

ANN ARBOR CITY COUNCIL MINUTES REGULAR SESSION - AUGUST 5, 2002

The regular session of the Ann Arbor City Council was called to order at 7:45 p.m. in the City Hall Council Chamber by Mayor John Hieftje.

Council stood for a moment of silence.

Mayor Hieftje led Council in the recitation of the Pledge of Allegiance.

ROLL CALL OF COUNCIL

PRESENT : Councilmembers Jean Robinson, Robert M. Johnson, Joseph Upton, Michael R. Reid, Jean Carlberg, Heidi Cowing Herrell, Stephen C. Hartwell, Marcia Higgins, Christopher Easthope, Wendy A. Woods, Mayor John Hieftje, 11.

ABSENT : 0.

INTRODUCTIONS

None.

PUBLIC COMMENTARY - RESERVED TIME

The following people spoke in opposition to the Israeli occupation of Palestinian lands, and requested that City Council divest from Israel and from companies that do business in Israel:

Mozhgan Savabieusfahani, 300 N. Ingalls St.
Syed Karim, 3357 Braeburn Cir.
Shemon Salam, 400 Maynard St., #201

The following people spoke in opposition to the City's participation in United Way because the organization supports the Boy Scouts, which discriminates against homosexuals. They suggested that the Boy Scouts of America be taken off City employee pledge cards.

Glenn Klip

Stephen Rassi, 804 Lawrence St.

Jim Mogensen, 3780 Greenbrier Blvd., expressed concern with the reorganization of City Hall.

The following people spoke in support of the proposed amendments to the traffic calming program:

Alan Benard, 1266 Rosewood St.
Nancy Osborn, 915 Brooks St.

PUBLIC HEARINGS

MINIMUM BUILDING HEIGHT REQUIREMENTS (ORDINANCE NO. 23-02)

A public hearing was conducted on the proposed amendment to Chapter 55 of the Ann Arbor City Code, Sections 5:44 and 5:44A – Minimum Building Height Requirements for New Principal Use Buildings in C2A and C2A/R Districts. Notice of public hearing was published July 14, 2002.

The following people appeared:

Jim Mogensen, 3780 Greenbrier Blvd., spoke in opposition to the proposal because larger buildings would mean more parking spaces in downtown structures allocated to developers.

Ray Detter, Chair of the DDA Citizen Advisory Committee, spoke in support of the proposal, which he believes would encourage density, vitality and diverse property uses downtown.

There being no one else present to speak, the Mayor declared the hearing closed.

MOMENTUM-ANN ARBOR REHABILITATION CENTER REZONING (ORDINANCE NO. – 27- 02)

A public hearing was conducted on the proposed amendment to Chapter 55 of the Ann Arbor City Code, rezoning of 0.51 acre from C3 (Fringe Commercial District) to O (Office District), Momentum-Ann Arbor Rehabilitation Center property, 3135 Professional Drive. Notice of public hearing was published July 14, 2002.

There being no one present to speak, the Mayor declared the hearing closed.

MOMENTUM-ANN ARBOR REHABILITATION CENTER REVISED SITE PLAN

A public hearing was conducted on the proposed Momentum-Ann Arbor Rehabilitation Center Revised Site Plan, 0.78 acre, 3135 Professional Drive. Notice of public hearing was published July 28, 2002.

There being no one present to speak, the Mayor declared the hearing closed.

RIVERWOOD PUD REZONING (ORDINANCE NO. 28-02)

A public hearing was conducted on the proposed amendment to Chapter 55 of the Ann Arbor City Code, rezoning of Riverwood PUD (Planned Unit Development District), text amendment to the Supplemental Regulations for property located at 1601 Timber Trail, Lot 77. Notice of public hearing was published July 14, 2002.

The following people spoke in *support* of the proposal:

Michael Noles, representing the petitioner, apologized for the error that caused the necessity for this amendment, and stated that he would be available for questions.

Sean Hickey, 1700 Timber Trail, representing the Riverwood Neighborhood Association, stated that there will be no impact from the proposal on the surrounding property.

Sandra Bies, owner, stated that she would be available for questions and thanked everyone who help her through the process.

There being no one else present to speak, the Mayor declared the hearing closed.

815 WILDT STREET ZONING (ORDINANCE NO. 29-02)

A public hearing was conducted on the proposed amendment to Chapter 55 of the Ann Arbor City Code, rezoning of 0.07 acre from M1 (Limited Industrial District) to R2A (Two-Family Dwelling District), 815 Wildt Street. Notice of public hearing was published July 14, 2002.

There being no one present to speak, the Mayor declared the hearing closed.

815 WILDT STREET LAND DIVISION

A public hearing was conducted on the proposed 815 Wildt Street Land Division, 0.85 acre. Notice of public hearing was published July 28, 2002.

There being no one present to speak, the Mayor declared the hearing closed.

THE COLLEGIAN REVISED PLANNED PROJECT SITE PLAN

A public hearing was conducted on the proposed Collegian Revised Planned Project Site Plan, 0.16 acre, 337 Maynard Street. Notice of public hearing was published July 28, 2002.

There being no one present to speak, the Mayor declared the hearing closed.

BUHR PARK SKATE PARK ENTRY FEES

A public hearing was conducted on the proposed resolution establishing entry fees for the Buhr Park Skate Park facility. Notice of public hearing was published July 31, 2002.

There being no one present to speak, the Mayor declared the hearing closed.

CABLE SYSTEMS AND CABLE SERVICE (ORDINANCE NO. 31-02)

A public hearing was conducted on the proposed Ordinance to Repeal Chapter 32 and Adopt a New Chapter 32 of the Ann Arbor City Code, and to Amend Chapter 1, Section 1:17 – Cable Systems and Cable Service. Notice of public hearing was published July 22, 2002.

The following person appeared in support of the proposal:

Jon Kreucher, representing Comcast, stated that he would be available for questions.

The following people spoke in support of Comcast for being a good partner to local nonprofit organizations by helping to fund various community events:

Susan Cooley, representing the March of Dimes
Alan Esper, representing the Alzheimers Association
Lisa Dengiz, representing the Neutral Zone Teen Center
Irene Bushaw, former City Parks and Recreation Department employee
Jeff Herron, representing Tour d’Kids Bicycle Race

There being no one else present to speak, the Mayor declared the hearing closed.

APPROVAL OF AGENDA

AGENDA APPROVED WITH CHANGES

Councilmember Carlberg moved that the agenda be approved with the following changes:

ORDINANCES – SECOND READING

8 Votes Required: Amendment to Chapter 55, Rezoning of 0.07 acre from MI (Limited Industrial District) to R2A (Two-Family Dwelling District), 815 Wildt Street (Ordinance No. 29-02) (Planning – Karen Hart, Director) **(8 VOTES REQUIRED)**

ORDINANCES – FIRST READING

Revise: Amendments to Chapter 63, Sections 5:651, 5:652, 5:654, 5:656, 5:658, 5:665, 5:667 and 5:670 – Storm Water Management (Planning Commission recommendation: Approval – 6 yeas, 2 nays) (Planning – Karen Hart, Director)

MOTIONS AND RESOLUTIONS

Move: Resolution to Approve Momentum-Ann Arbor Rehabilitation Center Revised Site Plan, 0.78 acre, 3135 Professional Drive (Planning Commission recommendation: Approval - 9 yeas, 0 nays) (Planning – Karen Hart, Director) **(Consider with Ordinance No. 27-02)**

Move: Resolution to Approve 815 Wildt Street Land Division, 0.85 acre (Planning Commission recommendation: Approval - 9 yeas, 0 nays) (Planning – Karen Hart, Director) **(Consider with Ordinance No. 29-02)**

Delete: Resolution to Approve Park Operations Recommendations of the Park Advisory Commission (Parks and Recreation – Ronald Olson, Superintendent)

Delete: Resolution to Develop a City-Wide Flood Mitigation Plan (Environmental Services – Mat Naud, Director) **(See Communications from City Administrator)**

Add: RECESS FOR CLOSED SESSION TO DISCUSS ATTORNEY-CLIENT PRIVILEGED COMMUNICATIONS **(Add prior to Resolution Regarding Recommendation from Zoning Board of Appeals to Hire Outside Counsel and**

Appropriate Funds).

Move: Resolution Regarding Recommendation from Zoning Board of Appeals to Hire Outside Counsel and Appropriate Funds (Attorney – Abigail Elias, City Attorney) (8 Votes Required) **(Move to end of Motions and Resolutions)**

Add: Resolution Approving the Washtenaw County/City of Ann Arbor Community Corrections Comprehensive Application for Funding Through the State of Michigan Department of Corrections/Office of Community Corrections for Fiscal Year 2002-03 (\$1,236,554.00) (Councilmember Carlberg)

Add: Resolution to Postpone the First and Second Regular Council Sessions in September and the First Regular Council Session in November, 2002 (Mayor Hieftje)

Add: Resolution to Accept Board of Insurance Administration Minutes of August 2, 2002 and to Authorize Payments (Human Resources – Dave Ferber, Director)

On a voice vote the Mayor declared the motion carried.

