promises confidentiality of the ORGANIZATION'S privacy and personnel policies submitted in accordance with this section. The ORGANIZATION further agrees to require any subcontractor, subsidiary or affiliate, if any, to adopt similar policies.
- c. **Government organizations** agree that information received under this agreement will be used only to carry out the agency's functions. The agency agrees not to access or provide any information received under this agreement for a purpose unrelated to the agency's official business.
- d. **Commercial and non-profit organizations** agree that, except as otherwise provided in this agreement, no person outside the direct employ of the ORGANIZATION shall have access to information provided under this agreement for any reason other than the ORGANIZATION'S intended and legitimate use as declared under the Permissible Uses section [XII. 2.] of this agreement.

4. **Inspections and Audits:**

- a. The ORGANIZATION will permit the DEPARTMENT, or a representative or agent of the DEPARTMENT, to inspect and copy any record maintained by the ORGANIZATION under this agreement. The ORGANIZATION shall bear the expense of one inspection by the DEPARTMENT, or a representative or agent of the DEPARTMENT, during the term of this agreement, or anytime an inappropriate use is known or alleged.
- b. Upon the DEPARTMENT'S request, the ORGANIZATION will provide to the DEPARTMENT an audit report, prepared by an independent audit firm. This audit shall evaluate the ORGANIZATION'S compliance with Section III (Technology and Security of Data) and Section XII (Driver Privacy Compliance) of this agreement. Any deficiencies detected in the audit must be immediately reported to the DEPARTMENT, along with a corrective action plan. The DEPARTMENT must approve a corrective action plan before it is implemented.

Contractual Agreement for Michigan Driver, Vehicle, and Related Information

5. **Penalties for Misuse:** Under Michigan law, a person who makes a false representation or a false certification to obtain personal information or who uses personal information for a purpose other than a permissible purpose identified in law is guilty of a felony, which may be punishable by imprisonment for up to 5 years and/or a fine of up to \$5,000. Subsequent convictions may result in imprisonment for up to 15 years and/or a fine of up to \$15,000.

XIII. SIGNATORY AUTHORITY

The persons signing this agreement certify that they are authorized to do so and to bind their respective principals to this agreement.

This agreement takes effect on the date the DEPARTMENT'S representative signs it.

DEPARTMENT OF STATE Representative

Victoria Dittmer, Director
Department of State Information Center

Name (Printed) and Title

Date

ORGANIZATION Representative Signature

Name (Printed) and Title

Date

Date: November 9, 2010
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Liquor License Request
Ingalls Business Acquisition, Inc.
555 W. Western

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Ingalls Business Acquisition, Inc., 555 W. Western (Mikes Inn) for a New Entertainment Permit to be held in conjunction with 2010 Class C Licensed Business.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.



Muskegon Police Department

Anthony L. Kleibecker
Director of Public Safety

980 Jefferson
Muskegon, Michigan
49443-0536

www.muskegonpolice.com

Phone: 231-724-6750
FAX: 231-722-5140

October 21, 2010

To: City Commission through the City Manager

From: 
Anthony L. Kleibecker, Director of Public Safety

Re: Liquor License Investigation – 555 West Western
Addition of Entertainment Permit

The Muskegon Police Department has received a request from the Michigan Liquor Control Commission for an investigation of applicant Ingalls Business Acquisition, Inc.

Ingalls Business Acquisition, Inc. requests a new Entertainment Permit to be held in conjunction with 2010 Class C & SDM Licensed Business with Outdoor Service (1 Area), and Dance Permit, located at 555 West Western Ave. Muskegon MI. 49440.

The Muskegon Police Department showed no reason to deny this request.

ALK/kd



Michigan Department of Energy, Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
 7150 Harris Drive, P.O. Box 30005
 Lansing, Michigan 48909-7505

FOR MLCC USE ONLY

Request ID # 571303

Business ID # 183775

LAW ENFORCEMENT RECOMMENDATION

[Authorized by MCL 436.1916, R 436.1105(2)(d) and R 436.1403]

Mailed 10/14/10

OCTOBER 15, 2010

TO: MUSKEGON POLICE DEPARTMENT
 CHIEF ANTHONY L KLEIBECKER
 980 JEFFERSON ST
 MUSKEGON MI 49440-0536

Re: INGALLS BUSINESS ACQUISITION, INC. REQUESTS NEW ENTERTAINMENT PERMIT TO BE HELD IN CONJUNCTION WITH 2010 CLASS C & SDM LICENSED BUSINESS WITH OUTDOOR SERVICE (1 AREA), & DANCE PERMIT, LOCATED AT 555 W WESTERN, MUSKEGON, MI 49440, MUSKEGON COUNTY.

CONTACT: BILL INGALLS, SAME AS BUSINESS ADDRESS, B(231) 722-2401, BINGALLS2@COMCAST.NET

231 578-0258

We have received a request from the above licensee for the type of permit indicated below. Please make an investigation and submit your recommendation to the offices of the MLCC at the above address. Questions about this request should be directed to Unit 3 of the Retail Licensing Division at (517) 636-0204.

OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR:

Weekdays _____ A.M. to _____ A.M. _____

Sundays _____ A.M. to _____ A.M./P.M.

Recommended Recommended, subject to final inspection Not Recommended

NOTE: If the applicant is requesting two separate extended hours permits and the permits are for **different hours** you must complete the box below. If additional space is needed please use reverse side of this form.

OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR:

Weekdays _____ A.M. to _____ A.M. _____

Sundays _____ A.M. to _____ A.M./P.M.

Recommended Recommended, subject to final inspection Not Recommended

DANCE PERMIT

Recommended Recommended, subject to final inspection Not Recommended

ENTERTAINMENT PERMIT

Recommended Recommended, subject to final inspection Not Recommended

mailed 10-19-10 NS

TOPLESS ACTIVITY PERMIT

Recommended Recommended, subject to final inspection Not Recommended

OUTDOOR SERVICE

Recommended Recommended, subject to final inspection Not Recommended

PARTICIPATION PERMIT

Recommended Recommended, subject to final inspection Not Recommended

ADDITIONAL BAR PERMIT

Recommended Recommended, subject to final inspection Not Recommended

Recommended Recommended, subject to final inspection Not Recommended

Signed:

Y

Signature and Title

Print Name and Title

MUSKEGON POLICE DEPARTMENT

Date: _____

dl



Michigan Department of Energy, Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)

7150 Harris Drive, P.O. Box 30005
Lansing, Michigan 48909-7505

FOR MLCC USE ONLY

Request ID # 571303

Business ID # 183775

LOCAL APPROVAL NOTICE

[Authorized by MCL 436.1501]

Mailed 10/19/10 AA

OCTOBER 15, 2010

TO: MUSKEGON CITY COMMISSION
ATTN: CLERK
933 TERRACE STREET
PO BOX 536
MUSKEGON, MI 49443-0536

APPLICANT: INGALLS BUSINESS ACQUISITION, INC

Home Address and Telephone No. or Contact Address and Telephone No.:

CONTACT: BILL INGALLS, SAME AS BUSINESS ADDRESS, B(231) 722-2401, BINGALLS2@COMCAST.NET

The MLCC cannot consider the approval of an application for a new or transfer of an on-premises license without the approval of the local legislative body pursuant to the provisions of MCL 436.1501 of the Liquor Control Code of 1998. For your information, local legislative body approval is also required for DANCE, ENTERTAINMENT, DANCE-ENTERTAINMENT AND TOPLESS ACTIVITY PERMITS AND FOR OFFICIAL PERMITS FOR EXTENDED HOURS FOR DANCE AND/OR ENTERTAINMENT pursuant to the provisions of MCL 436.1916 of the Liquor Control Code of 1998.

For your convenience a resolution form is enclosed that includes a description of the licensing application requiring consideration of the local legislative body. The clerk should complete the resolution certifying that your decision of approval or disapproval of the application was made at an official meeting. **Please return the completed resolution to the MLCC as soon as possible.**

If you have any questions, please contact Unit 3 of the Retail Licensing Division at (517) 636-0204.

**PLEASE COMPLETE ENCLOSED RESOLUTION AND RETURN
TO THE LIQUOR CONTROL COMMISSION AT ABOVE ADDRESS**

*Mailed 10-19-10
AA*

RESOLUTION

At a _____ meeting of the _____
(Regular or Special) (Township Board, City or Village Council)

called to order by _____ on _____ at _____ P.M.

The following resolution was offered:

Moved by _____ and supported by _____

That the request from INGALLS BUSINESS ACQUISITION, INC. FOR A NEW ENTERTAINMENT PERMIT TO BE HELD IN CONJUNCTION WITH 2010 CLASS C LICENSED BUSINESS WITH DANCE PERMIT, LOCATED AT 555 W WESTERN, MUSKEGON, MI 49440, MUSKEGON COUNTY.

be considered for _____
(Approval or Disapproval)

APPROVAL

DISAPPROVAL

Yeas: _____

Yeas: _____

Nays: _____

Nays: _____

Absent: _____

Absent: _____

It is the consensus of this legislative body that the application be:

_____ for issuance
(Recommended or Not Recommended)

State of Michigan _____)

County of _____)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the _____ at a _____
(Township Board, City or Village Council) (Regular or Special)

meeting held on _____
(Date)

(Signed) _____
(Township, City or Village Clerk)

SEAL

(Mailing address of Township, City or Village)

Date: November 9, 2010
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Liquor License Request
Carlie & Tracy's Saugatuck Breeze, LLC
151 Shoreline Drive

SUMMARY OF REQUEST: The Liquor Control Commission is seeking local recommendation on a request from Carlie & Tracy's Saugatuck Breeze, LLC is requesting a New Resort Class C License to be issued under MCL 436.1531(3) with Entertainment Permit, Outdoor Service (1 Area), New Dance Permit, Official Food, and Three Additional Bar Permits (Total of 4) to be located at 151 Shoreline Drive.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: All departments are recommending approval.



