

CITY OF MUSKEGON

CITY COMMISSION MEETING

FEBRUARY 28, 2012

CITY COMMISSION CHAMBERS @ 5:30 P.M.

AGENDA

- ❑ CALL TO ORDER:
- ❑ PRAYER:
- ❑ PLEDGE OF ALLEGIANCE:
- ❑ ROLL CALL:
- ❑ HONORS AND AWARDS:
- ❑ INTRODUCTIONS/PRESENTATION:
- ❑ CONSENT AGENDA:
 - A. Approval of Minutes. CITY CLERK
 - B. Fireworks Display Permit for the Shrine Circus. CITY CLERK
 - C. Amendments to the Zoning Ordinance. PLANNING & ECONOMIC DEVELOPMENT
 - D. Rental Registration Exemption. CITY MANAGER
- ❑ PUBLIC HEARINGS:
- ❑ COMMUNICATIONS:
- ❑ CITY MANAGER'S REPORT:
- ❑ UNFINISHED BUSINESS:
- ❑ NEW BUSINESS:
 - A. City of Roosevelt Park Water Agreement. CITY MANAGER
 - B. Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Following. PUBLIC SAFETY
 - 1675 Pine Street-Garage (Area 13)
 - 845 W. Dale Avenue (Area 12)
- ❑ 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.

Date: February 28, 2012
To: Honorable Mayor and City Commissioners
From: Ann Marie Cummings, City Clerk
RE: Approval of Minutes

SUMMARY OF REQUEST: To approve minutes of the February 13th Worksession Meeting and the February 14th City Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

City of Muskegon
City Commission Worksession
February 13, 2012
City Commission Chambers
5:30 PM

MINUTES

2012-09

Present: Commissioners Gawron, Hood, Turnquist, Carter, and Spataro.

Absent: Commissioners Warmington and Wierengo.

Sand Products Proposal.

Cathy Brubaker-Clarke introduced representatives of Mart Dock.

Chuck Canestraight, and Scott Musselman, 560 Mart Street, made a proposal to relocate the campground located at Fisherman's Landing to a site at Pigeon Hill and place Sand Products at Fisherman's Landing.

They listed the benefits as:

- A more desirable campground with access to Muskegon Lake and Lake Michigan
- An additional boat launch at Pigeon Hill will provide access to Muskegon Lake from the west end of the lake as well as the east end
- Additional port capacity can be developed at the east end of Muskegon Lake

Deb Hawkins, 1093 Esther Avenue, currently operates Fisherman's Landing, is concerned of traffic jams, current access to the highway, the ability to accommodate 150 boats in a tournament, tent sites, and usage of the channel.

Jerry Symanski, 1500 W. Harbour Towne Circle, Muskegon and President of the Harbour Towne Association, spoke. The channel in the summer is very crowded, the proposal will be directly on the houses at Harbour Towne. The association would like to meet with the representatives to discuss the proposal. They are not 100% against the project, but they would like more time to evaluate it.

Emma Torreson, 3256 Wilcox, is concerned about the location of the launch ramp and safety issues. She is not completely against it. It's good to keep recreation at the west end.

Gary Hartman, Alto, MI, represents the Harbour Towne Marina. He doesn't believe the proposal fits the area. The channel is currently congested. Fisherman's Landing's location is easy access to the customers.

Ted Thall, 1647 E. Harbour Towne, responded. His condominium is connected directly to the proposed site. He is concerned the channel will not be wide enough. He does support some type of future development on the site. He would like to see a proposal more suitable.

Commissioner Spataro made a statement indicating that the Commission should say no to the project.

Second Quarter 2011-12 Budget Reforecast.

Tim Paul, Finance Director, stated that the Second Quarter Reforecast is looking well at this time.

Financial Management Software.

Staff recommends accepting the proposal from BS&A for a new Financial Management Software in the amount of \$125,000 to be paid in three equal installments and an annual licensing fee of \$15,548. A further upgrade is being recommended that will bring the total costs to \$143,000. Staff will ask for approval of \$143,000 at the February 14, 2012 Commission meeting.

Any Other Business.

Ron Marek, 1635 Nelson, Muskegon, believes if the City waits a few years, the BC Cobb Plant will be available for dock usage.

Shanta Davey, 4380 Hackley Point Lane, Norton Shores, would like to see the City continue with sustainability.

Adjournment.

Motion by Commissioner Hood, seconded by Commissioner Spataro to adjourn at 6:43 p.m.

MOTION PASSES

**Ann Marie Cummings, MMC
City Clerk**

CITY OF MUSKEGON

CITY COMMISSION MEETING

FEBRUARY 14, 2012

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, MI at 5:30 p.m., Tuesday, February 14, 2012.

Mayor Warmington opened the meeting with a prayer from Vice Mayor Stephen Gawron after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioners Eric Hood, Lawrence Spataro, Willie German, and Byron Turnquist, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Cummings.

Absent: Commissioner Sue Wierengo (excused).

INTRODUCTIONS/PRESENTATION:

A. Update from Bob Chapla, Community Foundation. Bob Chapla and Chris McGuigan gave an update of the two recent donors for the Hackley Park and Lakeshore Trail projects

2012-10 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes of the January 24th City Commission Meeting and the January 27th Special Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. W-732 High Service Switchgear Repair/Upgrades. WATER FILTRATION

SUMMARY OF REQUEST: Award the High Service Pumps Switchgear repair/upgrade (W-732) to DVT Electric, Inc., 5151 S. Division St., Wyoming, MI since they were the lowest responsible bidder with a bid price of \$133,680.