APPROVAL OF COUNCIL MINUTES

MINUTES OF JULY 9 AND 15 APPROVED

Councilmember Herrell moved that the special session minutes of July 9, 2002 and the regular session minutes of July 15, 2002 be approved as presented.

On a voice vote the Mayor declared the motion carried.

CONSENT AGENDA

CONSENT AGENDA ITEM REMOVED

With unanimous consent of Council, the following item was removed from the Consent Agenda for consideration following the Consent Agenda:

Resolution to Approve a Construction Contract with Margolis Nursery, Inc. for Improvements at The Ponds and Rose Parks – Bid No. 3561 (\$82,492.50) (Parks and Recreation – Ronald Olson, Superintendent).

CONSENT AGENDA ITEMS APPROVED

Councilmember Higgins moved that the following Consent Agenda items be approved as presented:

R-325-8-02 APPROVED

**RESOLUTION TO REJECT BID NO. 3550 AND APPROVE
A NEGOTIATED CONSTRUCTION CONTRACT WITH J. L. JUDGE
CONSTRUCTION SERVICES, LLC FOR MACK POOL RENOVATIONS
AND TO ESTABLISH A PROJECT BUDGET**

Whereas, Mack Pool was constructed in the 1960's and needs major renovation to keep the facility functioning;

Whereas, Competitive bids were received by the Purchasing Division on Thursday, May 30, 2002 and J.L. Judge Construction Services, LLC was the lowest responsible bidder;

Whereas, The Human Rights Department approval was received for J.L. Judge Construction Services, LLC on July 25, 2002; and

Whereas, The lowest responsible bid exceeded the project budget and the City negotiated with J.L. Judge Construction Services, LLC to obtain an acceptable negotiated bid to bring the project within budget thus saving \$273,800;

RESOLVED, That the City Council reject all bids and, under Section 14.3 (d) of the City Charter, and approve negotiation of a contract with J.L. Judge Construction Services, LLC;

RESOLVED, That the Mayor and City Council approve a negotiated construction contract with J.L. Judge Construction Services, LLC in the amount of \$550,000.00 to complete renovations to Mack Pool, and authorize the Mayor and City Clerk to sign the agreement substantially in the form on file with the City Clerk; and

RESOLVED, That the Mayor and City Council approve a construction contingency in the amount of \$55,000.00 to cover potential contract change orders to be approved by the City Administrator, and approve a total project budget of \$605,000.00 for the life of the project without regard to fiscal year.

R-326-8-02 APPROVED

RESOLUTION TO APPROVE A CONSTRUCTION CONTRACT
WITH CAMERON CONTRACTING COMPANY FOR
ARBOR OAKS PARK IMPROVEMENTS (BID NO. 3501)
AND ESTABLISH A PROJECT BUDGET

Whereas, Arbor Oaks Park is scheduled in the Park and Recreation Open Space Plan, 2000-2005 to be renovated;

Whereas, A neighborhood survey and public meeting was held to obtain input to plan the park improvements;

Whereas, Competitive bids were sought by the Purchasing Division with two bids received on June 25, 2002 and Cameron Contracting Company was identified as the lowest responsible bidder;

Whereas, Funds for the project are included in fiscal year 2002/2003 from the Parks Rehabilitation and Development Millage, the Maintenance and Repair Millage, and previously collected Developer Park Contributions; and

Whereas, The Human Rights approval and compliance with the living wage ordinance was received on July 9, 2002 for Cameron Contracting Company;

RESOLVED, That the Mayor and City Council approve a construction contract, per bid #3501, with Cameron Contracting Company in the amount of \$59,406.00 for Arbor Oaks Park Improvements, and authorize the Mayor and City Clerk to sign the agreement substantially in the form on file with the City Clerk; and

RESOLVED, That the Mayor and City Council approve a construction contingency in the amount of \$5900.00 (10%) to cover potential contract change orders, to be approved by the City Administrator, and approve a total project budget of \$65,306.00 for the life of the project without regard to fiscal year.

R-327-8-02 APPROVED

RESOLUTION TO APPROVE THE PURCHASE OF A DASHER BOARD SYSTEM FOR THE BUHR PARK ICE RINK

Whereas, The existing Buhr Park dasher board system is in poor condition and is past due for replacement;

Whereas, The dasher board system is critical to the Buhr Park operations in providing recreational activities ten months of the year;

Whereas, Quotes for a new dasher board system have been solicited per City of Ann Arbor purchasing policy requirements;

Whereas, Department staff have reviewed the quotes and recommend Mueller's Chrystaplex Board System as the preferred vendor; and

Whereas, Mueller's received Human Rights and Living Wage approvals on May 22, 2002;

RESOLVED, That the Mayor and City Council approve the purchase of the Mueller's Chrystaplex Board System for \$65,032.00.

R-328-8-02 APPROVED

RESOLUTION TO APPROVE THE PURCHASE OF DESKTOP
AND NOTEBOOK COMPUTERS AND MISCELLANEOUS HARDWARE
FROM ELECTRONIC DATA SYSTEMS CORPORATION FOR
FISCAL YEAR 2002-2003

Whereas, The City of Ann Arbor requires that desktop computers, printers and other hardware be replaced to keep up with the changes necessary to efficiently and effectively increase the level of city services delivery;

Whereas, The City of Ann Arbor requires computer purchases over \$2,000.00 be bid out and awarded to the lowest bidder;

Whereas, The Administrative Services Department, Purchasing Division has been permitted (by Council resolution dated March 31, 1975) to procure products and/or services from the State of Michigan through its Extended Purchasing Program due to lower costs for volume purchases;

Whereas, The State of Michigan's extended purchasing contract with Electronic Data Systems Corporation is a cost effective means of obtaining hardware, software and services that improves the City of Ann Arbor's overall acquisition process by minimizing duplicate efforts;

Whereas, Electronic Data Systems Corporation has received Human Rights approval on July 31, 2002;

Whereas, Funding for these purchases is available through the Information Technology Special Projects fund; and

Whereas, On July 24, 2001, the Information Services Steering Team approved the project and the use of the Information Technology Special Projects funds to fund the project;

RESOLVED, That the City Administrator be authorized to issue a purchase order to Electronic Data Systems Corporation for the sum of \$255,500.00 for desktop and notebook computers and associated miscellaneous hardware.

R-329-8-02 APPROVED

RESOLUTION TO AUTHORIZE A SOLE SOURCE PURCHASE ORDER TO CARRIER AND GABLE, INC. FOR THE PURCHASE OF TRAFFIC SIGNAL MATERIALS

Whereas, Carrier and Gable, Inc. of Farmington Hills, Michigan, is the supplier of Eagle traffic components used in maintaining City of Ann Arbor traffic signals;

Whereas, Carrier and Gable, Inc., of Farmington Hills, Michigan, has received Human Rights approval on April 9, 2002; and

Whereas, Sufficient funds have been budgeted in the Public Services Department Fiscal Year 2002/03 Major and Local Street funds;

RESOLVED, That a sole source purchase order to Carrier and Gable, Inc. in the amount of \$200,000.00 for materials and supplies is approved; and

RESOLVED, That the City Administrator be authorized to take the necessary administrative actions to implement this resolution.

R-330-8-02 APPROVED

RESOLUTION TO APPROVE PROFESSIONAL SERVICES AGREEMENT WITH MIDWESTERN CONSULTING, L.L.C. FOR THE NIXON ROAD IMPROVEMENTS PROJECT

Whereas, It is necessary to employ a qualified surveying team to perform the required construction staking for the Nixon Road Improvements Project;

Whereas, Midwestern Consulting, L.L.C. submitted a proposal to provide construction staking and surveying for the project for an amount of \$33,250.00;

Whereas, Midwestern Consulting, L.L.C. received Human Rights approval on July 25, 2002 and complies with the living wage ordinance; and

Whereas, Sufficient funds are available in the project budget approved by Council on July 15, 2002;

RESOLVED, That Council approve a Professional Services Agreement with Midwestern Consulting, L.L.C. in the amount of \$33,250.00 for the construction staking and surveying for the Nixon Road Improvements Project;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute said agreement after approval as to form by the City Attorney and approval as to substance by the City Administrator; and

RESOLVED, That the City Administrator be authorized to take the necessary administrative actions to implement this resolution.

R-331-8-02 APPROVED

RESOLUTION TO APPROVE A PROFESSIONAL SERVICES
AGREEMENT WITH HAENGEL AND ASSOCIATES ENGINEERING, INC.
FOR THE NIXON ROAD IMPROVEMENTS PROJECT

Whereas, It is necessary to employ a qualified testing firm to perform testing services for the Nixon Road Improvements Project;

Whereas, Proposals for construction testing were received and evaluated by the Engineering Division on the basis of qualifications and fees;

Whereas, Haengel and Associates Engineering, Inc. have demonstrated the required experience, personnel, and competitive fee schedule to perform the work;

Whereas, Haengel and Associates Engineering, Inc. received Human Rights approval on April 24, 2002 and complies with the living wage ordinance; and

Whereas, Adequate funds are available in the project budget as approved by the City Council on July 15, 2002;

RESOLVED, That Council approve a Professional Services Agreement with Haengel and Associates Engineering, Inc. in the amount of \$27,306.00 for construction testing services for the Nixon Road Improvements Project;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute

said agreement after approval as to form by the City Attorney and approval as to substance by the City Administrator; and

RESOLVED, That the City Administrator be authorized to take the necessary administrative actions to implement this resolution.