Muskegon Police Department

Anthony L. Kleibecker
Director of Public Safety

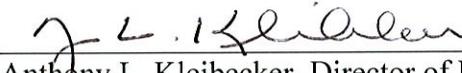
980 Jefferson
Muskegon, Michigan
49443-0536

www.muskegonpolice.com

Phone: 231-724-6750
FAX: 231-722-5140

October 19, 2010

To: City Commission through the City Manager

From: 
Anthony L. Kleibecker, Director of Public Safety

Re: Liquor License Investigation – 151 Shoreline Drive
Request for New Resort Class C license with Permit

The Muskegon Police Department has received a request from the Michigan Liquor Control Commission for an investigation from applicant Carlie & Tracy's Saugatuck Breeze, LLC of 151 Shoreline Drive, Muskegon, MI. 49440.

Carlie & Tracy's Saugatuck Breeze, LLC is requesting a New Resort Class C License to be issued under MCL 436.1531(3) with Entertainment Permit and Outdoor Service (1 Area), to be located at 151 Shoreline Drive. The applicant for this request is Carl Miskotten of Kalamazoo Michigan.

A check of Muskegon Police Department records and criminal history showed no reason to deny this request.

ALK/kd



Michigan Department of Energy, Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
 7150 Harris Drive, P.O. Box 30005
 Lansing, Michigan 48909-7505

Mailed 7-12-10
 AA

POLICE INVESTIGATION REQUEST
 [Authorized by MCL 436.1201(4)]

JUNE 18, 2010

MUSKEGON POLICE DEPARTMENT
 CHIEF OF POLICE
 980 JEFFERSON STREET, PO BOX 536
 MUSKEGON, MI 49443-0536

REQUEST ID #: 559328

Applicant:

CARLIE & TRACY'S SAGAUTUCK BREEZE, LLC REQUESTS A NEW RESORT CLASS C LICENSE TO BE ISSUED UNDER MCL 436.1531(3) WITH ENTERTAINMENT PERMIT & OUTDOOR SERVICE (1 AREA), TO BE LOCATED AT SHORELINE, MUSKEGON, MI 49440, MUSKEGON COUNTY.

ADD NEW DANCE, AND 3 ADDITIONAL
 AND OFFICIAL FOOD BAR PERMITS
 Total of 4

Please make an investigation of the application. If you do not believe that the applicants are qualified for licensing, give your reasons in detail. Complete the Police Inspection Report on Liquor License Request, LC-1800, or for Detroit police, the Detroit Police Investigation of License Request, LC-1802. If there is not enough room on the front of the form, you may use the back.

Forward your report, along with fingerprint cards (if requested) and \$30.00 for each card to the Michigan Liquor Control Commission. ****Please ensure that section D of the card has been completed prior to submission.****

If you have any questions, please contact Unit 3 of the Retail Licensing Division at (517) 636-0204.

dl

LC-1972(Rev. 09/05)
 Authority: MCL 436.1201(4)
 Completion: Mandatory
 Penalty: No License

DELEG is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities. Michigan Liquor Control Commission 7150 Harris Drive • P.O. Box 30005 • Lansing, Michigan 48909-7505 www.michigan.gov/lcc • (517) 322-1345 Lansing Office



FOR MLCC USE ONLY	
Request ID #	559328
Business ID #	223853
mailed 7-12-10 AA	

POLICE INVESTIGATION REPORT
 [Authorized by MCL 436.1217 and R 436.1105; MAC]

Please conduct your investigation as soon as possible, complete all four sections of this report and return the completed report and fingerprint cards to the MLCC.

LICENSEE/APPLICANT NAME, BUSINESS ADDRESS AND LICENSING REQUEST:

CARLIE & TRACY'S SAGAUTUCK BREEZE, LLC REQUESTS A NEW RESORT CLASS C LICENSE TO BE ISSUED UNDER MCL 436.1531(3) WITH ENTERTAINMENT PERMIT & OUTDOOR SERVICE (1 AREA), TO BE LOCATED AT SHORELINE, MUSKEGON, MI 49440, MUSKEGON COUNTY *ADD DANCE ADD 3 ADDITIONAL BAR PERMITS*

Section 1. APPLICANT INFORMATION *ADD OFFICIAL (TOTAL 4)*

APPLICANT #1: CARI, MISKOTTEN, 2224 PARK VIEW KALAMAZOO, MI 49008, H(616) 336-6364, B(231) 722-0000 <i>(616) 366-5354</i>	APPLICANT #2: <i>Food AA</i>
DATE FINGERPRINTED**: <i>7-16-10</i>	DATE FINGERPRINTED**:
DATE OF BIRTH: <i>3-17-49</i> Is the applicant a U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have permanent Resident Alien status? <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have a Visa? Enter status:	DATE OF BIRTH: Is the applicant a U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have permanent Resident Alien status? <input type="checkbox"/> Yes <input type="checkbox"/> No* *Does the applicant have a Visa? Enter status:

Attach the fingerprint card and \$30.00 for each card and mail to the Michigan Liquor Control Commission

ARREST RECORD: <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)	ARREST RECORD: <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Enter record of all arrests and convictions (Attach a signed and dated sheet if more space is needed)
---	---

Section 2. INVESTIGATION OF BUSINESS AND ADDRESS TO BE LICENSED

Does applicant intend to have dancing, entertainment, topless activity, or extended hours permit?
 No Yes, complete LC-1636

Are motor vehicle fuel pumps at or directly adjacent to the establishment? No Yes, explain relationship:

Section 3. LOCAL AND STATE CODES AND ORDINANCES, AND GENERAL RECOMMENDATIONS

Will the applicant's proposed location meet all appropriate state and local building, plumbing, zoning, fire, sanitation and health laws and ordinances, if this license is granted? Yes No If No, indicate which state and local ordinances the location does not meet: Building Plumbing Zoning Fire Sanitation Health

Section 4. RECOMMENDATION

1. Is this applicant qualified to conduct this business if licensed? Yes No*

2. Should the MLCC grant this request? Yes No*

*If any of the above questions were answered No, you must state your reasons for MLCC consideration of this recommendation on the back of this form or on an attached signed and dated sheet.

3. Is this recommendation subject to final inspection to determine that the proposed location meets all building, plumbing, zoning, fire, sanitation and health laws and ordinances? Yes No

4. Is this recommendation subject to any other conditions? Yes No

If Yes, list the conditions below or on an attached signed and dated sheet if more space is needed

[Signature] _____ *10-20-10*
 Signature (Sheriff or Chief of Police) Date
 MUSKEGON POLICE DEPARTMENT

dl



Michigan Department of Energy, Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
 7150 Harris Drive, P.O. Box 30005
 Lansing, Michigan 48909-7505

FOR MLCC USE ONLY
 Request ID # 559328
 Business ID # 223853
mail 7-12-10 AA

LAW ENFORCEMENT RECOMMENDATION

[Authorized by MCL 436.1916, R 436.1105(2)(d) and R 436.1403]

JUNE 18, 2010

TO: MUSKEGON POLICE DEPARTMENT

Re: CARLIE & TRACY'S SAUGATUCK BREEZE, LLC

We have received a request from the above licensee for the type of permit indicated below. Please make an investigation and submit your recommendation to the offices of the MLCC at the above address. Questions about this request should be directed to the MLCC Licensing Division at (517) 322-1400.

OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR:
 Weekdays _____ A.M. to _____ A.M. _____
 Sundays _____ A.M. to _____ A.M./P.M.

Recommended Recommended, subject to final inspection Not Recommended

NOTE: If the applicant is requesting two separate extended hours permits and the permits are for **different hours** you must complete the box below. If additional space is needed please use reverse side of this form.

OFFICIAL PERMIT FOR EXTENDED HOURS OF OPERATION FOR: Food
 Weekdays — A.M. to — A.M. _____
 Sundays 7.00 A.M. to 12.00 A.M./P.M. Pm

Recommended Recommended, subject to final inspection Not Recommended

DANCE PERMIT AA

Recommended Recommended, subject to final inspection Not Recommended

ENTERTAINMENT PERMIT

Recommended Recommended, subject to final inspection Not Recommended

TOPLESS ACTIVITY PERMIT

Recommended Recommended, subject to final inspection Not Recommended

MAILED 7-12-10
AA

<input checked="" type="checkbox"/> OUTDOOR SERVICE (1 AREA)
<input checked="" type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended
<input type="checkbox"/> PARTICIPATION PERMIT
<input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended
<input checked="" type="checkbox"/> ADDITIONAL BAR PERMIT 3 ADDITIONAL (TOTAL 4)
<input checked="" type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended
<input type="checkbox"/>
<input type="checkbox"/> Recommended <input type="checkbox"/> Recommended, subject to final inspection <input type="checkbox"/> Not Recommended

Signed:

X *A.L. Kleibeechen*
 Signature and Title
 DIRECTOR OF PUBLIC SAFETY
ANTHONY L. KLEIBEECHEN
 Print Name and Title

MUSKEGON POLICE DEPARTMENT

Date: 10-20-10

dl



Michigan Department of Energy, Labor & Economic Growth
MICHIGAN LIQUOR CONTROL COMMISSION (MLCC)
 7150 Harris Drive, P O Box 30005
 Lansing, Michigan 48909-7505

**APPLICATION FOR OFFICIAL PERMIT FOR
 DIFFERENCE IN HOURS OF OPERATION**

[Authorized by MCL 436.1916 and R 436.1403]

Print Form

FOR MLCC USE ONLY
 Request ID # 50750
 Business ID # _____

Applicant or Licensee Name CARLIE & TRACY'S SAUGATUCK BREEZE, LLC

Address: 151 Shoreline Drive, Muskegon, MI 49440

Type of License: Resort Class C under MCL436.1531(3) License No.: _____

The MLCC is requested to grant an extended hours permit for; (check boxes that apply). **INCLUDE A \$70.00 INSPECTION FEE AND MAKE PAYABLE TO THE STATE OF MICHIGAN.**

- Dance (To apply for this purpose you must have a separate Dance Permit issued by the MLCC)
- Entertainment (To apply for this purpose you may have to have a separate Entertainment Permit issued by the MLCC).
- Operating our restaurant for the sale of food (Must have a full Service kitchen)
- Operating night league bowling, tournaments or Sunday morning bowling
- Registering golfers Registering Skiers
- Registering Tennis Players Registration of Guests
- Meetings
- Special Events, Indicate below Specific Event or Events that will be occurring.