FINANCIAL IMPACT: This upgrade was budgeted at \$175,000 which includes

engineering services of \$24,950 previously approved, July 11, 2011.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Staff concurs with the engineer's recommendation and recommends City Commission award the repair/upgrades to DVT Electric, Inc. for \$133,680.

C. 2012-2013 City Commission Goals. CITY MANAGER

SUMMARY OF REQUEST: To approve the list of goals for 2012-2013. This list is the result of the goals setting session held on January 27, 2012.

FINANCIAL IMPACT: Unknown at this time.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the list of goals.

COMMITTEE RECOMMENDATION: The City Commission met on January 27, 2012 and identified the list of goals for 2012-2013.

D. Request to Amend the Resolution Approving the Exemption of New Personal Property (PA 328) – ADAC Plastics. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The State of Michigan Property Services Division has requested that the City amend resolution 2011-84(a) for the approval of the Exemption of New Personal Property for ADAC Plastics. The act has undergone several amendments over the past two years and the State is now requiring additional information in the resolution.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the revised resolution.

E. Employee Compensation Plan – EVIP. FINANCE

SUMMARY OF REQUEST: Under the Economic Vitality Incentive Program (EVIP) adopted by the State last year, the City must meet certain criteria in order to continue receiving the non-constitutional portion of State revenue sharing funds. The first criterion was to prepare and make available a citizen's guide and performance dashboard by October 1, 2011. The second criterion was to certify to the Michigan Department of Treasury that by January 1, 2012, we have produced and made readily available to the public, a plan with one or more proposals to increase its existing level of cooperation, collaboration, and consolidation, either within the jurisdiction or with other jurisdictions.

The third and final criterion is to certify to the Michigan Department of Treasury that by May 1, 2012, we have developed an employee compensation plan, which we intend to implement, with any new, modified, or extended

contract or employment agreement, for employees not covered under contract or employment agreement; and that the plan has been made available for public viewing in the Clerk's office or posted on a publicly accessible Internet site.

The ***Economic Vitality Incentive Program - Employee Compensation Plan Component*** is presented for your approval. It shows the specific benefit standards as set by the state EVIP legislation and how the City either has met or intends to meet these standards in future contracts and employment agreements.

Once approved by the City Commission, the plan will be submitted to the Michigan Department of Treasury and made available to the public on the City's website.

FINANCIAL IMPACT: Failure to submit the plan to the State could result in the loss of \$321,642 - the employee compensation plan portion of the EVIP payment.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Commission approval of the plan and authorization for staff to submit the plan to the Michigan Department of Treasury.

F. Second Quarter 2011-12 Budget Reforecast. FINANCE

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

FINANCIAL IMPACT: Specific proposed changes to the budget include:

- The projected 2011-12 operating deficit for the General Fund has decreased from \$885,728 (original budget) to \$234,007. This is primarily due to:
 - Higher anticipated income tax revenues (+\$300,000 from original) and
 - Higher anticipated State-shared revenues (+\$490,888 from original)
- General Fund Expenditures have been adjusted slightly and are about 1% higher than originally budgeted.
- Capital projects have been reforecast based on bid results, grant awards and other factors. Overall capital projects are down from \$6.9 million (originally budgeted) to \$6.3 million. Mostly this is due to the fact that the Sherman Street (Lincoln to Estes) project has been pushed to next year.

BUDGET ACTION REQUIRED: Approval of this budget reforecast constitutes a formal amendment to the City's 2011-12 budget.

STAFF RECOMMENDATION: Approval.

G. Financial Management Software. FINANCE

SUMMARY OF REQUEST: The City's financial management software is

sixteen years old and the developer has indicated they will be phasing out the system over the next few years. Staff has explored various options and believes the best route is to replace the current systems with BS&A financial software. This system has become the standard in Muskegon County which could be an important factor in future intergovernmental initiatives. Moreover, several modules of the software are already being used by the City and completing the suite will allow for better internal systems integration and resultant savings.

FINANCIAL IMPACT: The upfront cost for the system is \$143,470 payable in 3 equal installments (\$47,823) over three years with no interest. The system will save \$15,548 in annual licensing fees and result in significant staff time savings through better integration of financial system components. For example, the City currently uses BS&A utility billing software which will interface directly with the BS&A general ledger system, greatly reducing manual transaction postings.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Acceptance of the proposal as submitted by BS&A software.

H. Community Relations Committee Recommendations for Various City Boards and Committees. CITY CLERK

SUMMARY OF REQUEST: Accept the resignations for John Rolowitz from the Housing Board of Appeals and Phillip Okerlund from the Local Development Finance Authority. Appoint Raymond Hilt to the Zoning Board of Appeals, Ruby Clark to the Citizen's Police Review Board and Michael McPhall to the Construction Code Board of Appeals. Remove the Board of Canvassers from the Community Relations Index.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval.

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

ROLL VOTE: Ayes: Hood, Spataro, German, Gawron, Turnquist, and Warmington

Nays: None

MOTION PASSES

2012-11 UNFINISHED BUSINESS:

A. SECOND READING: PILOT Request – Bayview Towers – Ordinance Amendment. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Carl Skrzyński is Vice President of American Community Developers, Inc., which has purchased Bayview Towers in Muskegon. There is

currently a PILOT for Bayview Towers which was approved in January 1980. Mr. Skrzynski intends to keep the existing Section 8 status of the housing development and is requesting an extension of the PILOT from the City. Since an alternative form of financing is being sought for this project, not currently included in the PILOT Ordinance, an amendment is necessary to the Ordinance. In addition, the owner is requesting the PILOT for a maximum of 40 years and the current Ordinance only allows for 25 years. The Commission approved the Ordinance Amendment on January 24 by a 4-3 vote. Therefore, it is necessary to have a second reading. In addition, the ordinance amendment approved by the Commission on January 24th gave only 24 months for the developer to obtain MSHDA financing. In actuality, it should be 27 months (Section 82-50 (4) (4)).