R-332-8-02 APPROVED

RESOLUTION TO APPROVE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH INFRASTRUCTURE ENGINEERING, L.L.C. FOR THE BROADWAY BRIDGES RECONSTRUCTION PROJECT

Whereas, Professional engineering services are needed in the form of design engineering for the Broadway Bridges Reconstruction Project;

Whereas, It is now necessary to amend the existing professional services agreement with Infrastructure Engineering, L.L.C. for the additional work tasks that are necessary to complete the design of the project; and

Whereas, Infrastructure Engineering, L.L.C. has less than six employees and in accordance with City Code is not required to receive Human Rights approval;

RESOLVED, That Council approve an amendment to the Professional Services Agreement with Infrastructure Engineering, L.L.C., in the amount of \$28,000.00 for the Broadway Bridges Reconstruction Project;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute said amendment after approval as to form by the City Attorney and approval as to substance by the City Administrator; and

RESOLVED, The City Administrator be authorized to take the necessary administrative actions to implement this resolution.

R-333-8-02 APPROVED

RESOLUTION TO APPROVE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH SPALDING, DE DECKER AND ASSOCIATES, INC. FOR THE BROADWAY BRIDGES RECONSTRUCTION PROJECT

Whereas, Professional engineering services are needed in the form of design engineering for the Broadway Bridges Reconstruction Project;

Whereas, It is now necessary to amend the existing professional services agreement with Spalding, DeDecker, and Associates, Inc. for the additional work tasks that are necessary to complete the design of the project; and

Whereas, Spalding, DeDecker, and Associates, Inc. received Human Rights approval on July 25, 2002;

RESOLVED, That Council approve an amendment to the Professional Services Agreement with Spalding, DeDecker, and Associates, Inc., in the amount of \$11,000.00 for the Broadway Bridges Reconstruction Project;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute said amendment after approval as to form by the City Attorney and approval as to substance by the City Administrator; and

RESOLVED, The City Administrator be authorized to take the necessary administrative actions to implement this resolution.

R-334-8-02 APPROVED

RESOLUTION TO APPROVE AN AGREEMENT WITH JAMES L. MC COY, P.E. FOR PROFESSIONAL ENGINEERING AND ENERGY MANAGEMENT SERVICES FOR THE WASTEWATER TREATMENT PLANT

Whereas, The Wastewater Treatment Plant (WWTP) has determined the need for professional engineering and energy management services on an as-needed and as-approved basis during fiscal year 2002/03;

Whereas, It is cost effective and efficient for the Water Utilities Department to employ James L. McCoy, P.E. for engineering and energy management services because of his extensive familiarity with the WWTP and competitive hourly rate; and

Whereas, James L. McCoy, P.E. is exempt from Human Resources Department approval and the Living Wage Ordinance due to the fact that he employs or contracts with fewer than five individuals;

RESOLVED, That Council approve a contract with James L. McCoy, P.E., on an as-needed and as-approved basis not to exceed \$30,000.00 to provide professional engineering services for the Water Utilities Department during fiscal year 2002/03, and that Council authorize the Mayor and City Clerk to sign the agreement approved as to form by the City Attorney; and

RESOLVED, That the Professional Services Agreement be funded from the approved Fiscal Year 2002/03 WWTP Operation and Maintenance Budget for the Sewage Disposal System.

R-335-8-02 APPROVED

RESOLUTION TO APPROVE THE CLOSING OF WASHINGTON STREET FOR THE STAGING OF THE GERMANFEST FOR HABITAT FUNDRAISING EVENT

Whereas, The City has received a request from the Arbor Brewing Company, Grizzly Peak Brewing Company and Leopold Brothers of Ann Arbor (a.k.a. the sponsors) to close Washington Street between Main and Fourth Avenue and Main and Ashley from 3:00 p.m. to 12:00 a.m. on Friday, September 13, 2002 and 11:00 a.m. to 12:00 midnight on Saturday, September 14, 2002 to facilitate the staging of the Germanfest for Habitat Fundraiser;

Whereas, The street closures will be properly signed, barricaded and supervised by

the sponsors;

Whereas, The sponsors require the approval of the Michigan Liquor Control Commission for a special outdoor liquor license;

Whereas, The sponsors agree to defend and indemnify and hold the City harmless against all claims arising from their sponsorship of this event; and

Whereas, The sponsors will obtain all necessary permits and provide evidence of proper liability insurance associated with their sponsorship of the event;

RESOLVED, That City Council approve the closing of Washington from Main to Fourth Avenue and Main to Ashley for the Germanfest for Habitat on the dates and times requested by the sponsors (contingent upon approval of the special liquor license from the State of Michigan).

R-336-8-02 APPROVED

RESOLUTION TO APPROVE STREET CLOSINGS FOR THE 2002
UNIVERSITY OF MICHIGAN STUDENT MOVE-IN PROGRAM

Whereas, The City of Ann Arbor and the University of Michigan are cooperating in a joint effort to make student move-in, scheduled to begin on Tuesday, August 27 and ending Friday, August 30, 2002, an orderly and efficient process;

Whereas, This will require the closing of certain streets each day between the hours of 6:00 a.m. and 10:00 p.m., the bagging of parking meters, and the use of street barricades;

Whereas, The City Code of Ordinances (Chapter 47, section 4:14) provides for the issuance of revocable street occupancy permits for the use of City streets and sidewalks;

Whereas, The City Code of Ordinances (Chapter 79, section 7:69) allows City Council to restrict peddling at times of heavy congestion; and

Whereas, The University of Michigan agrees to provide evidence of proper liability insurance; comply with all rules, regulations and procedures established by City Council and/or the City Administrator for staging this event and pay all fees associated with their sponsorship of the move-in program;

RESOLVED, That the following streets be closed for the dates and times indicated:

Thompson - from East William to Packard
Madison - from South Division to South State
Jefferson - from South Division to Maynard
Maynard - from Jefferson to East William
East University - from Hill to Willard
Willard - from Church to East University
Church - from Hill to Willard
Observatory - from Geddes to East Ann
North University Court
Washington Heights - from Observatory to E. Medical Center Drive
East Ann - from Observatory to Zina Pitcher Place
Monroe - from State to end of cul-de-sac

RESOLVED, That City Council prohibit all peddling and soliciting activities within a one block area of the closed streets from August 27 through August 30, 2002; and

RESOLVED, That City Council direct staff to refrain from issuing permits for the use of sidewalks within a one block area of the University of Michigan residence facilities for the same dates indicated.

R-337-8-02 APPROVED

RESOLUTION TO APPROVE TRANSFER OF STOCK IN A CLASS C
LIQUOR LICENSED BUSINESS LOCATED AT 401 DEPOT STREET –
D.B.A. GANDY DANCER

RESOLVED, That the request of the C. A. Muer Corporation (d.b.a. Gandy Dancer) to transfer stock through a merger in a 2001 Class C licensed business, located at 401 Depot Street, in Ann Arbor, be approved.

The question being the foregoing Consent Agenda items as presented, on a voice vote the Mayor declared the motion carried.

R-338-8-02 APPROVED

RESOLUTION TO APPROVE A CONSTRUCTION CONTRACT
WITH MARGOLIS NURSERY, INC. FOR IMPROVEMENTS AT
THE PONDS AND ROSE PARKS – BID NO. 3561

Whereas, The Ponds and Rose Parks are identified in the Park and Recreation Open Space Plan, 2000-2005 to be developed/renovated;

Whereas, A neighborhood survey and public meetings were held to obtain input into each plan for improvements at both parks;

Whereas, Competitive bids were sought by the Purchasing Division with bids received on July 16, 2002 and Margolis Nursery, Inc. was identified as the lowest responsible bidder;

Whereas, Funds for the project are included in the Fiscal Year 2002/2003 Parks Rehabilitation and Development Millage, the Maintenance and Repair Millage, and previously collected developer park contributions; and

Whereas, The Human Rights approval and compliance with the living wage ordinance was received on June 21, 2002 for Margolis Nursery, Inc.;

RESOLVED, That the Mayor and City Council approve a construction contract, per bid #3561, with Margolis Nursery, Inc. in the amount of \$74,992.50 for Improvements at The Ponds and Rose Parks and authorize the Mayor and City Clerk to sign the agreement substantially in the form on file with the City Clerk; and

RESOLVED, That the Mayor and City Council approve a construction contingency in the amount of \$7,500.00 (10%) to cover potential contract change orders, to be approved by the City Administrator, and approve a total project budget of \$82,492.50 for the life of the project without regard to fiscal year.

Councilmember Higgins moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

The Mayor declared a recess at 8:50 p.m.

The Mayor again called the meeting to order at 8:59 p.m.