- Athletic Activities, Indicate below Specific Athletic activities that will be occurring.

- Others Please Specify Activities:

Application for Difference in Hours of Operation (cont'd)

NOTE: The licensed premises may not be occupied by anyone except the licensee and bona fide employees who are working between the hours of 2:30 A.M. and 12:00 Noon on any Sunday or from 2:30 A.M. until 7:00 A.M. on any other day. Please indicate below the extended hours you are applying for to conduct the activities indicated on Page 1.

Weekdays _____ A.M. to _____ A.M.

Note: Saturday night after midnight is Sunday and requires Sunday hours if the premises is to be occupied after 2:30 A.M.

Sundays 7:00 A.M. to 12:00 A.M. /P.M.

Will Licensee be conducting the requested activity? YES NO

If no, attach a request for waiver of R 436.1437 and copy of concession and/or licensing agreement for person conducting that activity.

It is understood that the licensee issued an extended hours permit shall not allow customers on the licensed premises during the time period provided by the extended hours permit unless the activities, and only those activities, allowed by the extended hours permit are occurring. If you apply for two separate activities and the activities are for different hours you must fill out and attach a separate application. **THIS PERMIT DOES NOT ALLOW THE SALE, SERVICE, OR CONSUMPTION OF ALCOHOLIC LIQUOR DURING THE EXTENDED HOURS.**

ISSUANCE OF THIS PERMIT REQUIRES APPROVAL BY YOUR LOCAL LAW ENFORCEMENT AGENCY. IF MAKING APPLICATION FOR EXTENDED HOURS FOR DANCE OR ENTERTAINMENT A RECOMMENDATION FROM THE LOCAL LEGISLATIVE BODY IS ALSO REQUIRED.

Your request will be referred to your local law enforcement agency and local legislative body (if needed) for their recommendation upon receipt of a complete and acceptable application and the required \$70.00 inspection fee.

THE LICENSEE/APPLICANT, AN AUTHORIZED CORPORATE OFFICER OR MEMBER OF A LIMITED LIABILITY COMPANY MUST SIGN THIS APPLICATION.

Licensee or Applicant Signatures: _____

CONTACT INFORMATION

Name: Carl Miskotten

Address: 149 Shoreline Drive, Muskegon, MI 49440

(street address) (city)

(state)

Phone Number: 616-366-5354

E-Mail Address: cmiskotten@wmaa.net

Page 2 of 2

Print Form

2-1117 (Rev. 01/09)
Authority: MCL 436.1516 and R 436.1403
Completion Mandatory
Penalty: No License and/or Permit

The Department of Energy, Labor & Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability or political beliefs. If you need help with reading, writing, hearing, etc. under the Americans with Disabilities Act, you may make your needs known to this agency.

mailed 7.12.10
AD

RESOLUTION

At a _____ meeting of the _____
(Regular or Special) (Township Board, City or Village Council)

called to order by _____ on _____ at _____ P.M.

The following resolution was offered:

Moved by _____ and supported by _____

That the request from CARLIE & TRACY'S SAGAUTUCK BREEZE, LLC FOR A NEW RESORT CLASS C LICENSE TO BE ISSUED UNDER MCL 436.1531(3) WITH ENTERTAINMENT PERMIT, TO BE LOCATED AT 151 SHORELINE MUSKEGON, MI 49440, MUSKEGON COUNTY. AND ADD NEW DANCE PERMIT, OUTDOOR SERVICE (1 AREA), OFFICIAL FOOD, AND THREE ADDITIONAL BAR PERMITS (TOTAL OF 4).

be considered for _____
(Approval or Disapproval)

APPROVAL

DISAPPROVAL

Yeas: _____

Yeas: _____

Nays: _____

Nays: _____

Absent: _____

Absent: _____

It is the consensus of this legislative body that the application be:

_____ for issuance
(Recommended or Not Recommended)

State of Michigan _____)

County of _____)

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the _____ at a _____
(Township Board, City or Village Council) (Regular or Special)

meeting held on _____
(Date)

(Signed) _____
(Township, City or Village Clerk)

SEAL

(Mailing address of Township, City or Village)

Date: November 9, 2010
To: Honorable Mayor and City Commissioners
From: Ann Marie Becker, City Clerk
RE: Fireworks Display Permit

SUMMARY OF REQUEST: Lisa Lohman, Performers of the U.S. is requesting approval of a fireworks display permit for November 17th at the Muskegon Lumberjacks game. Fire Marshall Metcalf has reviewed the request and recommends approval contingent on inspection of the fireworks and approval of the insurance.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval contingent on inspection of the fireworks and approval of the insurance.

APPLICATION FOR FIREWORKS DISPLAY PERMIT Act 358, P.A. 1968

DATE OF APPLICATION

10/31/10

1. TYPE OF DISPLAY:



Public Display



Agricultural Pest Control

2. APPLICANT

NAME OF PERSON

Lisa "Lanae" Lohman

ADDRESS

2376 Getty St.

AGE: Must be 21 or over

38

IF A CORPORATION: Name of President

ADDRESS

Muskegon, MI 49444

3. PYROTECHNIC OPERATOR

NAME

ADDRESS

AGE: Must be 21 or over

EXPERIENCE:

NUMBER OF YEARS

3

NUMBER OF DISPLAYS

approx. 50

WHERE

Hart Heritage Days, Spring Lake Days
LC Walker Arena, Sandy Corley, Fruitport
Summer Celebration

Days

NAMES OF ASSISTANTS:

NAME

Julie Carson

ADDRESS

1128 Milliron 49442

AGE

39

NAME

Tony Kolka

ADDRESS

Industrial Fire Arts G.H., MI 49417

AGE

31

4. NON-RESIDENT APPLICANT

NAME

Jes Johnson, 951 Penneyer G.H., MI 49417 28
Victor Oviatt, Photographer Muskegon 49444 48 yrs. old

Name of Michigan Attorney or Resident Agent

ADDRESS

TELEPHONE NUMBER

5. EXACT LOCATION OF PROPOSED DISPLAY

Just on the ice at the door end of LC Walker Arena

DATE

11/17/10

TIME

Approx 11:15 AM

6. NUMBER AND KINDS OF FIREWORKS TO BE DISPLAYED

Fire sword, poi, hula hoop, batons, palm torches,
fire eating wands, staff, fans, tiki torch
No use of pyrotechnic explosive devices.

MANNER & PLACE OF STORAGE PRIOR TO DISPLAY

Coleman lantern fuel storage in an outdoor
shed, transported in vehicle trunk, to show
(Subject to Approval of Local Fire Authorities)

7. FINANCIAL RESPONSIBILITY

A. AMOUNT OF BOND OR INSURANCE
(to be set by municipality)

\$ 3,000,000

B. BONDING CORPORATION OF INSURANCE COMPANY: NAME

ADDRESS

Performers of the U.S. Club

PO Box 24, New Richmond VA-I

Fax (715) 246-4257

members

(715) 246 8908

54017



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/01/2010

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER RJF Agendes, Inc. Minneapolis 7225 Northland Dr N #300 Minneapolis, MN 55428	CONTACT NAME: Stephanie Weise PHONE (A/C, No., Ext.): 715-246-8908 FAX (A/C, No.): 715-246-4257 E-MAIL ADDRESS: certs@specialtyinsuranceagency.com																				
	<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A:</td> <td>Lexington Insurance Company</td> <td>19437</td> </tr> <tr> <td>INSURER B:</td> <td></td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Lexington Insurance Company	19437	INSURER B:			INSURER C:			INSURER D:			INSURER E:			INSURER F:	
INSURER(S) AFFORDING COVERAGE		NAIC #																			
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INSURER B:																					
INSURER C:																					
INSURER D:																					
INSURER E:																					
INSURER F:																					
INSURED Performers of the U.S. & Club Members Phone: 715-246-8908 Fax: 715-246-4257 Attn: Stephanie Weise PO Box 24 New Richmond, WI 54017																					

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INBR LTR	TYPE OF INSURANCE	ADDL INBR	SUBR INBR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY						EACH OCCURRENCE \$ 3,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 5,000
	<input checked="" type="checkbox"/> LX9776 08/04	X	X	014245848	04/25/10	04/25/11	PERSONAL & ADV INJURY \$ 3,000,000
	<input checked="" type="checkbox"/> LX0404					GENERAL AGGREGATE \$ 5,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER:					PRODUCTS - CDM/OP AGG \$ 5,000,000	
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS						BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS						
	UMBRELLA LIAB						EACH OCCURRENCE \$
	<input type="checkbox"/> EXCESS LIAB						AGGREGATE \$
	<input type="checkbox"/> OCCUR						
	<input type="checkbox"/> CLAIMS-MADE						
	DED						
	RETENTION \$						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER <input type="checkbox"/>
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)						E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

PERFORMER IS A NAMED INSURED AS A MEMBER OF PERFORMERS OF THE U.S. (FORM LEXDOC021 LX0404):
 Lisa L. Lohman dba Lanac
 Additional Insured: Logger Hockey, LLC., City of Muskegon, County of Muskegon, all elected officials and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof are hereby listed as additional insured.