FINANCIAL IMPACT: The Ordinance amendment would allow for a greater number of years, which would increase the number of years that the City would not receive full taxes for the property.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: If the City Commission agrees that the PILOT is necessary for this property, staff recommends that the Ordinance amendment be approved and the Clerk be authorized to sign the necessary documents.

Motion by Commissioner Spataro, second by Commissioner Hood to adopt the ordinance amendment with the correction described by the Attorney Schrier.

ROLL VOTE: Ayes: Spataro, German, Turnquist, Warmington, and Hood

Nays: Gawron

MOTION PASSES

B. PILOT Request – Bayview Towers – Contract Revision. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The PILOT Contract between Bayview Partners Limited Dividend Housing Association L.L.C. and the City of Muskegon was approved by the City Commission on January 24, 2012. However, the length of time allowed for the developer to obtain a reservation of low income housing tax credits, or an Authority loan commitment or a HUD-insured loan should have read “twenty seven months”, not “two years”.

FINANCIAL IMPACT: With the current PILOT, the owner of Bayview Towers pays approximately \$91,000 a year (Shelter Rent Payment of \$34,000 and City Service Charge Payment of \$57,000). If this property were to return to traditional property taxes, the owner would pay approximately \$282,902 for a year. Therefore, there is a difference of approximately \$191,902 a year.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the revised Contract and authorize the

Mayor and Clerk to sign.

Motion by Commissioner Spataro, second by Commissioner German to approve the PILOT request contract revision with the additional amendment as described by the City Attorney.

ROLL VOTE: Ayes: German, Warmington, Hood, and Spataro

Nays: Gawron and Turnquist

MOTION PASSES

ANO OTHER BUSINESS: Commissioner Spataro commented on the street lighting bill and Fisherman's Landing.

ADJOURNMENT: The City Commission Meeting adjourned at 6:13 p.m.

Respectfully submitted,

Ann Marie Cummings, MMC
City Clerk

Date: February 28, 2012
To: Honorable Mayor and City Commissioners
From: Ann Marie Cummings, City Clerk
RE: Fireworks Display Permit for the Shrine Circus

SUMMARY OF REQUEST: Jordan Productions, Inc. is requesting approval of a fireworks display permit for March 2nd and 3rd at the L. C. Walker Arena. Fire Marshall Metcalf has reviewed the request and recommends approval contingent on inspection of the fireworks.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval contingent on inspection of the fireworks.

FM-32(12-68)

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

DATE OF APPLICATION
2-13-12

1. TYPE OF DISPLAY: Public Display Agricultural Pest Control

2. APPLICANT

NAME OF PERSON <i>Erk Lance / Jordan</i>	ADDRESS <i>4040 S. Pearl St Las Vegas</i>	AGE: Must be 21 or over <i>44</i>
IF A CORPORATION: Name of President <i>Jordan Productions Inc</i>	ADDRESS <i>NV. 89121</i>	

3. PYROTECHNIC OPERATOR

NAME <i>Jordan Circus</i>	ADDRESS	AGE: Must be 21 or over
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EXPERIENCE:		
NUMBER OF YEARS <i>managing for 30</i>	NUMBER OF DISPLAYS <i>3</i>	WHERE <i>Jordan Shrine Circus</i>
<i>Robert Zerbini</i>	<i>Sarasota, FL</i>	<i>58</i>

NAMES OF ASSISTANTS:

NAME <i>Vince VanDuke</i>	ADDRESS <i>Sarasota FL</i>	AGE <i>58</i>
NAME <i>Dexter Galumbos</i>	ADDRESS <i>Sarasota FL</i>	AGE <i>35</i>

4. NON-RESIDENT APPLICANT

NAME	ADDRESS	
Name of Michigan Attorney or Resident Agent	ADDRESS	TELEPHONE NUMBER

5. EXACT LOCATION OF PROPOSED DISPLAY

LC Walker Arena 955 4th St Muskegon, MI

DATE *3/2-3/2012* TIME *10+7pm on Fri & 10, 3, 7 on Sat*

6. NUMBER AND KINDS OF FIREWORKS TO BE DISPLAYED

Tiger Fire hoop

Juggling display (3 rings)

Sword Balancing (fire pot)

MANNER & PLACE OF STORAGE PRIOR TO DISPLAY

(Subject to Approval of Local Fire Authorities)

7. FINANCIAL RESPONSIBILITY

A. AMOUNT OF BOND OR INSURANCE
(to be set by municipality) *\$ 2,000,000.00*

B. BONDING CORPORATION OF INSURANCE COMPANY: NAME ADDRESS

Specialty Ins.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YY) 1-17-12
PRODUCER Specialty Insurance, LTD P.O. Box West Haven, CT 06516	203-931-7095	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
INSURERS AFFORDING COVERAGE		
INSURED JORDAN PRODUCTIONS, INC. 4040 SOUTH PEARL STREET LAS VEGAS, NV 89121		INSURER A: STARR INDEMNITY & LIABILITY COMPANY INSURER B: INSURER C: INSURER D: INSURER E:

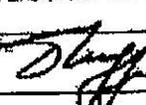
COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR	S2GL-110765	3-4-11	3-4-12	EACH OCCURRENCE \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO. <input type="checkbox"/> LOC				FIRE DAMAGE (Any one fire) \$ 300,000 MED EXP (Any one period) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Per accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC AGG \$
A	<input checked="" type="checkbox"/> EXCESS LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ NONE	EX-100002-03	3-4-11	3-4-12	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUTORY LIMITS <input type="checkbox"/> OTHER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	OTHER Interest: Sponsor	Additional Insured's Below			DATES OF EVENT: March 2-3 2012

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

Saladin Shrine Shrine Center, A.A.O.N.M.S. and each and every member of the Divan, chairman & officers of the committees while acting in their capacities as such, the Imperial Council, A.A.O.N.M.S. an Iowa Corp, Shriners Hospitals for children, a Colorado Corp and all its affiliated corporations, Logger Hockey LLC, City and County of Muskegon, all elected officials, all employees & volunteers all Board, Commissions & authorities & volunteers thereof and Walker Arena is hereby added as an additional insured

CERTIFICATE HOLDER City of Muskegon Muskegon, MI 49442	ADDITIONAL INSURED; INSURER LETTER:	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE:  THOMAS A. PLOUFFE
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Commission Meeting Date: February 28, 2012

Date: February 23, 2012
To: Honorable Mayor and City Commissioners
From: Planning & Economic Development
RE: Amendments to the Zoning Ordinance

SUMMARY OF REQUEST:

Staff has requested the following amendments to the zoning ordinance:

Amend Article II, "Definitions", of the zoning ordinance to include definitions for "Brewpub," "Micro Brewery," "Brewery," "Small Winery," "Winery," "Small Distillery" and "Distillery."

Amend Article XI (B-2 Districts), Section 1100 and Section 1101 of the zoning ordinance to allow for "Brewpubs," "Micro Breweries," "Small Wineries," and "Small Distilleries."

Amend Article XII (B-3 Districts), Section 1200 and Section 1201 of the zoning ordinance to allow for "Brewpubs," "Micro Breweries," "Small Wineries," and "Small Distilleries."

Amend Article XIII (B-4 Districts), Section 1300 and Section 1301 of the zoning ordinance to allow for "Brewpubs," "Micro Breweries," "Small Wineries," and "Small Distilleries."

Amend Section 1304 (B-5 Districts) of the zoning ordinance to allow for "Brewpubs," "Micro Breweries," "Small Wineries," and "Small Distilleries."

Amend Article XIV (I-1 Districts), Section 1400 of the zoning ordinance to allow for "Micro Breweries," "Breweries," "Small Wineries," "Wineries," "Small Distilleries," and "Distilleries."

FINANCIAL IMPACT:

None

BUDGET ACTION REQUIRED:

None

STAFF RECOMMENDATION:

To approve the zoning ordinance amendments.

COMMITTEE RECOMMENDATION:

The Planning Commission unanimously recommended approval of the requests at their 2/16 meeting.

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

BACKGROUND

1. Staff has recently been contacted by a few microbreweries who are interested in locating in Muskegon. However, the zoning ordinance doesn't clearly define the different types of alcohol-producing facilities and where they should be located.
2. Staff has come up with definitions for the different types of facilities and recommendations on where they should be allowed. All of the definitions were derived from the State of Michigan Liquor Control Commission definitions.

NEW LANGUAGE

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

Amendment to Article II, Definitions:

Brewpub – an establishment with a license issued in conjunction with a class C, tavern, class A hotel, or class B hotel license by the State of Michigan that authorizes the person licensed with the class C, tavern, class A hotel, or class B hotel to manufacture and brew not more than 5,000 barrels of beer per calendar year in Michigan and sell at those licensed premises the beer produced for consumption on or off the licensed brewery premises in the manner provided for in sections 405 and 407 of the Michigan Liquor Control Act.

Micro Brewery – A licensed brewery that produces in total less than 30,000 barrels of beer per year and that may sell the beer produced to consumers at the licensed brewery premises for consumption on or off the licensed brewery premises. In determining the 30,000-barrel threshold, all brands and labels of a brewer, whether brewed in this state or outside this state, shall be combined and all facilities for the production of beer that are owned or controlled by the same person shall be treated as a single facility. These facilities may also contain a restaurant, bar or tasting room as an accessory use.

Brewery – A facility that is licensed by the Michigan Liquor Control Commission to manufacture and sell to licensed wholesalers beer produced by it. These facilities may also contain a restaurant, bar or tasting room as an accessory use.

Small Winery – a winery manufacturing or bottling not more than 50,000 gallons of wine in one calendar year. These facilities may also contain a restaurant, bar or tasting room as an accessory use.

Winery – a facility licensed to manufacture wine and sell that wine to a wholesaler, to a consumer by direct shipment, at retail on the licensed winery premises, to sell than wine to a retailer, and provided for in section 537 of the Michigan Liquor Control Act. These facilities may also contain a restaurant, bar or tasting room as an accessory use.

Small Distillery – a facility for manufacturing spirits not exceeding 60,000 gallons of spirits, or of all brands combined. These facilities may also contain a restaurant, bar or tasting room as an accessory use.

Distillery – a facility that is licensed by the Michigan Liquor Control Commission to manufacture and sell spirits or alcohol, or both, of any kind. These facilities may also contain a restaurant, bar or tasting room as an accessory use.