ORDINANCES - SECOND READING

23-02 TABLED

MINIMUM BUILDING HEIGHT REQUIREMENTS FOR NEW

PRINCIPAL USE BUILDINGS IN C2A AND C2A/R DISTRICTS

An Ordinance to Amend Sections 5:44 and 5:44A of Chapter 55
of Title V of the Code of the City of Ann Arbor

(The complete text of Ordinance 23-02 is on file in the City Clerk's Office).

Councilmember Carlberg moved that the ordinance be adopted at second reading.

Councilmember Reid moved that the ordinance be tabled for further study.

On roll call the vote was as follows:

Yeas, Councilmembers Upton, Reid, Carlberg, Hartwell, Higgins, Easthope, Woods,
Robinson, Johnson, Mayor Hieftje, 10;

Nays, Councilmember Herrell, 1.

The Mayor declared the motion carried.

27-02 APPROVED

MOMENTUM-ANN ARBOR REHABILITATION CENTER REZONING

An Ordinance to Amend the Zoning Map Being a Part of Chapter 55 of Title V of the Code of the City of Ann Arbor

This ordinance would change the zoning of 0.51 acre, located at 3135 Professional Drive, from C3 (Fringe Commercial District) to O (Office District). (The complete text of Ordinance 27-02 is on file in the City Clerk’s Office).

Councilmember Upton moved that the ordinance be adopted at second reading.

On a voice vote the Mayor declared the motion carried.

R-339-8-02 APPROVED

RESOLUTION TO APPROVE MOMENTUM-ANN ARBOR REHABILITATION CENTER REVISED SITE PLAN

A communication was received from the City Planning Commission transmitting its recommendation of approval of the proposed Momentum-Ann Arbor Rehabilitation Center Revised Site Plan, 0.78 acre, 3135 Professional Drive.

Whereas, Ann Arbor Rehabilitation Center has requested revised site plan approval in order to construct a 9,155-square foot, eight-unit apartment building at 3135 Professional Drive;

Whereas, The Ann Arbor City Planning Commission, on June 18, 2002, recommended approval of the site plan;

Whereas, The contemplated development will comply with all applicable state, local and federal law, ordinances, standards and regulations;

Whereas, The development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, applying criteria for reviewing a natural features statement of impact set forth in this Chapter; and

Whereas, The development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare;

RESOLVED, That City Council approve the Momentum—Ann Arbor Rehabilitation Center Revised Site Plan.

Councilmember Upton moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

28-02 APPROVED

RIVERWOOD PUD REZONING

An Ordinance to Amend the Zoning Map Being a Part of Chapter 55 of Title V of the Code of the City of Ann Arbor

This ordinance would change the zoning of Riverwood PUD (Planned Unit Development District), text amendment to the Supplemental Regulations for property located at 1601 Timber Trail, Lot 77. (The complete text of Ordinance 28-02 is on file in the City Clerk's Office).

Councilmember Johnson moved that the ordinance be adopted at second reading.

On a voice vote the Mayor declared the motion carried.

29-02 APPROVED

815 WILDT STREET REZONING

An Ordinance to Amend the Zoning Map Being a Part of Chapter 55 of Title V of the Code of the City of Ann Arbor

This ordinance would change the zoning of 0.07 acre, located at 815 Wildt Street, from M1 (Limited Industrial District) to R2A (Two-Family Dwelling District). (The complete text of Ordinance 29-02 is on file in the City Clerk's Office).

Councilmember Johnson moved that the ordinance be adopted at second reading.

On a voice vote the Mayor declared the motion carried.

R-340-8-02 APPROVED

RESOLUTION TO APPROVE 815 WILDT STREET LAND DIVISION

A communication was received from the City Planning Commission transmitting its recommendation of approval of the proposed 815 Wildt Street Land Division, 0.85 acre.

Whereas, Wildt LLC has requested land division approval in order to divide the property at 815 Wildt Street (Assessor's Code No. 09-20-405-030) into two separate parcels; and

Whereas, The Ann Arbor City Planning Commission, on June 18, 2002, recommended approval of said request;

RESOLVED, That City Council approve the 815 Wildt Street Land Division, as described below:

Parcel A

Commencing at the Northwest corner of Block 2, "DANIEL HISCOCK'S SECOND ADDITION TO THE CITY OF ANN ARBOR," as recorded in Liber 67 of Deeds, page 578, Washtenaw County Records; thence N 48°33'45" E 96.38 feet along the Southeasterly line of Brookridge Road; thence S 53°00'00" E 105.93 feet along the Northeasterly line of vacated Charles Street; thence S 37°00'00" W 49.50 feet to the POINT OF BEGINNING; thence S 53°00'00" E 166.52 feet along the Southwesterly line of vacated Charles Street; thence S 37°57'05" W 202.72 feet along the Northwesterly line of Wildt Street; thence N 72°26'20" W 101.85 feet along the Northerly line of Lots 1, 2 and 3 of said Block 2 and their extension thereof; thence N 03°17'30" E 43.80 feet; thence N 38°06'05" E 63.14 feet; thence N 55°54'40" E 33.16 feet; thence S 72°10'15" E 17.86 feet along the Northerly line of Lot 17 of said Block 2; thence N 01°19'45" E 122.83 feet along the Westerly line of Lot 15 of said Block 2 to the Pont of Beginning. Being a part of Lots 13, 14, 15, 16 and 17 of "DANIEL HISCOCK'S SECOND ADDITION TO THE CITY OF ANN ARBOR," as recorded in Liber 67 of Plats, pages 578 and 579, Washtenaw County Records, and containing 0.62 acres of land, more or less. Being subject to easements and restrictions of record, if any,

Parcel D

Commencing at the Northwest corner of Block 2, "DANIEL HISCOCK'S SECOND ADDITION TO THE CITY OF ANN ARBOR," as recorded in Liber 67 of Deeds, page 578, Washtenaw County Records; thence N 48°33'45" E 96.38 feet along the Southeasterly line of Brookridge Road; thence S 53°00'00" E

105.93 feet along the Northeasterly line of vacated Charles Street to the POINT OF BEGINNING; thence continuing along said line S 53°00'00" E 7.53 feet; thence N 39°38'45" E 19.04 feet along the Southeasterly line of Lot 18, "BROOKRIDGE HEIGHTS," as recorded in Liber 11 of Plats, page 13, Washtenaw County Records; thence S 52°53'50" E 142.05 feet; thence along the Northwesterly line of Wildt Street S 36°02'25" W 68.28 feet; thence along the Southwesterly line of vacated Charles Street N 53°00'00" W 151.60 feet; thence N 37°00'00" E 49.50 feet to the Point of Beginning. Being a part of vacated Charles Street, Block 2, and part of Lot 8, Block 3 of "DANIEL HISCOCK'S SECOND ADDITION TO THE CITY OF ANN ARBOR," as recorded in Liber 67 of Deeds, Pages 578 and 579, Washtenaw County Records, and containing 0.23 acres of land, more or less. Being subject to easements and restrictions of record, if any.

Councilmember Johnson moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

31-02 APPROVED

CABLE SYSTEMS AND CABLE SERVICE

An Ordinance to Repeal Chapter 32 and Adopt a New Chapter 32 of Title II of the Code of the City of Ann Arbor and to Amend Section 1:17 of Chapter 1 of Title I of the Code of the City of Ann Arbor

(The complete text of Ordinance 31-02 is on file in the City Clerk's Office).

Councilmember Woods moved that the ordinance be adopted at second reading.

On a voice vote the Mayor declared the motion carried.

ORDINANCES - FIRST READING

32-02 DEFEATED

DIEPHUIS REZONING

An Ordinance to Amend the Zoning Map Being a Part of Chapter 55 of Title V of the Code of the City of Ann Arbor

This ordinance would change the zoning of 2.7 acres, located at 2096 South State Street, from O (Office District) to R1A (Single-Family Dwelling District). (The complete text of Ordinance 32-02 is on file in the City Clerk's Office).

Councilmember Carlberg moved that the ordinance be approved at first reading.

On roll call the vote was as follows:

Yeas, 0;

Nays, Councilmembers Upton, Reid, Carlberg, Herrell, Hartwell, Higgins, Easthope, Woods, Robinson, Johnson, Mayor Hieftje, 11.

The Mayor declared the motion defeated.

33-02 APPROVED

THE MEADOWS ON LIBERTY ZONING

An Ordinance to Amend the Zoning Map Being a Part of Chapter 55 of Title V of the Code of the City of Ann Arbor

This ordinance would change the zoning of 4.67 acres, located on the north side of Liberty Street east of Burwood Avenue, from UNZ (Unzoned District) to R3 (Townhouse District). (The complete text of Ordinance 33-02 is on file in the City Clerk’s Office).

Councilmember Carlberg moved that the ordinance be approved at first reading.

On a voice vote the Mayor declared the motion carried.

34-02 DEFEATED

SUNSET RIDGE REZONING

An Ordinance to Amend the Zoning Map Being a Part of Chapter 55 of Title V of the Code of the City of Ann Arbor

This ordinance would change the zoning of 7.6 acres, located north of Sunset Road at Vesper, from R1B (Single-Family Dwelling District) to PUD (Planned Unit Development District). (The complete text of Ordinance 34-02 is on file in the City Clerk’s Office).