Fax: 231-724-4178 Attn. Linda

CERTIFICATE HOLDER **CANCELLATION**

City of Muskegon 933 Terrace St. Muskegon, MI 49440	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Stephanie Weise</i>
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Date: November 9, 2010

To: Honorable Mayor and City Commissioners

From: Finance Director

RE: Transmittal of 6/30/10 *Comprehensive Annual Financial Report*

SUMMARY OF REQUEST: The City's *6/30/10 Comprehensive Annual Financial Report* (CAFR) has previously been distributed to City Commissioners. This audit covers the six month transition period that was needed for the City to change its fiscal year. 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: None. The CAFR report summarizes the City's financial activities for the six-month transition period 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 6/30/10.

COMMITTEE RECOMMENDATION: The Committee of the Whole will review the CAFR in detail at its November 8th meeting.

Commission Meeting Date: November 9, 2010

Date: November 3, 2010
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Public Hearing - Request for an Industrial Facilities Exemption Certificate – Fleet Engineers

SUMMARY OF REQUEST:

Pursuant to Public Act 198 of 1974, as amended, Fleet Engineers, 1800 E Keating Ave, has requested the issuance of an Industrial Facilities Tax Exemption Certificate. The company plans on making investments of \$1,145,863 in personal property improvements and \$517,157 in real property improvements. Under the City's IFT policy, they are eligible for a twelve (12) year abatement on real property and a six (6) year abatement on personal property.

FINANCIAL IMPACT:

The City will capture certain additional property taxes generated by the expansion (see attached Summary Sheet).

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Approval of the attached resolution granting an Industrial Facilities Exemption Certificate for a term of twelve (12) years on real property and six (6) years on personal property.

COMMITTEE RECOMMENDATION:

None



**City of Muskegon
Industrial Development District
Summary Sheet**

Company Summary:

Fleet Engineers, Inc., 1800 E. Keating Ave., Muskegon, MI is making improvements to its building as well as upgrading personal property. Due to investments in both personal and real property, the company is eligible for a six (6) year exemption for personal property and a 12 year exemption for real property.

Employment Information:

Racial Characteristics:		
White		64
Minority		9
Total		73
Gender Characteristics:		
Male		55
Female		18
Total		73
Total No. of Anticipated New Jobs:		3

Investment Information:

Real Property:	\$517,157
Personal Property	\$1,145,863
Total:	\$1,663,010

Property Tax Information: (Annual)	<u>All Jurisdictions</u>	<u>City Only</u>
Total New Taxes Generated	\$32,349	\$9,207
Value of Abatement	\$16,174	\$4,603
Total New Taxes Collected	\$16,174	\$4,603

Income Tax Information: (Annual)

Total Additional Income Tax Generated: **\$524**

Company Requirements:

Adopted Affirmative Action Policy	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
Meeting w/ City Affirmative Action Director	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
Signed Tax Abatement Contract	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
Taxes Paid In Full	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
Appropriate Zoning	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No



 Mike Franzak
 Planner III



 Dwana Thompson
 Affirmative Action Director

Resolution No. _____

MUSKEGON CITY COMMISSION

RESOLUTION APPROVING APPLICATION FOR ISSUANCE
OF INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE
FLEET ENGINEERS

WHEREAS, pursuant to P.A. 198 of 1974 as amended, after duly noticed public hearing held on October 24, 1995, this Commission by resolution established an Industrial Development District as requested by Fleet Engineers, 1800 E Keating, Muskegon, Michigan 49442; and

WHEREAS, Fleet Engineers has filed an application for the issuance of an Industrial Facilities Tax Exemption Certificate with respect to a building expansion and new machinery and equipment to be installed within said Industrial Development District ; and

WHEREAS, before acting on said application the Muskegon City Commission held a public hearing on November 9, 2010, at the Muskegon City Hall in Muskegon, Michigan at 5:30 p.m. at which hearing the applicant, the assessor and representatives of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, the installation of machinery and equipment is calculated to and will have the reasonable likelihood to retain, create, or prevent the loss of employment in Muskegon, Michigan; and

WHEREAS, the aggregate SEV of real property exempt from ad valorem taxes within the City of Muskegon, will not exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of personal and real property thus exempted.

NOW, THEREFORE, BE IT RESOLVED by the Muskegon City Commission of the City of Muskegon, Michigan that:

- 1) The Muskegon City Commission finds and determines that the Certificate considered together with the aggregate amount of certificates previously granted and currently in force under Act No. 198 of the Public Act of 1974 as amended and Act No. 255 of the Public Acts of 1978 as amended shall not have the effect of substantially impeding the operation of the City of Muskegon or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Muskegon.
- 2) The application of Fleet Engineers, for the issuance of an Industrial Facilities Tax Exemption Certificate with respect to the building expansion and installation of new machinery and equipment on the following described parcel of real property situated within the City of Muskegon to wit:

CITY OF MUSKEGON PORT CITY INDUSTRIAL CENTER LOT 23 EXC S 295 FT OF E 1/2
OF SD LOT ALL OF LOT 24 AND N 60 FT OF LOT 17

- 3) The Industrial Facilities Tax Exemption Certificate is issued and shall be and remain in force and effect for a period of _____ years on personal property and _____ years on real property.

Adopted this 9th Day of November, 2010.

Ayes:

Nays:

Absent:

BY: _____
Stephen J. Warmington
Mayor

ATTEST: _____
Ann Marie Becker
Clerk

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Muskegon City Commission, County of Muskegon, Michigan, at a regular meeting held on November 9, 2010.

Ann Marie Becker
Clerk

Commission Meeting Date: October 26, 2010

Date: October 19, 2010
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Amendments to the Zoning Ordinance

SUMMARY OF REQUEST:

Staff initiated request to amend Section 2326 (Off-Street Parking and Loading) of Article XXIII (General Provisions) to modify parking restrictions in the downtown parking overlay district. The amendment would loosen the parking restrictions for small businesses that locate in to a previously existing building.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the zoning ordinance amendment.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the request at their 10/14 meeting.

Staff Report (EXCERPT)
CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

October 14, 2010

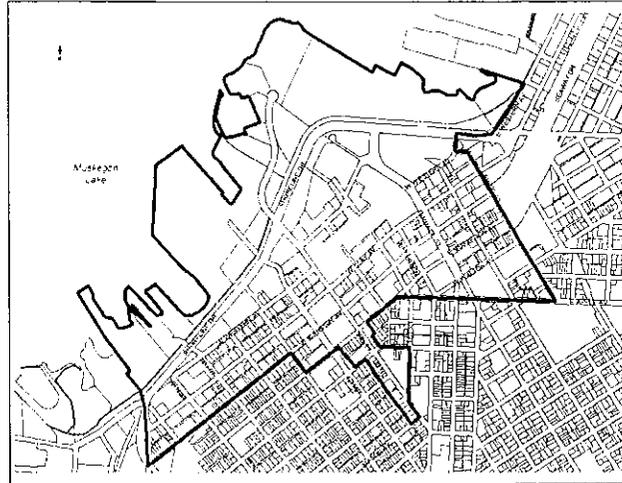
Hearing, Case 2010-36: Staff initiated request to amend Section 2326 (Off-Street Parking and Loading) of Article XXIII (General Provisions) to modify parking restrictions in the downtown parking overlay district.

BACKGROUND

1. There are currently several small vacant storefronts along W Western Ave and 3rd St that do not come with on-site parking. A change of use would require any potential business to provide the number of parking spaces required by Table IB (parking standards) of the zoning ordinance. (see attachment 4 – Table IB)
2. The only way this would be possible would be to get an irrevocable shared parking agreement with another property, within 1,000 feet, that has excess parking.
3. This is becoming more challenging with each irrevocable shared parking agreement that is being made. There will continue to be less available excess parking downtown as these agreements continue to be made.
4. Staff feels that these parking agreements should be saved for when large scale businesses have no other options for parking. Also, there are some instances where small store fronts are not located within 1,000 feet of anyone that can offer a shared parking agreement
5. Staff feels that smaller businesses that require less parking should be able to use on-street and city-owned parking lots to accommodate their parking requirements.

Zoning ordinance excerpt:

12. Downtown Parking Overlay District: *A downtown parking overlay district is hereby created as outlined in Figure 23-2. Within said overlay area is permitted the following: [amended 2/03] [amended 6/07]*
 - a. *In the downtown parking overlay district only, all land uses, except residential, may use on-street parking for up to thirty percent (30%) of their required parking area.*
 - b. *In the downtown parking overlay district, shared parking agreements are encouraged. Parking areas for other than single or two-family residential uses may be located up to 1,000 feet from the building they are intended to serve and may be provided in any zoning district except the R-1 district.*
 - c. *In the downtown parking overlay district only, the required number of residential parking spaces shall be 1.5 per dwelling unit.*



NEW LANGUAGE

Deletions are ~~crossed out~~ and additions are in **bold**:

Amendment to Section 2326 (Off-Street Parking and Loading) #12 (Downtown Parking Overlay District)

- d. **In the downtown parking overlay district only, new businesses that are required to provide 15 parking spaces or less may forgo the parking requirements if they are locating into a previously existing building. On-street parking and city-owned parking lots will be used to accommodate the parking requirements. However, any previously existing parking spaces included with the building space must remain in place and be used by that business.**



The red lines indicate the areas of Western and 3rd that would be most effected by the amendment. On street parking is offered on both sides of the street along a majority of this area. The red dots indicate the city-owned parking lot and the two most-used lots for shared parking agreements.