AGENDA ITEM NO. _____

CITY COMMISSION MEETING February 28, 2012

TO: Honorable Mayor and City Commissioners

FROM: Bryon L. Mazade, City Manager

DATE: February 21, 2007

RE: Rental Registration Exemption

SUMMARY OF REQUEST:

To approve an ordinance amendment to Chapter 10, Article VI, Section 10-351 Registration of rental dwellings. This amendment would exempt certain dwellings that are not owner-occupied, but are occupied by certain relatives of the owner, from the rental registration requirements of the ordinance.

FINANCIAL IMPACT:

Minimum.

BUDGET ACTION REQUIRED:

None.

STAFF RECOMMENDATION:

To approve the ordinance amendment

COMMITTEE RECOMMENDATION:

None.

City of Muskegon
Muskegon County, Michigan
Ordinance Amendment No. _____

THE CITY OF MUSKEGON HEREBY ORDAINS:

Chapter 10, Article VI, Section 10-351 Registration of rental dwellings, Code of Ordinances of the City of Muskegon is amended to include the following subsection:

(g) *Exemption from Registration Requirement.* Dwellings that are not owner-occupied, but are occupied by a grandparent, parent, child or current spouse of the owner are exempt from the rental registration requirements outlined in this section. This exemption is limited to single family residential dwellings. It is the responsibility of the owner asking to be exempted from the rental dwelling registration requirement to provide satisfactory proof to the City of the existence of the familial relationship between owner and resident of the dwelling.

This ordinance adopted:

Ayes: _____
Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By: _____
Ann Cummings, MMC, Its 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 _____ day of _____, 2012, 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 Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2012

Ann Cummings, MMC
Clerk, City of Muskegon

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

AGENDA ITEM NO. _____

CITY COMMISSION MEETING _____

TO: Honorable Mayor and City Commissioners

FROM: Bryon L. Mazade, City Manager

DATE: February 22, 2012

RE: City of Roosevelt Park Water Agreement

SUMMARY OF REQUEST:

To approve a new water supply agreement with the City of Roosevelt Park. The previous agreement expired last October.

FINANCIAL IMPACT:

The water rate multiplier is reduced from 1.35 to 1.25 times Muskegon's rate, which results in a reverse reduction to the city.

BUDGET ACTION REQUIRED:

None at this time.

STAFF RECOMMENDATION:

To approve the proposed agreement.

COMMITTEE RECOMMENDATION:

None.

AGREEMENT FOR MUNICIPAL WATER SUPPLY

This Agreement is effective on March 1, 2012, between the **City of Muskegon**, 933 Terrace Street, Muskegon, Michigan ("Muskegon"), and the **City of Roosevelt Park**, 900 Oak Ridge Road, Roosevelt Park, Michigan ("Roosevelt Park") is entered by the parties for the purpose of supplying to Roosevelt Park the necessary water for its municipal water system.

RECITALS

- A. The Parties have a previous agreement for water supply effective November 1, 1996 which expired on October 31, 2011. The parties desire now to contract again for water supplied to Roosevelt Park.
- B. The Parties enter into this agreement for the mutual benefit of Muskegon and Roosevelt Park.

THE PARTIES AGREE AS FOLLOWS:

1. **Supply of Water.** Muskegon shall sell, supply and deliver to Roosevelt Park, under positive pressure, such amounts of water as Roosevelt Park may require. The water shall be delivered at the master meter(s) having the same quality as Muskegon furnishes and delivers to its own customers.
2. **Interruptions.** In the event the supply of water by Muskegon is interrupted for short periods of time, due to circumstances beyond its control, or due to breakdown in Muskegon's system, such interruption shall not terminate or affect this contract, provided Muskegon exercises all due speed and diligence in eliminating the cause of such interruption, so as to minimize its duration.
3. **Rates For Water Supply.** The water supplied by Muskegon shall be paid for by Roosevelt Park at a rate of 1.25 times the rate Muskegon charges a majority of its own commercial/industrial/residential customers within its corporate limits. The charges for water supply shall be determined using the metered volume of water supplied to Roosevelt Park.
 - 3.1 Muskegon reserves the right to increase its rates to its own customers for water service, and in such event, Roosevelt Park's rate shall increase at 1.25 times the increase charged Muskegon's customers.

3.2 Any rate increase shall not be effective until Muskegon has given Roosevelt Park 90 days notice thereof.

3.3 In the event any of the master meters fails to register the supply of water due to a breakdown or other failure, the charge for the water supply shall be determined by utilizing the average of the 30 day period prior to the breakdown. In the event the said measure is inaccurate because of a progressive breakdown or other reason, Muskegon reserves the right to use an average derived from a period of up to one year prior to the breakdown, in order to determine the charge for water supplied that meter.

3.4 The current water rate-setting methodology employed by the City of Muskegon does not include a readiness-to-serve (RTS) component. Should the City opt to return to a rate format that includes a RTS charge, the Parties may negotiate a new rate multiplier.

3.5 The Parties may renegotiate the rate if Muskegon secures a substantial new municipal water customer (municipality).

4. **Term.** This agreement has a term of Forty years from the effective date, through February 29, 2052. However, this agreement can be renegotiated if a regional water agreement is reached and both Muskegon and Roosevelt Park agree to participate in same.

5. **Muskegon the Sole Source of Water; No Resale.** Roosevelt Park agrees that it shall purchase all of its water supply from Muskegon, delivered through the master meter(s). There shall be no purchase of water by Roosevelt Park for its municipal system from any other source, and the water supply furnished by Muskegon shall be solely for consumption within the corporate boundaries of Roosevelt Park. Roosevelt Park shall not sell or supply water to any other governmental unit, except a school district solely for service to facilities of that school district located within Roosevelt Park's corporate boundaries.