Councilmember Carlberg moved that the ordinance be approved at first reading.

On roll call the vote was as follows:

Yeas, 0;

Nays, Councilmembers Upton, Reid, Carlberg, Herrell, Hartwell, Higgins, Easthope, Woods, Robinson, Johnson, Mayor Hieftje, 11.

The Mayor declared the motion defeated.

35-02 POSTPONED

STORM WATER MANAGEMENT

An Ordinance to Amend Sections 5:651, 5:652, 5:654, 5:656, 5:658, 5:665, 5:667 and 5:670 of Chapter 63 of Title V of the Code of the City of Ann Arbor

(The complete text of Ordinance 35-02 is on file in the City Clerk’s Office).

Councilmember Johnson moved that the ordinance be approved at first reading.

Councilmember Johnson moved that the ordinance be postponed until the August 19, 2002 regular session of Council for further review.

On a voice vote the Mayor declared the motion carried.

MOTIONS AND RESOLUTIONS

R-341-8-02 APPROVED AS AMENDED

RESOLUTION TO AMEND POLICIES RELATING TO THE TRAFFIC CALMING PROGRAM

A resolution to amend the policies relating to the Traffic Calming Program was considered.

Councilmember Johnson moved that the resolution be adopted.

Council unanimously agreed that a substitute “Attachment A” to the resolution be placed on the table for adoption.

Councilmember Woods moved that page 2 of Attachment A be amended by deleting the following last point listed under the “Voting Within a Study Area” section:

- Each homeowner vote will be counted as one vote. Each vote from a rental unit tenant will be counted as a ½ vote.

On roll call the vote was as follows:

Yeas, Councilmembers Upton, Carlberg, Herrell, Hartwell, Higgins, Woods, Robinson, 7;

Nays, Councilmembers Reid, Easthope, Johnson, Mayor Hieftje, 4.

The Mayor declared the motion carried.

Councilmember Herrell moved that the last point under the “Voting” section of Attachment A, page 3, be amended as follows:

- A traffic calming proposal will be judged to pass if the following two conditions are both achieved: 1) 60% or more of the votes [~~weighted as specified above~~] are “Yes”; and 2) 60% or more of the eligible [homeowners] **HOUSEHOLDS** submit votes.

After further discussion, the motion was withdrawn.

Council unanimously agreed that the last point under the “Voting” section of Attachment A, page 3, be amended as follows:

- A traffic calming proposal will be judged to pass if the following two conditions are both achieved: [1] **a**) 60% or more of the votes [~~weighted as specified above~~] are “Yes”; and [2] **b**) 60% or more of the eligible homeowners submit votes.

The question being the resolution as amended, on roll call the vote was as follows:

Yeas, Councilmembers Upton, Reid, Carlberg, Herrell, Hartwell, Higgins, Easthope, Woods, Robinson, Johnson, Mayor Hieftje, 11;

Nays, 0.

The Mayor declared the motion carried.

The resolution as adopted reads as follows:

R-341-8-02

RESOLUTION TO AMEND POLICIES RELATING TO
THE TRAFFIC CALMING PROGRAM

Whereas, The City's traffic calming program has been in operation since December, 1999;

Whereas, Several traffic calming projects were undertaken in 2001, of which some are now completed;

Whereas, The administration of past projects has resulted in valuable experience to be used in the future projects; and

Whereas, On May 7, 2001 by resolution R-176-5-01, the City Council determined the need for an annual evaluation of the traffic calming program and its further enhancement;

RESOLVED, That Attachment "A", Amendment to the Traffic Calming Program, be approved:

Attachment "A"
Amendment to the Traffic Calming Program

Project Initiation

A traffic calming project may be initiated by any group of residents or property owners adjacent to a local street, equal to or larger than one average City block (300 feet). A petition in favor of a project must be completed by at least thirty percent of the residents within the specified area.

Study Area

With a qualified petition in place, the City will establish a project study area.

- For residential streets, a study area will consist of a section of a local street that begins with an intersection and terminates at one of the following points:
 - i. At an intersection with a street of higher category
 - ii. At a T-intersection
 - iii. At the end of an area zoned residential, or the beginning of an area zoned commercial.All houses adjacent to this street will be included in the study area. This includes corner lots on side streets which have a lot line on the study street.
- For collector streets, the study area will also include: the first 100 feet or the first two lots, whichever is less, of any side street that is directly connected to the collector street, between the beginning and the ending points of the project.

Data Collection/Administering the Voting Process

- All correspondence will be mailed to all the residential (homeowners and rental unit tenants) mailing addresses in the study area. Businesses and organizations in the study area will receive a mailing informing them of the traffic calming process that will include a statement that there is no cost to them or extra assessment to them for the installation of traffic calming devices. Non-resident property owners will also receive this mailing at their addresses per the City assessor's record.
- All meetings will be announced by mail to all members of the residential address list.
- All correspondence to the study area will be addressed to the "addressee or current resident".
- The list of addresses in the study area will be presented to the neighborhood at the first neighborhood meeting, both as a list and graphically, to confirm the addresses.
- The participants will be asked to confirm the address list and report the necessary changes within two weeks. With the exception of new residents relocating to the study area, existing residents moving out the study area, or existing residents moving within the study area, no other changes will be made to the completed area address list for the life of the project.

Design process

A minimum of four public meetings shall be held. City staff will reserve space in a school or other public building near the study area and notify all residents in the study area a minimum of ten business days in advance. The initial meeting shall be informational: staff will hear residents' concerns, present possible traffic-calming tools for that study area, and answer residents' questions about traffic-calming. If possible, a Working Group of property owners and residents in the study area will be formed, to work with the City staff on producing a valid list of study area and voter addresses and to consult with staff between public meetings. At the next meeting(s), residents will participate with staff in the design process, brainstorming possible solutions. At the third meeting, staff will present the final design; residents will have the opportunity to ask questions and suggest minor alterations. The design that will be voted on will be specified in written form in this or another public meeting prior to the voting. Residents in the voting area (see below) shall be informed that there is no cost to them or extra assessment to them for the installation of traffic calming devices. After the letter and ballots are sent out, city staff will hold an open house near the study area where they will answer residents' questions about the proposal.

Voting Within a Study Area

- All residences within the study area that are within 400 feet of a proposed traffic calming device will be included in the voting process.
- Only residents are included in the voting process. "Resident" refers to homeowners

(where residents and property owners are the same) and rental unit occupants. One vote will be allowed for each household. The following will not vote unless they qualify as above: landlords, property managers, businesses and other organizations.

- Where a property contains multiple units and it is designated both residential and business, it will be entitled to one vote for each residential US Post Office mailing address.

Voting

- For each phase of a project that requires voting by those in the study area, a postcard with a return address will be sent to each address on the voting list.
- The City Clerk’s Office will administer the mailing and tally of all votes received and will present the final results to the City’s Engineering Division, for further action. The Clerk will conduct the vote in such a way that individual votes remain secret. The list of those voting will be public information.
- To be included in the final counts, all returned postcards must be postmarked by the United States Post Office no later than the specified deadline which shall be four weeks from the date of mailing by the clerk. Residents are encouraged to call the clerk’s office to confirm that their votes were received and properly counted before the deadline. All postcards returned by other means must be delivered to the City Clerk’s Office on or prior to the specified deadline.
- A traffic calming proposal will be judged to pass if the following two conditions are both achieved: a) 60% or more of the votes are "Yes", and b) 60% or more of the eligible homeowners submit votes.

R-342-8-02 APPROVED

RESOLUTION GRANTING A NON-EXCLUSIVE CABLE TELEVISION FRANCHISE TO COMCAST CABLEVISION OF THE SOUTH, INC. TO OWN, CONSTRUCT, RECONSTRUCT, OPERATE AND MAINTAIN A CABLE SYSTEM WITHIN THE CITY OF ANN ARBOR

Whereas, After negotiations, Comcast Cablevision of the South, Inc. (“Comcast”) and the City of Ann Arbor (“City”) have agreed, pursuant to applicable law, on the terms of a new franchise agreement;

Whereas, An ordinance which contains extensive amendments to Chapter 32 of the Ann Arbor City Code, and which affects the terms and conditions under which Comcast would provide cable service, was approved by City Council at first reading on this date and

will be further considered by City Council at a future session of City Council; and

Whereas, The Cable Commission has recommended the renewal of Comcast's franchise under the terms and conditions specified in the new franchise agreement and the amendments to the City Code cited above;

RESOLVED, That the City Council hereby grant Comcast a franchise to own, construct, reconstruct, operate and maintain a cable system along the public rights-of-way within the City of Ann Arbor for the purpose of providing cable service, subject to the terms and conditions of the Franchise Agreement, on file in the City Clerk's Office, and to the provisions and requirements of Chapter 32 of the City Code, as it may from time to time be amended;

RESOLVED, That the effective date of the Franchise Agreement not be before the effective date of the amendments to Chapter 32 of the Ann Arbor City Code now being considered by City Council;

RESOLVED, That the Mayor and City Clerk be authorized to execute the Franchise Agreement between the City and Comcast after approval as to form by the City Attorney;

RESOLVED, That the City Administrator be authorized to take the necessary administrative actions to implement this Resolution; and

RESOLVED, That this grant of a franchise be null and void if Comcast does not execute the Franchise Agreement within sixty days after the date of this Resolution.