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend Section 2326 of Article XXIII to modify the downtown parking overlay district.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

NEW LANGUAGE

Deletions are ~~crossed-out~~ and additions are in **bold**:

Amendment to Section 2326 (Off-Street Parking and Loading) #12 (Downtown Parking Overlay District)

- d. **In the downtown parking overlay district only, new businesses that are required to provide 15 parking spaces or less may forgo the parking requirements if they are locating into a previously existing building. On-street parking and city-owned parking lots will be used to accommodate the parking requirements. However, any previously existing parking spaces included with the building space must remain in place and be used by that business.**

This ordinance adopted:

Ayes: _____

Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____
Ann Marie Becker, MMC, City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 26th day of October, 2010, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2008, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2010.

Ann Marie Becker, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

Please take notice that on October 26, 2010, the City Commission of the City of Muskegon adopted an ordinance to amend Section 1306 of Article XIV to allow Transitional Living Centers as a special use permitted in B-5, Governmental Service Districts. Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten days from the date of this publication.

Published _____, 2010.

CITY OF MUSKEGON

By _____
Ann Marie Becker, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE.

Account No. 101-80400-5354

Date: November 1, 2010
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
**RE: Rezoning request for the property located at 1823
Commerce St.**

SUMMARY OF REQUEST:

Request to rezone the property at 1823 Commerce from B-4, General Business District to B-5, Governmental Service District, by West Michigan Therapy. The applicant would like to run a Transitional Living Center at this location.

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

Staff recommends approval of the rezoning.

COMMITTEE RECOMMENDATION:

The Planning Commission recommended approval of the request at their 10/14 meeting.

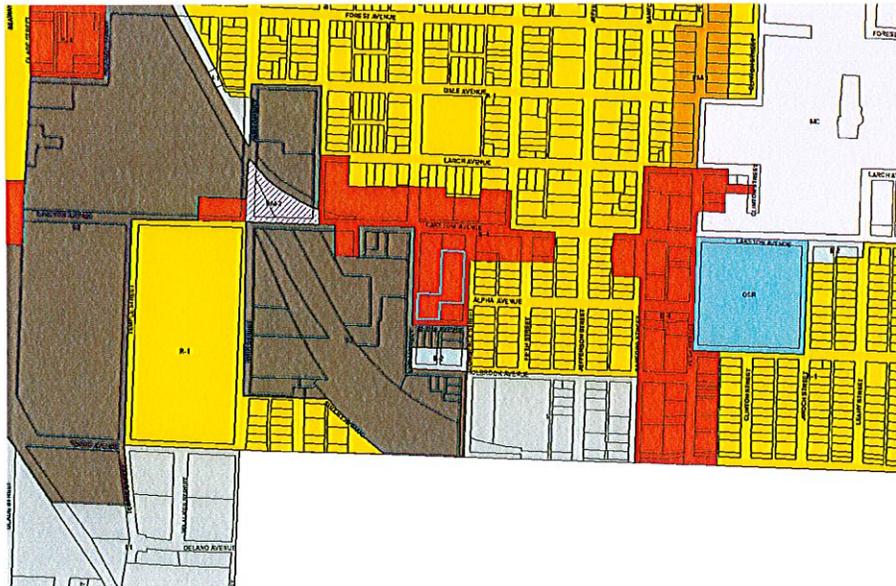
1823 Commerce



Aerial



Zoning Map



Zoning Ordinance Excerpts:

Transitional Living Center: A facility that provides temporary housing and services to the homeless.

Section 1306 of Article XIV (Special Uses Permitted in a B-5)

3) Transitional Living Centers provided:

- a) The center must be associated with a governmental agency or bona fide charitable association, such as a 501 (c) organization.
- b) The residents must be provided with information on supplemental services, such as re-housing assistance and substance abuse treatment.
- c) Staff must be located on site twenty-four hours a day, seven days a week for programs that provide on site overnight sleeping accommodations.
- d) Residents may not be housed for more than six (6) consecutive months.
- e) The center does not conflict with any of the prohibited uses stated in Section 1305.

CITY OF MUSKEGON
MUSKEGON COUNTY, MICHIGAN

ORDINANCE NO. _____

An ordinance to amend the zoning map of the City to provide for a zone change for a property from B-4, General Business District to B-5, Governmental Service District.

THE CITY COMMISSION OF THE CITY OF MUSKEGON HEREBY ORDAINS:

The zoning map of the City of Muskegon is hereby amended to change the zoning for the following described property from B-4, General Business District to B-5 Governmental Service District:

CITY OF MUSKEGON DENNIS SMITH & COS SECOND ADD LOTS 8-10 & LOTS 13-18 BLK 3
TOGETHER WITH VAC ALLEY AJD

.

This ordinance adopted:

Ayes: _____

Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____
Ann Marie Becker, MMC
City Clerk

CERTIFICATE (Rezoning of 1823 Commerce St from B-4 to B-5)

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the 9th day of November, 2010, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted and public notice was given pursuant to and in full compliance with the Michigan Zoning Enabling Act, Public Acts of Michigan No. 33 of 2008, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2010.

Ann Marie Becker, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

CITY OF MUSKEGON
NOTICE OF ADOPTION

Please take notice that on November 9, 2010, the City Commission of the City of Muskegon adopted an ordinance amending the zoning map to provide for the change of zoning for the property from to B-4 "General Business District" to B-5 "Governmental Service District":

CITY OF MUSKEGON DENNIS SMITH & COS SECOND ADD LOTS 8-10 & LOTS 13-18 BLK 3
TOGETHER WITH VAC ALLEY AJD

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten days from the date of this publication.

Published _____, 2010

CITY OF MUSKEGON

By _____

Ann Marie Becker, MMC
City Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE.

Account No. 101-80400-5354

AGENDA ITEM NO. _____

CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Bryon L. Mazade, City Manager

DATE: November 2, 2010

RE: Master Contract for the Muskegon County Wastewater System

SUMMARY OF REQUEST:

To consider approving the proposed Master Contract for the Muskegon County Wastewater System. This contract would replace the 1970 Access Rights Agreement and the 1998 Amended Service Agreement.

FINANCIAL IMPACT:

The contract will be the basis for determining the wastewater rates charged to the City for the next 20(+) years.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

None.

COMMITTEE RECOMMENDATION:

None.

CITY OF MUSKEGON

RESOLUTION # 2010-97(b)

**RESOLUTION TO APPROVE THE PROPOSED MASTER CONTRACT FOR THE
MUSKEGON COUNTY WASTEWATER SYSTEM**

WHEREAS, the County of Muskegon, by and through its Board of Public Works, and fifteen Local Units of government have been working on a Master Contract for the Muskegon County Wastewater System, which would supersede all previous agreements including the Access Rights Agreement and the Amended Service Agreement;

WHEREAS, pursuant to the Amended Service Agreement, the City of Muskegon is billed for wastewater by the County of Muskegon Wastewater System on a subtraction method, as opposed to being metered;

WHEREAS, the City of Muskegon has requested that wastewater leaving the City's collection system be metered as it enters the County's Wastewater System;

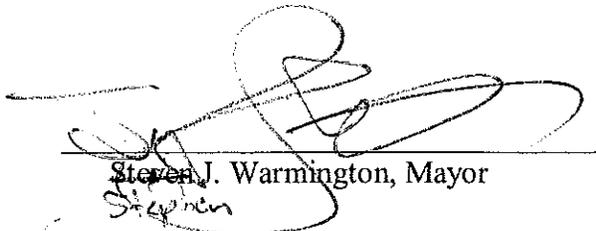
WHEREAS, the City of Muskegon believes that it has been overcharged by the Muskegon County Wastewater System for wastewater service because the subtraction method is not accurate;

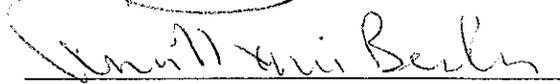
WHEREAS, the County of Muskegon Wastewater System is in the process of installing meters, which should accurately measure the City of Muskegon's wastewater sent to the Muskegon County Wastewater System;

WHEREAS, the City of Muskegon is willing to execute the proposed Master Contract for the Muskegon County Wastewater System if the meters are installed and the issue of the City's overpayment for wastewater service is resolved;

NOW, THEREFORE, BE IT RESOLVED, that the Muskegon City Commission approves the proposed Master Contract for the Muskegon County Wastewater System contingent upon installation and use of the meters for billing purposes and resolution of the overpayment issue, in the City Manager's opinion and after notice to the City Commission, and authorizes the Mayor and Clerk to sign the Master Contract for the Muskegon County Wastewater System after the City Manager informs the City Commission that the meters have been installed and being used for billing purposes and a resolution of the overpayment for wastewater service has been reached.

Adopted this 9th day of November 2010.


Steven J. Warmington, Mayor


Ann Marie Becker, MMC, Clerk

MASTER CONTRACT
FOR THE MUSKEGON COUNTY WASTEWATER SYSTEM

THIS MASTER CONTRACT for the operation of the Muskegon County Wastewater System, effective this fourth day of December, 2010, by and between the County of Muskegon, a Michigan municipal corporation (“County”), by and through its Board of Public Works (the “Board”), and the following Cities: Muskegon, Muskegon Heights, Norton Shores, Roosevelt Park, North Muskegon, Whitehall, Montague, and the following Townships: Cedar Creek, Dalton, Egelston, Fruitport, Laketon, Montague, Muskegon, and Whitehall, Michigan municipal corporations all located within the County of Muskegon- (“Local Units”), all collectively referred to from time-to-time as “Parties.”