6. **Obligations of Muskegon.**

6.1 Muskegon shall supply water to Roosevelt Park in the quantities required and bill Roosevelt Park for the amount actually metered, which readings will be provided to Roosevelt Park and verified upon request.

6.2 Muskegon shall maintain and replace the master meters as required, and shall charge the expense thereof to Roosevelt Park in addition to the water charges. Meter replacement shall be done by prior agreement or if meter accuracy is demonstrated to be outside the AWWA standard or +/- 2%. The cost of meter testing and/or calibration shall be shared equally Muskegon and Roosevelt Park.

7. Roosevelt Park's Obligations.

7.1 Pay the water charges set forth above promptly on a schedule to be determined by the parties.

7.2 Pay all costs for construction, design and improvement of its own system, meters and facilities such as, but not limited to, underground systems, overhead facilities, system pumps, meters, access and repair devices, all necessary to operate its water system or to increase its pressure over that supplied by Muskegon.

7.3 Include in its system all necessary devices to prevent back flow of any kind into the water system which might contaminate the water systems of either city from back flows occurring in Roosevelt Park.

7.4 Reimburse Muskegon as appropriate for its repair, maintenance and replacement of the master meters agreed to above.

7.5 Be responsible for the maintenance, repair, and replacement of its own water system unless otherwise provided for through a separate agreement.

7.6 Administer its own water customer services including billings, collections, determining its customer rates and passing any ordinances required by law in connection with the administration of this agreement and the system.

7.7 Roosevelt Park shall save and hold Muskegon harmless from any and all claims, demands or damages arising out of the design, construction or operation of the Roosevelt Park system, the master meter(s), any connections between the parties' systems, or the operation of the Roosevelt Park system, including but not limited to all damages, costs, attorney fees, laboratory expenses, fines, penalties, or any other expense arising out of any such claim.

8. System Master Plan and Reliability. The Parties understand and agree that the physical and financial health, reliability and growth of the entire system are directly related to that of the individual systems. Periodic reliability studies are also required as a condition of system licensing by the State of Michigan. To that end, a *Water System Master Plan and Reliability Study* by Black and Veatch Corporation was commissioned, which was completed in March, 2011. In addition to a detailed system analysis, the Study makes specific recommendations for system improvements and regional system planning. The Parties agree to jointly discuss and consider implementing the recommendations of the current and future reliability studies.

9. No Third Party Beneficiary. There shall be no other beneficiary or third party beneficiary to this agreement. No remedy is provided or intended by this agreement for the customers of either Party.

10. **Assignment.** This contract may not be assigned to another entity by either Party without prior written consent.

11. **Entire Agreement.** This Agreement sets forth the entire understanding of the parties with respect to its subject matter. This Agreement supersedes and/or replaces any oral or written Agreement(s) relating to the subject matter entered into by the parties before the date of this Agreement.

12. **Severability.** In the event any provision of this agreement is determined to be invalid by any court or tribunal having jurisdiction, the balance of the agreement shall remain in full force and effect.

13. **Law Applicable.** This agreement shall be interpreted under Michigan Law.

14. **Notice.** Any notice required to be given or made to a Party must be in writing and will be deemed given when delivered personally or by registered or certified mail (return receipt requested), addressed to the Party at its address stated above. Addresses for giving notice may be changed by giving notice of the new address.

15. **Approvals.** This agreement shall be effective on the date above, but only after approvals given by the governing body of each party.

IN WITNESS WHEREOF, the parties execute this agreement after the appropriate approvals.

City of Roosevelt Park

Date: _____, 2012

By _____
Susan M. Lumley, Mayor

Date: _____, 2012

and _____
Tammera Harmsen, Clerk

City of Muskegon

Date: _____, 2012

By _____
Stephen J. Warmington, Mayor

Date: _____, 2012

and _____
Ann Marie Cummings, Clerk

DATE: 02/17/2012
TO: Honorable Mayor and Commissioners
FROM: Jeffrey Lewis, Director of Public Safety
RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN110144

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **1675 PINE ST(Garage) Area 13** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN110144 - 1675 PINE ST(Garage)

Location and ownership: This structure is located on Pine St. between Dale and E. Larch Streets and is owned by CRAIN GARY M/MARY C TRUST and Huntington National Bank, Dept NC1N04, 2361 Morse Rd., Columbus, OH 43229.

Staff Correspondence: A dangerous building inspection was conducted on 08/10/11. The Notice and Order to Repair was issued on 08/29/11. On 11/03/11 the HBA declared the structure substandard and dangerous.

Owner Contact: Mr. Gary Crain was present for HBA meeting dated 11/03/11. Mr. Crain stated bank had foreclosed on property and changed locks but refuses to remove his name off the deed, he doesn't want to be charged for a demolition on property he no longer owns. No permits have been issued and no inspections scheduled.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: \$14,200 (Entire property)

Estimated cost to repair: \$4,000 (Garage Only)

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

SUMMARY FOR: 1675 PINE ST(Garage)

1675 Pine is a single story 1 ½ stall concrete block building. This building was damaged by a falling tree during a wind storm in 2011. The building roof was severely damaged during the wind storm, as well as the exterior block walls. The building if left in it's current state will deteriorate and become a blighting influence in this neighborhood.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Thursday, August 25, 2011

Enforcement # EN110144 **Property Address** 1675 PINE ST
Parcel #24-205-298-0028-00 **Owner** CRAIN GARY M/MARY C TRUST

Inspector: Henry Faltinowski

Date completed: 08/10/11

DEFICIENCIES:

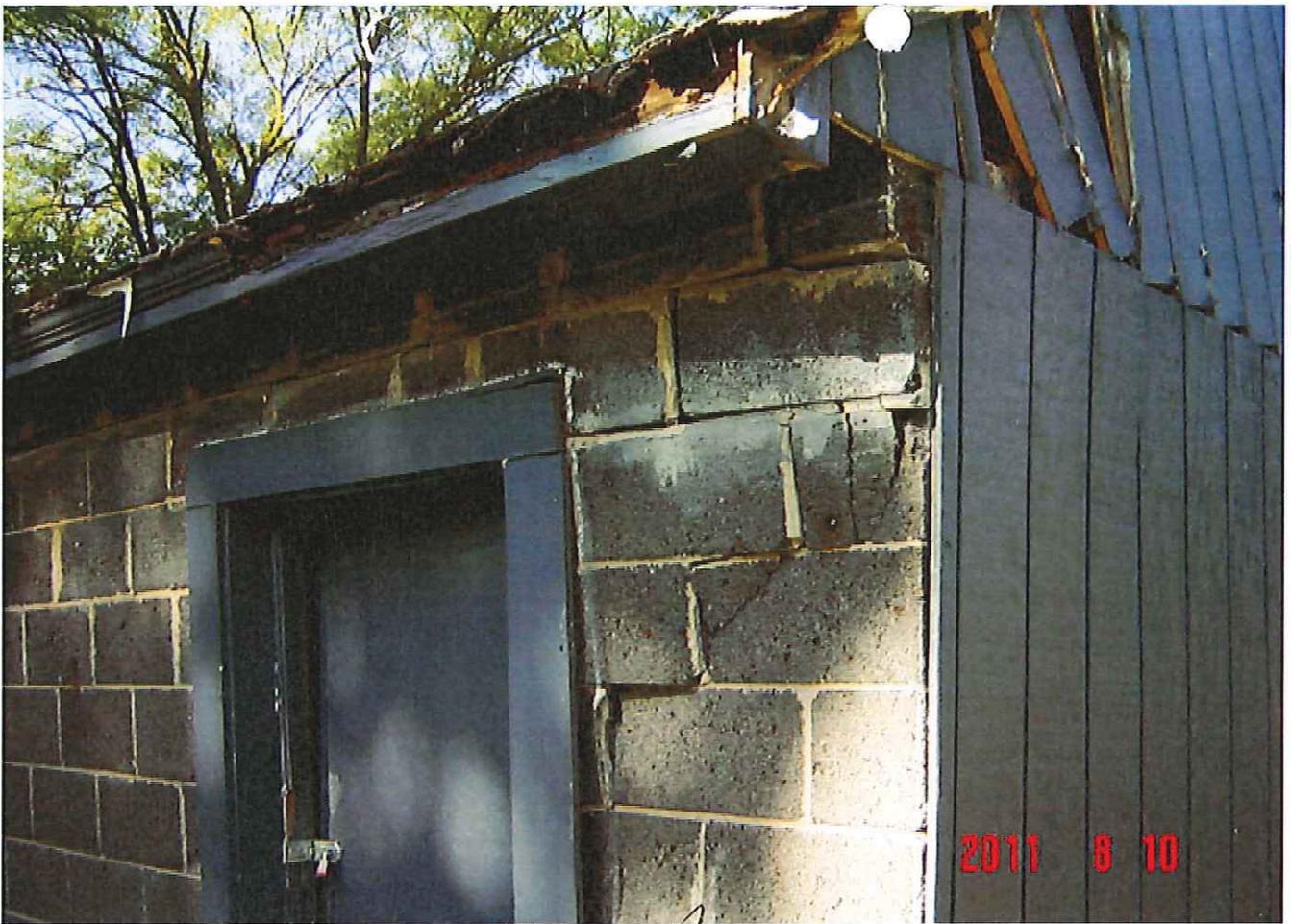
- 1. Garage damaged by wind storm - tree fell on garage.**
- 2. Replace roof system - rafters, sheathing, roofing.**
- 3. Replace all damaged block walls to MRC Code structural damage.**

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact Inspection Services with any questions or to schedule an inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