Councilmember Easthope moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-343-8-02 APPROVED

RESOLUTION TO APPROVE THE 2002 CHANGE OF CONTROL AGREEMENT REGARDING THE CHANGE OF CONTROL OF COMCAST CABLEVISION OF THE SOUTH, INC. TO AT&T COMCAST CORPORATION

Whereas, Comcast Cablevision of the South, Inc., currently holds a cable franchise from the City subject to the Cable Television Franchise Agreement Between City of Ann Arbor and Ann Arbor Cablevision, Inc. dated February 7, 1980 ("Cable Television Franchise Agreement"), as assigned and modified by Clarification of Franchise Agreement and Approval of Assignment To Columbia Associates, L.P., dated October 1, 1985, and revised

February 22, 1993, as modified by Consent Agreement between the City and Columbia Associates, L.P., dated June 2, 1992, as transferred to Continental Cablevision by Transfer Consent Agreement dated April 3, 1995, as transferred to U.S. West Inc., by Transfer Agreement dated January 23, 1997, with a change of name from Continental Cablevision of Eastern Michigan, Inc., to MediaOne of Eastern Michigan, Inc., on April 28, 1997, as modified by the 1999 Agreement among the City, MediaOne of Eastern Michigan, Inc., MediaOne Group, Inc., Meteor Acquisition, Inc., AT&T Corporation, and MediaOne of Delaware, Inc., as transferred to Comcast Cablevision of the South, Inc., by the 2000 Transfer Agreement dated December 18, 2000 (“2000 Agreement”), and to Ch. 32 of the City of Ann Arbor Code (“Franchise Ordinance”), all of which documents other than the 2000 Agreement, including the Franchise Ordinance, as any of them may lawfully be or may have been amended from time to time, collectively referred to as the “Franchise Documents”;

Whereas, Comcast Corporation (“Comcast”) is currently the ultimate parent of Grantee;

Whereas, Pursuant to an Agreement and Plan of Merger dated December 19, 2001 (the “Merger Agreement”), control of Comcast Cablevision of the South, Inc., will be transferred to AT&T Comcast (the “Proposed Transaction”);

Whereas, Section 2:122 of the Franchise Ordinance provides that the prior approval of the City is required for the Proposed Transaction;

Whereas, On or about March 4, 2002, AT&T Comcast and Grantee filed an FCC Form 394 pursuant to the 1992 Cable Act and FCC regulations, and requested that the City approve the Proposed Transaction (the “Application”);

Whereas, The Companies have subsequently provided certain additional information;

Whereas, The City has reviewed the Application and followed all required procedures to consider and act upon the Application;

Whereas, The City’s cable franchise is currently scheduled to expire on December 31, 2002, and the City and Grantee have reached agreement on the terms and conditions under which a renewal franchise may be granted to Grantee, as reflected in the new franchise agreement (“New Franchise Agreement”) and City Code amendments that have been placed before the City Council (“New Franchise Documents”);

Whereas, The rights and obligations of the City and the Grantee under the Franchise Documents will expire and be of no continuing force on the effective date of the New Franchise Documents, unless otherwise expressly noted in the New Franchise Agreement;

Whereas, Grantee has agreed to comply with the obligations of the Franchise Documents (prior to the date the New Franchise Documents are effective) or the New Franchise Documents (on or after the date the New Franchise Documents become effective); and

Whereas, Relying on the representations made by Grantee or affiliated companies in the Application and in supplemental material provided thereto, the City is willing to grant its consent to the Application, as long as such representations are complete and accurate, and subject to such conditions as may be necessary to protect against harm to the City and to the public, each of which is set forth herein;

RESOLVED, That the City consent to and approve the 2002 Change of Control Agreement regarding a change of control of the cable television franchise held by Comcast Cablevision of the South, Inc., subject to the terms and conditions specified in the 2002 Change of Control Agreement, and subject to Grantee’s execution of the renewal Franchise Agreement adopted by the City Council on August 5, 2002; and

RESOLVED, That the Mayor and City Clerk be authorized to execute said 2002 Change of Control Agreement after approval as to substance by the City Administrator and approval as to form by the City Attorney.

Councilmember Carlberg moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-344-8-02 APPROVED

RESOLUTION TO GRANT A HARDSHIP EXEMPTION
FROM THE LIVING WAGE ORDINANCE TO THE ANN ARBOR
SUMMER FESTIVAL UNTIL JUNE 2005

Councilmember Easthope moved that the resolution be adopted.

Councilmember Upton moved that the fifth paragraph of the resolution be deleted and that the sixth paragraph be amended as follows:

~~[Whereas, The Ann Arbor Summer Festival is committed to complying with the living wage within three years;]~~

RESOLVED, That the Ann Arbor City Council ~~[approve the hardship~~

~~exemption request made by the Ann Arbor Summer Festival]~~ **GRANT THE ANN ARBOR SUMMER FESTIVAL A PERMANENT HARDSHIP EXEMPTION TO PROVISIONS OF THE LIVING WAGE ORDINANCE.**

After further discussion, the motion was withdrawn.

Councilmember Higgins moved that the resolution be postponed until the August 19, 2002 regular session of Council for further review.

On roll call the vote was as follows:

Yeas, Councilmembers Upton, Reid, Higgins, 3;

Nays, Councilmembers Carlberg, Herrell, Hartwell, Easthope, Woods, Robinson, Johnson, Mayor Hieftje, 8.

The Mayor declared the motion defeated.

The question being the resolution as originally presented, on roll call the vote was as follows:

Yeas, Councilmembers Reid, Carlberg, Herrell, Hartwell, Easthope, Woods, Robinson, Johnson, Mayor Hieftje, 9;

Nays, Councilmembers Upton, Higgins, 2.

The Mayor declared the motion carried.

R-345-8-02 APPROVED

RESOLUTION TO APPROVE THE COLLEGIAN REVISED
PLANNED PROJECT SITE PLAN

A communication was received from the City Planning Commission transmitting its recommendation of approval of the proposed Collegian Revised Planned Project Site Plan, 0.16 acre, 337 Maynard Street.

Whereas, Spoon Ventures III Maynard has requested revised site plan approval in order to construct a 27,710-square foot, five-story office/retail building at 337 Maynard Street;

Whereas, The Ann Arbor City Planning Commission, on July 16, 2002, recommended approval of said request;

Whereas, The contemplated development will comply with all applicable state, local and federal law, ordinances, standards and regulations;

Whereas, The development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, applying criteria for reviewing a natural features statement of impact set forth in this Chapter; and

Whereas, The development would not cause a public or private nuisance and would not have a detrimental effect on the public health, safety or welfare;

RESOLVED, That City Council approve The Collegian Building Revised Planned Project Site Plan.

Councilmember Carlberg moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-346-8-02 APPROVED

RESOLUTION TO APPROVE STATE STREET LOFTS
REVISED DEVELOPMENT AGREEMENT

Whereas, The Ann Arbor City Council approved the State Street Lofts Development Agreement on August 6, 2001; and

Whereas, Paragraphs P-2c, P-7b and C-3 of the development agreement have been revised;

RESOLVED, That City Council approve the First Amendment to and Restatement of State Street Lofts Development Agreement, substantially in the form of that on file in the City Clerk's Office, dated July 26, 2002.

Councilmember Johnson moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-347-8-02 APPROVED

RESOLUTION TO APPROVE STATE STREET LOFTS
REVISED AFFORDABLE HOUSING AGREEMENT

Whereas, The Ann Arbor City Council approved the State Street Lofts Affordable Housing Agreement on June 3, 2002; and

Whereas, Paragraph 12 of the affordable housing agreement has been revised;

RESOLVED, That City Council approve the State Street Lofts Revised Affordable Housing Agreement, substantially in the form of that on file in the City Clerk’s Office, dated July 15, 2002.

Councilmember Carlberg moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-348-8-02 APPROVED

RESOLUTION TO APPROVE STATE STREET LOFTS
REVISED PARKING AGREEMENT

Whereas, The Ann Arbor City Council approved the State Street Lofts Parking Agreement on June 17, 2002; and

Whereas, Paragraph 2b of the parking agreement has been revised;

RESOLVED, That City Council approve the State Street Lofts Revised Parking Agreement, substantially in the form of that on file in the City Clerk’s Office, dated July 15, 2002.

Councilmember Woods moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-349-8-02 APPROVED

RESOLUTION TO APPROVE A CHANGE ORDER TO THE CONTRACT WITH BASELINE CONSTRUCTORS, INC. FOR ADDITIONAL WORK AT VETERANS MEMORIAL PARK FACILITY ROOF RENOVATIONS AND TO APPROPRIATE FUNDS

Whereas, Work has begun with Baseline Constructors, Inc. for the renovation of Veterans Memorial Park Facility Roof Renovations;

Whereas, It was determined that additional repair work for the facility was necessary and prudent to maintain the structural integrity of the roof as well as to increase the longevity of the roof system; and

Whereas, A change order is necessary to fund the cost of these changes from the fund balance of the Park Maintenance and Repair Millage in the amount of \$80,267.00;

RESOLVED, That the Mayor and Council approve a change order to the contract with Baseline Constructors, bid #3549, for Veterans Memorial Park Facility Roof Renovations and appropriate \$80,267.00 from the fund balance of the Park Maintenance and Repair Millage to bring the total project budget amount to \$367,267.00 for the life of the project without regard to fiscal year.