The purpose of this Master Contract is to foster the continued relationship between the County and the Local Units in a broad fashion that will provide flexibility to meet the changing needs of the community. Continued cooperative trust among the Parties will be essential to the effective implementation of this Master Contract and management of the System.

WITNESSETH:

WHEREAS, the County Board and Local Units in 1970 entered into an Access Rights Agreement (“Agreement”) which provided, among other things, for the establishment of what has come to be known as the Muskegon County Wastewater Management System (“System”) under the provisions of Act 185, Public Acts of Michigan, 1957, as amended; and

WHEREAS, the terms and conditions of the Agreement have been modified by the document entitled “Capacity Allocation Agreement” entered into circa. 1989, which provided, among other things, for a methodology whereby the System’s hydraulic capacity was allocated to the Local Units and the Service Agreement Industries as therein identified; and

WHEREAS, the Parties have also entered into a 1998 Amended Service Agreement, setting forth matters regarding the operation of the System by the County for the benefit of the Local Units; and

WHEREAS, the Agreement provided for a term not to exceed forty (40) years; and

WHEREAS, the Parties desire to continue this relationship, according to the terms of this Master Contract ("Contract"), for an additional twenty (20) years or until any debt of the System has been retired or otherwise provided for.

I. DEFINITIONS

1. Directly Connected User (DCU). Any governmental facility or other User that has a metered direct connection to the System. As of the date of this Contract, the following properties are considered DCUs: Sappi Fine Paper, Sun Chemical Corporation, Genesco, Cordova, and Bayer CropScience.

The cost of treating Waste Materials for any existing or approved DCU will be at the rates established by the Director for Local Units under the terms of this Contract. All applicable surcharges under Section VIII will be in addition to this rate.

2. Direct Connection Eligible Users (DCEU). Any industrial, governmental facility or other user is eligible for direct connection to the System if it is directly metered, recommended by the Director, and approved by the host Local Unit and Board.

3. Director. The Director of the Muskegon County Public Works Department, or his/her successor or designee.

4. Flow. The volume of Waste Materials, in million gallons, discharged to the System by a Local Unit or (DCU).

5. Local Unit. A governmental body which is a Party to this Contract with the County for treatment of Waste Materials generated within the current or expanded Service Area.

6. Management Committee. The Muskegon Municipal Wastewater Management Committee comprised of representatives from the Local Units, or its successor ("Committee")

7. Minor User. Nonresidential User of the System not required to perform pretreatment under the 1999 Muskegon County Sewer Use Ordinance, as amended (hereinafter "Ordinance", attached as Exhibit I) or federal or state statute or regulation.

8. New User. A local, regional, State or DCU not previously directly connected to the System, or an existing Local User seeking expansion of its local system where the expansion requires expenditure of funds by the System.

9. Service Area. The area served by the System, as described on the map, attached as Exhibit II to the Contract, and incorporated herein by reference, together with such additional land as may be added to the System. The possible Service Area is not necessarily limited to the boundaries of Muskegon County, in accordance with the terms outlined in this Contract.

10. Service Charge. The rate per million gallons of flow established annually, as hereinafter set forth, to be paid by each Local Unit or DCU for the receipt, transportation, treatment or other disposition by the System of the Local Units' and DCUs' Waste Materials.

12. Service Connection. The point at which a Local Unit or DCU discharges its Waste Materials into the System.

13. System. The Muskegon County Wastewater Management System, as owned, operated, and maintained by the Board and Local Units for receiving, transporting, treating or otherwise disposing of Waste Materials from the Service Area. This term includes the County owned collecting system to which the Local Units and DCU's connect, including facilities and

infrastructure otherwise deemed a part of the System at the discretion of the Director with the agreement of the Board, Committee and the host Local Unit. This term does not include sewage collecting systems owned by Local Units.

14. User. A Local Unit, DCU, person, or entity discharging Waste Materials into the System, directly or through a Local Unit. This term includes a Significant Industrial User, or other Industrial User requiring a permit, within the meaning of the Ordinance, as amended.

15. Waste Materials. The waste fluids and solids (including permitted storm water, permitted ground water, sanitary sewage and industrial wastes), together with any infiltration and/or inflow, which are discharged into or hauled to the System.

II. GENERAL AGREEMENT

1. This contract does not create any third party beneficiaries. In particular, this Contract does not create any contractual rights for any current or future DCU. No person or entity dealing with the County or a Local Unit shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Contract. This Contract is not intended to, nor shall it be interpreted to create a special relationship between the County or a Local Unit and any staff, visitor, resident, or other individuals who may have business through the County. It is the intent of the Parties that all contractual entitlement in the System shall be held exclusively among the County and Local Units.

2. The Parties mutually agree and understand that during the term of this Contract, the System shall be the exclusive provider of wastewater services utilized by the Local Units, except for areas in Fruitport Township that are currently being served by other providers of wastewater treatment; including without limitation the receiving, transporting, treating or

otherwise disposing of Waste Materials (Exhibit III). Expansion of these excepted areas may occur, or additional excepted areas may be granted, by a recommendation of the Committee by a 2/3 vote of the entire Committee, and approval of the Board.

3. The Parties further agree that the System must comply with state and federal law and agree to amend this Contract as necessary to maintain compliance.

4. Attached hereto as Exhibit I, is the Ordinance, which by this reference, is made a part hereof. These are regulations which govern discharges to the System. In accordance with the procedures set forth therein, the County may amend or repeal the Ordinance, or part thereof, if in the judgment of the County, and following input and recommendations of the Committee, such action is reasonably required for the proper functioning of the System and/or to achieve equity among Users. The Ordinance may also be amended as necessary to comply with state and federal statutes or regulations.

5. Nothing in this Contract shall prohibit the System, following input from the committee, from purchasing services from a Local Unit, and executing the necessary documents to purchase those services.

III. TERM

This Contract shall remain in full force and effect for a period of twenty (20) years from December 4, 2010 or until such time that all bonds, notes, or other evidence of System indebtedness have been paid in full, whichever occurs last. This Contract may be renewed thereafter by agreement of the Parties and shall continue in force until a new contract has been signed, except with respect to any Local Unit which may elect to leave the System at the end of this Contract, in which case, the Local Unit shall give 18 months notice to the County and other Local Units, and shall be disconnected from the System at the end of the 18 months. Ownership

of the System shall remain with the County, which shall not lease or assign the System, and shall continue to operate, administer and maintain the System through the Board for the benefit of the Local Units.

For informational purposes, the outstanding bonds of the System as of April 1, 2010 are listed in Exhibit IV, attached.

IV. BOARD and COUNTY RESPONSIBILITY

1. The Board shall be responsible for the operation, maintenance and management of the System on behalf of the County. This Contract shall describe the rights and obligations of the Parties in such areas as well as the rates to be charged for service from the System.

2. The Board shall at all times operate the System efficiently and economically and maintain it in a good workable condition.

3. The Parties acknowledge that the Board's role and function is to manage the System and make every effort to exercise its discretion consistent with this Contract. The Board will continue to provide a sewage treatment system throughout the Service Area and may from time-to-time expand such Service Area as provided for in this Contract.

4. The Board will provide sufficient insurance to protect the buildings, machinery, pumping stations, pipe lines and other equipment and property of the System against loss by fire, windstorm, and other perils customarily included in comprehensive policies, and to protect itself, and the County, against loss, cost, expense, damage or liability whatsoever on account of damage to property or injury (including death) to any person or persons which may be due to or arise out of any act or omission of the Board, the County, or their respective agents, officers or employees

in connection with the acquisition, construction, ownership, operation, maintenance, repair or replacement of the System or any portion thereof.

5. The County, in any Ordinance Amendment (or Repeal), shall include provisions for the protection of Local Unit collection systems, which provisions shall include the requirement of a permit application and approval process for Significant Industrial Users (SIU) and Minor Users (MU). The permit application process shall provide, among other things, for SIU's and MU's to identify and describe all flow meter devices, their schedule for maintenance and calibration, and a description and identification of all sources of flow. The System shall provide such information to each affected Local Unit and shall require such SIU's and MU's to notify the System in the event of any significant change in Flow or Waste Materials.

6. The operation of the System will be performed by System staff, employed by the Board. The Committee may provide comment, advice and/or recommendations about operational issues of interest to Local Units and their residents.

7. Additionally, staff will provide timely communication to the Committee, providing copies, at no cost to the Committee, of or access to the Board's monthly report and agenda items when they are sent to the Board. Staff will provide and present a Director's report at the monthly Committee meeting. Staff will send Committee members information when it is sent to Board members.

V. LOCAL UNITS' RESPONSIBILITY

1. The Local Units hereby consent to the use by the System of the public streets, alleys, lands and right-of-ways within their boundaries for the purpose of acquiring, operating and maintaining the System, subject, however, to the Local Units' permitting processes, and to the present use being made by the Local Unit of such public streets, alleys, lands and right-of-

ways for utility services, which utility services shall not be disturbed without the consent of the Local Unit. Provided, further, that the System shall, at a minimum, restore the public streets, alleys, lands, and right-of-ways to the same or better condition they were in prior to any such work undertaken with respect to the System.

2. The System is designed to provide wastewater treatment to each Local Unit located within the Service Area, as it currently exists and as may be expanded, and is immediately necessary to protect and preserve the public health. Each such Local Unit does hereby consent to such service being furnished by the System to individual users located within its boundaries and in the Service Area via the Service Connections between the Local Unit's collecting system and the System.

3. The Local Units and DCUs shall discharge Waste Materials into the System only at such Service Connections as shall be provided by the System and the System shall receive, transport, treat, utilize or otherwise dispose of the Waste Materials so discharged.