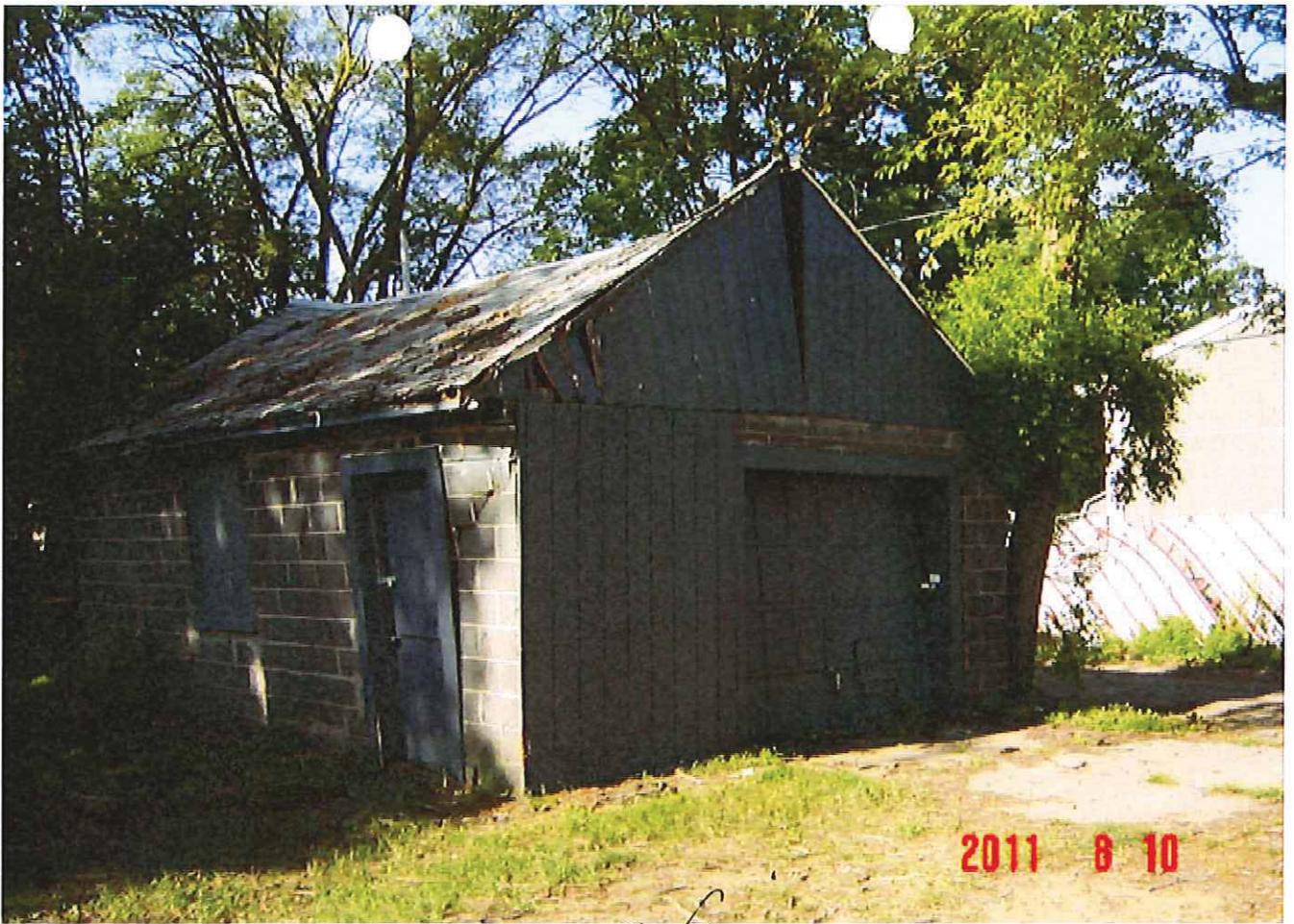
Henry Faltinowski, Building Inspector

Date



1675 Pine





1695 Pine



DATE: 02/17/2012
TO: Honorable Mayor and Commissioners
FROM: Jeffrey Lewis, Director of Public Safety
RE: Concurrence with the Housing Board of Appeals Notice and Order to Demolish. Dangerous Building Case #: EN110073

SUMMARY OF REQUEST: This is to request that the City Commission Concur with the findings of the Housing Board of Appeals that the structure located at **845 W DALE AVE Area 12** is unsafe, substandard, a public nuisance and that it be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

Case# & Project Address: # EN110073 - 845 W DALE AVE

Location and ownership: This structure is located on W. Dale Ave. between Henry and Division Streets and is owned by J R C PROPERTIES LLC.

Staff Correspondence: A dangerous building inspection was conducted on 04/22/11. The Notice and Order to Repair was issued on 05/26/11. On 08/04/11 the HBA declared the structure substandard and dangerous.

Owner Contact: No one was present for the HBA meeting dated 12/06/07. All notices sent certified mail have returned unclaimed. No permits have been issued and no inspections scheduled.

Financial Impact: CDBG Funds

Budget action required: None

State Equalized value: \$25,200 (Entire property)

Estimated cost to repair: \$15,000 (Exterior Only)

Staff Recommendation: To concur with the Housing Board of Appeals decision to demolish.

SUMMARY FOR: 845 W DALE AVE

This building is a two story wood framed structure, containing two dwelling units. The roof system has failed and the eaves at the rear of the house has rotted away. The Inspections Department secured this building in February 2011. The interior of this building has probably suffered water damage because of the condition of the roof. There have been no attempts by the property owner to rehabilitate this vacant structure. It will continue to deteriorate and become a blighting influence on the neighborhood.

CITY OF MUSKEGON

933 Terrace St., P.O. Box 537, Muskegon, MI 49443 (231) 724-6715

DANGEROUS BUILDING INSPECTION REPORT

Tuesday, April 26, 2011

Enforcement # EN110073 **Property Address** 845 W DALE AVE
Parcel #24-776-002-0016-00 **Owner** J R C PROPERTIES LLC

Inspector: Henry Faltinowski

Date completed: 04/22/2011

DEFICIENCIES:

- 1. Part of roof system has fallen off home(Back gable and eave)**
- 2. Numerous broken out windows.**
- 3. Chimney repair needed open gaps in brick.**
- 4. Replace all deteriorated roof covering.**
- 5. Upper ceilings plaster falling off ceiling.**
- 6. Provide - request interior inspection by trade inspectors.**
- 7. Repair all damaged siding.**

Request interior inspection by all trades, electrical, mechanical and plumbing. Please contact Inspection Services with any questions or to schedule an inspection at 933 Terrace St., Muskegon, MI 49440 (231) 724 6758.

Based upon my recent inspection of the above property I determined that the structure meets the definition of a Dangerous Building and/or Substandard Building as set forth in Section 10-61 of the Muskegon City Code.

Henry Faltinowski, Building Inspector

Date

845 W. Dale. 4/22/2011





845 W. Dale