Councilmember Johnson moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-350-8-02 APPROVED

RESOLUTION ESTABLISHING ENTRY FEES FOR BUHR PARK SKATE PARK

Whereas, The skate park opened in April 2002 without supervision and it was determined that supervision was needed to effectively operate, insure rule compliance, and to meet neighbors' expectations;

Whereas, Revenue generated from the Buhr Park Skate Park will provide an offset to supervision expenses of the skate park operation;

Whereas, Comparative analysis of surrounding skate park admission fees has been provided;

Whereas, The skate park entry fee should be consistent and apply to all users;

Whereas, A 25% differential between resident and non-residents should be applied to be consistent with Department guidelines;

Whereas, The Department of Parks and Recreation seeks to establish the highest level of self-support possible for each facility operation within the goals and missions of each facility; and

Whereas, The Park Advisory Commission supports the proposed fee schedule;

RESOLVED, That the attached skate park fee schedule be adopted and be effective August 21, 2002 and remain active unless modified, and that the fee impact be monitored to insure the facility continues to meet youth needs:

Buhr Park Skate Park Recommended Fees

Daily Admission Fee

Resident	\$ 3.00/day
Nonresident	\$ 3.75/day

Season Pass (good August 9, 2002 – October 20, 2002)

Resident	\$35.00
Nonresident	\$44.00

The proposed fees represent a resident/non-resident differential of approximately 25%, which is consistent with the Department guidelines. In addition, scholarships are available to all qualified City of Ann Arbor residents to ensure access for low-income residents. The Park Advisory Commission reviewed and approved the proposed fees on July 16, 2002.

Councilmember Carlberg moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

POSTPONED

RESOLUTION TO PLACE PARK MAINTENANCE AND
REPAIR MILLAGE PROPOSITION ON THE NOVEMBER 5, 2002
GENERAL ELECTION BALLOT

RESOLVED, That the Ann Arbor City Council propose that Section 8.22 of the City Charter be amended to read as follows:

FUNDS FOR MAINTENANCE AND REPAIR OF PARK FACILITIES

SECTION 8.22. In addition to any other amount which the City is authorized to raise by general tax upon the real and personal property by this Charter or any other provision of law, the City shall, in [~~1998~~] 2003 through [~~2002~~] 2006, annually levy a tax of .4725 mil on all taxable real and personal property situated within the City for the purpose of financing THE FOLLOWING CATEGORIES AND COSTS OF PARK [~~the~~] maintenance and repair [~~of park facilities~~]: PARKLAND MAINTENANCE, NATURAL AREA PRESERVATION, HORTICULTURE, FORESTRY (PARK AND STREET TREES), RECREATION FACILITIES, UNFUNDED PARK MAINTENANCE, AND MUNICIPAL SERVICE CHARGES.

RESOLVED, That November 5, 2002 be designated as the day for holding an election on the proposed Charter amendment;

RESOLVED, That the Clerk transmit a copy of the proposed amendment to the Attorney General and the Governor of Michigan and perform all other acts required by the law for holding the election;

RESOLVED, That the proposed Charter amendment appear on the ballot in the following form, together with the following statement of purpose:

ANN ARBOR CITY CHARTER AMENDMENT
AUTHORIZING A REPLACEMENT OF A TAX FOR PARKS

Shall the Charter be amended to authorize a .4725 mil tax for four years, starting in 2003, to replace the expiring Park Maintenance and Repair Millage of .4725 mil (reduced by the required millage reduction to .4632 mil), which will raise in the first year of the levy the estimated revenue of \$1,705,000.00, for the purpose of financing the following categories and costs of park maintenance and repair: parkland maintenance, natural area preservation, horticulture, forestry (park and street trees), recreation facilities, unfunded park maintenance, and municipal service charges?

YES

NO

and

RESOLVED, That the proposed Charter amendment and proposed ballot question, along with the statement of purpose, be published in full not fewer than two times in the Ann Arbor News.

Councilmember Johnson moved that the resolution be adopted.

With unanimous consent, Stephen Rapundalo, Chair of the Park Advisory Commission, answered questions of Council.

Councilmember Reid moved that the resolution be postponed until the August 19, 2002 regular session of Council for further review.

On a voice vote the Mayor declared the motion carried.

R-351-8-02 APPROVED

SPECIAL ASSESSMENT RESOLUTION NO. 2 – PREPARE
ASSESSMENT ROLL FOR ELDER BOULEVARD-JEFFERSON COURT
WATER MAIN PROJECT

Whereas, The City Council has directed and ordered the City Administrator to have prepared plans, specifications and estimates of cost for the Elder Boulevard-Jefferson Court Water Main project described as follows:

Construction of an 8” water main to serve Elder Boulevard and Jefferson Court between Eberwhite Boulevard and S. Seventh Street; File No. 2002027; District No. 2002027;

Whereas, The City Administrator has had the same prepared and has filed the same with the City Clerk together with his recommendations as to what part of the cost thereof should be paid by special assessment and what part should be paid by the City at large, the number of installments in which the special assessments may be paid, and the lands which should be included in the special assessment district; and

Whereas, The same has been presented to the City Council and examined and reviewed by the Council;

RESOLVED,

1. That the plans, specifications, estimate of cost, and the recommendations of the City Administrator be filed with the City Clerk and be available for public examination;

2. That the plans, specifications, estimate of cost, and recommendations of the City Administrator for said improvements as filed with the City Clerk by the City Administrator and presented to the Council be approved;

3. That the City Council hereby determine to proceed with the acquisition and construction of the Elder Boulevard-Jefferson Court Water Main project described as follows:

Construction of an 8" water main to serve Elder Boulevard and Jefferson Court between Eberwhite Boulevard and S. Seventh Street;

4. That the City Council determine the cost of said improvement, including all incidentals, to be \$130,580.00, and that of said total cost, the sum of \$48,967.50, be advanced from the proceeds of Water Revenue Bond "X" to be repaid by special assessment upon the property specially benefited within the City, and \$81,612.50 be paid by Water Revenue Bond "X", and that the funds be available for the life of the project without regard to fiscal year;

5. That the following described lots and parcels of land be designated as constituting the special assessment district against which the cost of said improvement shall be assessed, or against which an improvement charge shall, pursuant to Section 1.278 of the City Code, be levied:

LAND INSIDE THE CITY

<u>ASSESSOR CODE</u>	<u>OWNER</u>	<u>ESTIMATED COST</u>
09-29-323-012	Scott Munzel & Lori Ward 116 W. Washington St Ann Arbor, MI 48103-4244	\$8,161.25
09-29-323-013	Scott Munzel & Lori Ward 116 W. Washington St Ann Arbor, MI 48103-4244	\$8,161.25
09-29-323-014	Scott Munzel & Lori Ward 116 W. Washington St Ann Arbor, MI 48103-4244	\$8,161.25
09-29-323-015	Scott Munzel & Lori Ward 116 W. Washington St Ann Arbor, MI 48103-4244	\$8,161.25
09-29-323-016	Scott Munzel & Lori Ward 116 W. Washington St Ann Arbor, MI 48103-4244	\$8,161.25
09-29-309-054	Gordon Ebbitt & Janice Hendric 848 Brookwood Pl Ann Arbor, MI 48104	\$8,161.25
	Total	\$48,967.50

and

6. That the City Assessor be hereby directed to prepare a special assessment roll in accordance with the foregoing determinations of the City Council, and to file the same, together with his certificate attached thereto, with the City Clerk for presentation to the City Council.

Councilmember Woods moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-352-8-02 APPROVED

RESOLUTION TO ESTABLISH A PROJECT BUDGET AND APPROVE A CONTRACT WITH GREELEY AND HANSEN LLC FOR PHASE 2 OF THE SEWAGE RESIDUALS MANAGEMENT PLAN FOR THE WASTEWATER TREATMENT PLANT

Whereas, Greeley and Hansen LLC was approved by Council (R-170-4-98) on April 20, 1998, to conduct Phase 1 of the Sewage Residuals Management Plan (SRMP) for the Wastewater Treatment Plant;

Whereas, Phase 1 of the SRMP has been completed and Phase 2 work is ready to begin; and

Whereas, On April 13, 2002, the Human Resources Department approved Greeley and Hansen LLC to perform this work for the City;

RESOLVED, That Council approve the contract with Greeley and Hansen LLC for \$155,570.38 to provide engineering services for Phase 2 of the SRMP at the WWTP, and that the Mayor and City Clerk be authorized to sign the contract approved as to form by the City Attorney;

RESOLVED, That Council approve a contingency in the amount of \$14,429.62 to finance change orders to be approved by the City Administrator, and approve a total project budget of \$170,000.00 for the life of the project, to be available until expended without regard to fiscal year; and

RESOLVED, That funds for the project be advanced from the unobligated fund balance of the Sewage Disposal System Operating Fund pending the sale, if necessary, of future sewer revenue bonds.