VI. COMMITTEE RESPONSIBILITY

1. At the discretion and direction of the Committee, but no more than once every three (3) years, the Board shall engage a firm of independent certified public accountants, chosen by the Committee, to review the books, records and experience of the System and the efficiency of its operations to determine the propriety, necessity and reasonableness of the operating costs incurred, or expected to be incurred in the future; the volume of Waste Materials handled or expected to be handled; and the handling, use and adequacy of the System revenues to meet such actual and projected costs, and to retire its bonds and other indebtedness. A firm shall not necessarily be conflicted from such engagement due to the firm's prior or concurrent retention by a Local Unit or the County for other matters.

2. At the discretion and direction of the Committee, but no more than once every three (3) years, the Board shall engage a qualified, independent engineering firm, chosen by the Committee, to review the operations of the System, including its operating records and experience; inspect its facilities (including trunk and interceptor lines, treatment and disposal facilities, lagoons, spray irrigation areas, pumps, aerators, valves, measuring devices, and all other machinery, equipment and buildings) and appraise the condition thereof; project the volumes of Waste Materials likely to be received in the future; and evaluate the adequacy of the facilities to handle economically and efficiently Waste Materials in the volumes and with the characteristics of those being received and expected to be encountered, in the System's operations. A firm shall not necessarily be conflicted from such engagement due to the firm's prior or concurrent retention by a Local Unit or the County for other matters.

3. The Board, or any Local Unit may provide in writing to either or both of the firms engaged pursuant to Sections 1 and 2 above, any material or information relevant to its or their review. The System shall make available to such firms and to the Local Units all information relevant to the review. The System shall allow reasonable participation by the Committee in the reviews conducted pursuant to Sections 1 and 2 above.

4. Each firm engaged pursuant to Sections 1 and 2 above, shall prepare a written report. Such report shall be made to the Board and Committee prior to August 31 of the year in which the firms were engaged, and shall include, but not be limited to, complete statistical analyses; a description of each aspect of the review that has been conducted and findings and recommendations pertaining thereto; and any other comments deemed necessary or appropriate with respect to any matter relating to the System.

5. The scope of the above System review or reviews discussed above shall be developed by the Committee in consultation with the Board and the Local Units through the Committee.

6. Subject to other provisions of this Contract regarding the rights and responsibilities of the Local Units and the Committee, System staff will request Committee input, support, review, and recommendations regarding the following issues before taking them to the Board. Such recommendations, either in support of or against, a staff agenda item going to the Board will not be unreasonably withheld by the Committee. All recommendations must be presented to the Board.

A. The annual capital, O&M, and bond issue budgets; and any other budgets or rates that affect the payments the Local Units and DCUs make to the System;

B. Considerations to sell, lease or purchase System land or assets;

C. Determine what facilities the System maintains, and determine financial policies that dictate how much and when payments are due from the Local Units;

D. Agreements between the System and Local Units, public or private project partnership agreements, agreements between communities where the System is requested to facilitate same, and agreements for infrastructure planning efforts;

E. Any changes to the County Ordinance (reviewed periodically by the Michigan Department of Natural Resources and Environment or its successor.);

F. Any decision which involves expansion of the System; and

G. Any consideration of proposed DCUs for direct connection and metering by the System.

VII. EXPANSION

1. The Parties agree that the System has been established for, and should be operated consistent with, the purpose of accommodating both current use and the future growth of the Local Units. To that end, the Board and Committee may accommodate any new Flow by the current Local Units, DCUs or the expansion of the Service Area and may build additional treatment capacity in order to accommodate New Users of the System, as necessary.

2. The System may hereafter be expanded, with the approval of the Committee, and with the approval of the Board, to serve areas currently outside of the Service Area, providing such expansion is deemed economically feasible by the Committee and the Board. The Service Area expansion shall not necessarily be limited to the political boundaries of Muskegon County, but may include other areas as may be added in accordance with law, and subject to agreement with any such extraterritorial municipality.

3. An existing Local Unit may expand the scope of their service to individual Users without the approval of the Board if the expansion does not require the System to incur costs for the construction of infrastructure improvements, and the expansion is approved by the Director as being within acceptable engineering tolerances for safety and proper functioning of the System. If either of these criteria is not present, the expansion of an existing Local Unit's service will be treated the same as a petition by a New User, as provided below.

4. Subject to the other provisions of this Contract, the System may expand to be available to new local, regional, state, or other Users upon agreement between the New User and the Board, with the approval of the Committee. If the petition is granted for a municipality not already a Local Unit under this Contract, the petitioning municipality shall execute a copy of this Contract.

5. In the petition for access to the System, the potential New User shall, at a minimum, be required to provide to the Director:

A. Proposed Service Connection locations.

B. Engineering plans showing the proposed service area. The plans shall include the estimated flow, peak flow volume rate and concentration of Waste Materials in accordance with State of Michigan current and anticipated future requirements.

6. The Director shall review the engineering plans for over sizing or other appropriate construction issues to ensure access to the System for abutting potential New Users or connections to the System. Costs associated with over sizing or other structural elements shall be determined and assigned by separate agreements. The System may elect to absorb part or all of the costs of over sizing and/or other structural elements only upon approval of a two-thirds majority of the Committee and approval of the Board. The Director shall make a recommendation to the Board about the engineering changes necessary to accommodate the New User.

7. In order to gain access to the System the New User will also have to provide a means to finance the necessary connection, construction and engineering changes required. The amount and method of that financing will be determined by the Board, upon recommendations by the Director and upon approval from the Committee, on a case by case basis. The evaluation necessary to reach a determination of the applicable financing, will include a balanced consideration of multiple factors including, but not limited, to:

A. The anticipated flow to be generated by the New User.

B. The economic impact that will result from the New User.

C. The cost of the accommodation of the New User.

8. In its determination as to whether to approve a New User, the Board shall additionally consider:

- A. The environmental impact that will result from the New User.
- B. The extent to which access for the New User complies with or conflicts with the Wastewater Infrastructure Goals and Objectives adopted April 12, 2007 (Exhibit V).
- C. Whether access for the New User is economically reasonable, without imposing an economic burden on existing Users or the System
- D. Any other material the Board and/or Committee finds relevant.

9. A New User or an existing User may directly connect to the System and become a DCU subject to the following conditions:

- A. The User and the connection to the System must be metered.
- B. The Director must favorably recommend to the Board that the User be directly connected to the System as a DCU.
- C. The Local Unit in which the proposed DCU is located must approve the User as a DCU and approve the direct connection to the system; and
- D. The Board must approve the User as a DCU and approve the direct connection to the System.

In the event that a New or an existing User proposes to connect to the System as a DCU and the facility or premises to be connected as a DCU is located in more than one Local Unit, all Local Units in which the facility or premises to be connected as a DCU is located must approve the User as a DCU. An existing or proposed User shall not be eligible for connection to the System as a DCU if the User is or may be served by a Local Unit's collection system unless the

Local Unit (or Local Units, as the case may be) consent to connection as a DCU in accordance with subsection 9.C. above.

VIII. FINANCES

1. On or before August 31 of each operating calendar year during the term of this Contract, the Board shall establish the Service Charge to be paid by the Local Units and DCUs for services rendered by the System hereunder throughout the ensuing fiscal year beginning on October 1. The Service Charge shall be determined on a uniform basis, and each Local Unit and DCU will be provided with service hereunder at the same rate. The System shall provide proposed capital and operational budgets to the Local Units, through the Committee, for their recommendation to the Board at least thirty (30) days prior to Board approval of same.

2. The Service Charge for each fiscal year shall be determined by:

A. Computing the estimated amount of the operating costs and debt service of the System during the ensuing fiscal year;

B. Reducing these operating costs by the amount of:

- i. Surcharges expected to be received during such year,
- ii. Crop revenues expected to be received during such year,
- iii. Hauled waste revenues expected to be received during such year, and
- iv. The amount of any other funds expected to be received during such year.

C. Dividing the remainder by the volume of the Waste Materials expected to be received by the System during the fiscal year.

3. The operating costs shall include the following expenditures incurred by the Board for and on behalf of the System and the Local Units:

A. Labor, including employees, legal, engineering, and accounting consulting services;

B. Maintenance;

C. Gas, electricity, and other utilities;

D. Parts, supplies and replacements;

E. Documented administrative costs, including insurance and taxes;

F. Any payment necessary for municipal services; and

G. Committee legal and engineering costs.

H. Funding for operating reserves, but only to the extent the total balance of all operating reserves does not exceed twenty-five (25%) percent of the then-current annual operating budget or such other amount as is consistent with good accounting principles, as determined by the accountant retained at the direction of the Committee.

I. Funding for a capital budget, but only to the extent necessary to replace equipment, vehicles, etc., which with regard to any particular item of equipment purchased thereunder is not material to the System's financial statements; the capital budget funded by the Service Charges shall not include funding for replacement of any asset acquired in whole or in part with bond proceeds.

4. The System shall give due consideration to its actual operating experience in establishing such costs for subsequent fiscal years.

5. The parties understand that MCL 123.745 requires that the charge for service under this contract may be changed by the System at any time, if necessary, to meet the obligations of the System.

6. From time-to-time, the Board may re-establish, pursuant to the Ordinance, a surcharge for the receipt, transportation, treatment, utilization or other disposition by the System of Waste Materials which do not meet uniform concentration limits established under the Ordinance, but which will not interfere with the proper functioning of the System. The amount of any such surcharge shall be limited to an amount reasonably estimated to cover the incremental costs incurred by the System in handling such Waste Materials.

7. The System shall measure the volume of Waste Materials discharged by the Local Units, and DCUs into the System by metering device, whenever practical, at each Service Connection, and will thereafter obtain the samples required for the purpose of determining the surcharges set forth in or pursuant to the Ordinance. In the event a measuring device malfunctions, the volume of flow delivered to the System during the period of malfunction shall be assumed to have occurred at the average rate of the most recent representative period. The representative period shall be the twelve month period immediately preceding the malfunction. The assumed volume of flow shall be based upon the monthly average flow during the representative period during which the measuring device was functioning properly. The volume so calculated shall be adjusted for known deviations during the period of malfunction from the conditions prevailing during such representative period.

8. On or before the 15th day of each calendar month, the System shall bill the Local Units and DCUs for Service Charges, debt charges and Surcharges incurred during the preceding calendar month. The Local Units and DCUs shall pay the bill prior to the first day of the ensuing

month. The Local Units and DCUs shall within fifteen (15) calendar days notify the System in writing of any billing errors, and the Parties shall attempt to resolve the dispute, provided, however that if they are unable to do so within thirty (30) days after the giving of such notice, the Local Unit and DCUs shall pay the billed amount under protest and either party may, by notice to the other, invoke binding arbitration under the auspices of the American Arbitration Association or the Federal Mediation and Conciliation Services as jointly determined by the Parties. The matter will then proceed to binding arbitration according to the applicable rules. A judgment of any Michigan circuit court may be entered upon the award made pursuant to this section, and shall be valid, enforceable and irrevocable, except upon such grounds as exist at law or equity for the rescission or revocation of this Contract.

9. Subject to the other provisions of this Contract, the amount of the actual construction cost payable by a Local Unit, New User, regional or state unit, or new or existing DCU to the System for a Service Connection shall be as determined by the Director, with the approval of the Committee. The cost of installation and maintenance of a metering device at the Service Connection for a Local Unit shall be a cost of the System. The cost of metering for other Users shall be negotiated.

10. The Parties agree that nothing contained in the Contract shall impair any outstanding obligations of the County or of the Local Units nor restrain the Parties from fulfilling their obligation to meet payment requirements or debt service requirements on any outstanding obligation of the County or the Local Units, issued for the benefit of the System.

11. The Parties recognize and agree that from time to time the County may issue bonds, notes or other evidence of indebtedness ("Future Obligations") to finance improvements to the System. Such Future Obligations shall be separately documented at the time of issuance

and the terms, repayment obligations, and other financing details memorialized in the transcript for such Future Obligation. Nothing in this Contract shall be construed to prohibit or otherwise govern the issuance or financial aspects of such Future Obligations.

IX. MISCELLANEOUS

1. Construction. The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof, and the terms used in this Contract shall be construed according to their ordinary meanings. The Parties to this Contract have been given ample opportunity to consult with legal counsel, and the language of this Contract has been extensively negotiated between the Parties.

2. Severability. If any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid, illegal or unenforceable provision, or provisions, had never been contained herein.

3. Cumulative Remedies. No remedy herein is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

4. Time is of the Essence. Time is of the essence in this Contract and each covenant and term is a condition herein.

5. Non-Waiver. No delay or omission by any Party to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein.

6. Entire Agreement and Amendment. In conjunction with matters considered herein, this Contract contains the entire understanding and agreement of the Parties and there have been no promises, representations, agreements, warranties or undertakings by any of the Parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Contract may be altered, amended or modified only by an instrument in writing, executed by the Parties to this Contract and by no other means. Each party waives their future right to claim, contest or assert that this Contract was modified, canceled, superseded or changed by any oral agreements, course of conduct, waiver or estoppel.

A contract or contracts between the Board and a Local Units for the installation of meters does not violate this clause.

7. Successors and Assigns. All representations, covenants and warranties set forth in this Contract by or on behalf of, or for the benefit of any or all of the Parties hereto, shall be binding upon and inure to the benefit of such Party, its successors and assigns.

8. Terms and Conditions. The terms and conditions used in this Contract shall be given their common and ordinary definition and will not be construed against any party to this contract.

9. Execution in Counterparts. This Contract may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

10. This Contract shall supersede all previous agreements between the Parties pertaining to the operation of the System, including the 1970 Access Rights Agreement and the 1998 Amended Service Agreement.

11. Schedule of exhibits

Exhibit I	1999 Ordinance as Amended, Regulations for Discharge
Exhibit II	Service Area and Service Connections
Exhibit III	Map of Excepted Zones
Exhibit IV	List of Outstanding Obligations on April 1, 2010
Exhibit V	2007 Wastewater Infrastructure Goals and Objectives

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed as of the date and year first above written.

**COUNTY OF MUSKEGON
By its Board of Public Works**

Date Signed: _____, 2010

By: _____
Marvin Engle
Its Chairman

Date Signed: _____, 2010

By: _____
David Fisher
Its Secretary

CITY OF MONTAGUE

Date Signed: _____, 2010

By: _____
Henry E. Roesler, Jr.
Its Mayor

Date Signed: _____, 2010

By: _____
Melinda O'Connell
Its Clerk

CITY OF MUSKEGON

Date Signed: _____, 2010

By: _____
Steve Warmington
Its Mayor

Date Signed: _____, 2010

By: _____
Ann Marie Becker
Its Clerk

CITY OF MUSKEGON HEIGHTS

Date Signed: _____, 2010

By: _____
Darrell L. Paige
Its Mayor

Date Signed: _____, 2010

By: _____
Sharon Gibbs
Its Clerk

CITY OF NORTH MUSKEGON

Date Signed: _____, 2010

By: _____
Chris Witham
Its Mayor

Date Signed: _____, 2010

By: _____
Marcia Jeske
Its Clerk

CITY OF NORTON SHORES

Date Signed: _____, 2010

By: _____
Gary Nelund
Its Mayor

Date Signed: _____, 2010

By: _____
Lynne A. Fuller
Its Clerk

CITY OF ROOSEVELT PARK

Date Signed: _____, 2010

By: _____
Rodney Buikema
Its Mayor

Date Signed: _____, 2010

By: _____
Tammera Harmsen
Its Clerk

CITY OF WHITEHALL

Date Signed: _____, 2010

By: _____
Emery Hatch
Its Mayor

Date Signed: _____, 2010

By: _____
Karen Helmlinger
Its Clerk

TOWNSHIP OF DALTON

Date Signed: _____, 2010

By: _____
Chris Hall
Its Supervisor

Date Signed: _____, 2010

By: _____
Mary Ellen Sherwood
Its Clerk

TOWNSHIP OF EGELSTON

Date Signed: _____, 2010

By: _____
Mike Thompson
Its Supervisor

Date Signed: _____, 2010

By: _____
Joan Raap
Its Clerk

TOWNSHIP OF FRUITPORT

Date Signed: _____, 2010

By: _____
Brian Werschem
Its Supervisor

Date Signed: _____, 2010

By: _____
Carol Hulka
Its Clerk

TOWNSHIP OF LAKETON

Date Signed: _____, 2010

By: _____
Kim Arter
Its Supervisor

Date Signed: _____, 2010

By: _____
Christina Achterhoff
Its Clerk

TOWNSHIP OF MUSKEGON

Date Signed: _____, 2010

By: _____
David Kieft, Jr.
Its Supervisor

Date Signed: _____, 2010

By: _____
Ann Oakes
Its Clerk

TOWNSHIP OF WHITEHALL

Date Signed: _____, 2010

By: _____
Dennis Babcock
Its Supervisor

Date Signed: _____, 2010

By: _____
Cherry Orent
Its Clerk

TOWNSHIP OF CEDAR CREEK

Date Signed: _____, 2010

By: _____
James Muston
Its Supervisor

Date Signed: _____, 2010

By: _____
Stephanie Kuziak
Its Clerk

TOWNSHIP OF MONTAGUE

Date Signed: _____, 2010

By: _____
Jeff King
Its Supervisor

Date Signed: _____, 2010

By: _____
Wesley Weesies
Its Clerk

AGENDA ITEM NO. _____
CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners
FROM: Bryon Mazade, City Manager
DATE: October 21, 2010
RE: Muskegon Summer Celebration Request

SUMMARY OF REQUEST:

Muskegon Summer Celebration is requesting to pay for City services rendered in 2010, over the next three years (2011-2013) in equal installments. See attached letter.

FINANCIAL IMPACT:

\$70,621.50 is owed.

BUDGET ACTION REQUIRED:

The 2010-2011 Budget would need to be amended to reflect this change.

STAFF RECOMMENDATION:

None.

COMMITTEE RECOMMENDATION:

None.

October 8, 2010

Mayor Steve Warmington
C/o Muskegon City Hall
PO Box 536
Muskegon, MI 49443-0536

Dear Mayor,

As you are aware, the Summer Celebration experienced a tough financial year in 2010 after struggling the past three years. Decreased sponsorships, lower than expected 11-day pass sales, and lower than expected ticket sales for the Air Show have put us in a very difficult position. Prospects for an event in 2011 are in question, but we are working with the County, the Community Foundation and others to help right the ship. The City has been gracious enough to help through these difficult economic times to extend the payment for our City Services bill in 2008 and 2009 by allowing us to pay \$20,000 after our Pass Party sale and the remainder by the close of our fiscal year on September 30. We have made those timeline commitments and have appreciated your understanding and latitude.

We now come to you with a new request. We would ask that we be allowed to pay the 2010 City Services bill in three annual payments of \$23,540.50 due on September 30 of 2011, 2012, and 2013. We would plan to pay the 2011 bill in full by September 30, 2011. There are plans to revamp the festival to help insure its long term survival and financial strength through difficult economic times, and we would be willing to share these ideas with you and the other Commissioners.

We appreciate your consideration in this matter, Mayor. This is not a position we want to be in and recognize the City is experiencing difficult economic times as well, but we feel Summer Celebration is too important to the Community to let it fold. As always I am available for questions or discussion. Thank you.

Sincerely,

Joe Austin
Executive Director