Councilmember Easthope moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-353-8-02 APPROVED

RESOLUTION TO ACCEPT GRANT AND APPROPRIATE FUNDS FOR ALTERNATE FUEL VEHICLE INCENTIVES FROM THE MICHIGAN ENERGY OFFICE

Whereas, The City of Ann Arbor is a member of the US Department of Energy’s “Clean Cities Program” to bring alternative fuel vehicles into our community to reduce pollution and reliance on imported oil;

Whereas, This grant offers the City of Ann Arbor and other eligible Clean Cities Program members an opportunity to purchase alternate fuel vehicles at a reduced cost in order to demonstrate their potential for displacing conventionally fueled vehicles;

Whereas, Switching to alternate fueled vehicles is an effective strategy to both reduce vehicle emissions and reduce our dependence on imported oil;

Whereas, This grant will allow rebates of up to \$4,000.00 per vehicle to reimburse the incremental cost difference between new, original equipment manufacturer’s light duty alternate fuel vehicles and comparable gasoline vehicles; and

Whereas, The Energy Office will provide grant management services for this grant;

RESOLVED, That the City accept the Michigan Department of Consumer and Industry Services grant of \$20,000.00 to provide rebates to City of Ann Arbor and other eligible Ann Arbor Area Clean Cities Program members for the purchase of alternate fuel vehicles, and authorize the Mayor and City Clerk to sign the grant agreement after approval as to form by the City Attorney and approval as to substance by the City Administrator; and

RESOLVED, That the grant funds be appropriated for the life of the project, regardless of fiscal year.

Councilmember Carlberg moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

POSTPONED

RESOLUTION FOR IMPLEMENTING FOOD WASTE COMPOSTING PILOT PROGRAM

Whereas, City Council adopted a new 5 year Solid Waste Plan on May 4, 2002;

Whereas, The Solid Waste Plan identifies vegetative food waste composting as a critical initiative to be undertaken in the next 5 years; and

Whereas, City Council adopted a resolution on July 1, 2002 requesting the Solid Waste Department provide a plan for implementing a food waste composting pilot;

RESOLVED, That the Solid Waste Department proceed with implementing a food waste composting pilot, with pre-pilot testing to begin by September, 2002, and a full scale pilot including 10 to 15 businesses to begin April, 2003; and

RESOLVED, That the Solid Waste Department report back to City Council by September, 2003 with recommendations on how to continue and expand vegetative food waste composting in Ann Arbor.

Councilmember Easthope moved that the resolution be adopted.

Councilmember Higgins moved that the resolution be postponed until the August 19, 2002 regular session of Council for further review.

On a voice vote the Mayor declared the motion carried.

R-354-8-02 APPROVED AS AMENDED

RESOLUTION APPROVING A DEVELOPMENT AGREEMENT FOR THE FIRST AND WASHINGTON SITE

A resolution approving a development agreement for the First and Washington site was considered.

Councilmember Carlberg moved that the resolution be adopted.

Councilmember Easthope moved that Section 17 of the Development Agreement be amended as follows:

Section 17. Sale and Purchase of Air Rights. The City shall sell to the Developer and the Developer shall purchase from the City all of the air rights and associated development rights owned by the City above the City Portion, which are described in the attached Exhibit E (the "Air Rights"). The purchase price for the Air Rights is Six Hundred Thousand Dollars

(\$600,000.00) ("Purchase Price"). The Deposit shall be applied to the Purchase Price at closing. [~~The City shall direct that the Purchase Price be paid to the DDA at the closing.~~]...

On a voice vote the Mayor declared the motion carried.

Councilmember Reid moved that the following paragraphs be added following the sixth paragraph of the resolution:

Whereas, The City has negotiated with the developer for a substantial contribution to the Affordable Housing Trust Fund;

RESOLVED, That the developer contribution rate to the Affordable Housing Trust Fund shall not be construed as City policy regarding the future development of additional city-owned sites;

On roll call the vote was as follows:

Yeas, Councilmembers Upton, Reid, Carlberg, Herrell, Easthope, Woods, Robinson, Johnson, Mayor Hieftje, 9;

Nays, Councilmembers Hartwell, Higgins, 2.

The Mayor declared the motion carried.

With unanimous consent, Scott Munzel, of Bodman and Longley, and Michael Conter answered questions from Council.

The question being the resolution as amended, on roll call the vote was as follows:

Yeas, Councilmembers Upton, Reid, Carlberg, Herrell, Hartwell, Higgins, Easthope, Woods, Robinson, Johnson, Mayor Hieftje, 11;

Nays, 0.

The Mayor declared the motion carried.

The resolution as adopted reads as follows:

R-354-8-02

RESOLUTION APPROVING A DEVELOPMENT AGREEMENT
FOR THE FIRST AND WASHINGTON SITE

Whereas, The impending closure of the First and Washington parking structure has created the opportunity to redevelop the site as a mixed use venture which will provide public parking, in addition to creating additional residential and retail space downtown;

Whereas, On November 9, 2000 City Council approved a Request for Qualifications to assist with the selection of a private development partner;

Whereas, This RFQ was distributed in November 2000, and five responses were received in January 2001;

Whereas, The "First & Washington Committee," comprised of DDA, City Council, and Citizen's Advisory Council members, reviewed developer qualifications and conducted interviews, and on May 30, 2001 resolved to select Libertyfirst LLC (Joseph Freed & Associates, TBM, and Allen & Kwan Commercial) as the City/DDA's preferred development partner;

Whereas, For the past twelve months there have been many meetings between City/DDA and Libertyfirst representatives which have culminated in the attached development agreement which has been recommended for City Council approval by the DDA;

Whereas, Community benefits from this project will include replacement public parking and additional downtown residential and retail space; and

Whereas, The City has negotiated with the developer for a substantial contribution to the Affordable Housing Trust Fund;

RESOLVED, That the developer contribution rate to the Affordable Housing Trust Fund not be construed as City policy regarding the future development of additional city-owned sites;

RESOLVED, That the First and Washington development agreement between the City of Ann Arbor, Ann Arbor Downtown Development Authority and Libertyfirst (on file in the City Clerk’s Office) be approved; and

RESOLVED, That the Mayor and City Clerk be authorized to sign the agreement between the City of Ann Arbor, Ann Arbor Downtown Development Authority and Libertyfirst, subject to approval as to form by the City Attorney’s office and approval as to substance by the City Administrator.

R-355-8-02 APPROVED

RESOLUTION AUTHORIZING SUMMARY PUBLICATION OF
ORDINANCE 31-02 – CABLE SYSTEMS AND CABLE SERVICE

Whereas, Section 7.4 of the City Charter authorizes the publication by summary of ordinances over 500 words in length;

RESOLVED, That Ordinance No. 31-02 be published by the following summary:

Ordinance No. 31-02 amends the City Code by repealing the existing Chapter 32 (Community Antenna Television Systems) which governs cable television franchises and services, and replacing it with a new Chapter 32 (Cable Systems and Cable Service), Sections 2:100-2:132, to require a franchise and to establish requirements for placement of cable television facilities within the City of Ann Arbor and for the provision and operation of cable television services within the City of Ann Arbor. The Ordinance also amends Section 1:17 of the City Code to allow the Information Technology Services Department Director and the Cable Administrator to enforce the provisions of Chapter 32.

The complete text of this ordinance is available for inspection at the City Clerk's office on the 2nd floor of the Guy C. Larcom Municipal Building, 100 N. Fifth Avenue.

Councilmember Higgins moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

Council unanimously agreed to delete the following resolution from the agenda:

Resolution to Hire Outside Counsel Regarding Pall Life Sciences NPDES Permit (Attorney – Abigail Elias, City Attorney).

R-356-8-02 APPROVED

RESOLUTION APPROVING THE WASHTENAW COUNTY/
CITY OF ANN ARBOR COMMUNITY CORRECTIONS COMPREHENSIVE
APPLICATION FOR FUNDING THROUGH THE STATE OF MICHIGAN
DEPARTMENT OF CORRECTIONS/OFFICE OF COMMUNITY
CORRECTIONS FOR FISCAL YEAR 2002-03

Whereas, On August 6, 1989, by resolution # 89-0219, the Washtenaw County Board of Commissioners established, in conjunction with the Ann Arbor City Council, a City/County Community Corrections Advisory Board, pursuant to PA 511 of 1988;

Whereas, The Washtenaw County/City of Ann Arbor Community Corrections Advisory Board meets monthly on the second Tuesday of every month, pursuant to by-laws established for that Board;

Whereas, This application represents and demonstrates seven consecutive successful years of implementation based on the original Comprehensive Corrections Plan;

Whereas, At a regularly scheduled meeting held July 9, 2002, the application for FY 2002/03 funding has been reviewed and approved by the Washtenaw County/City of Ann Arbor Community Corrections Advisory Board and recommended for forwarding to the Washtenaw County Board of Commissioners and Ann Arbor City Council for review and approval at the next regularly scheduled meeting; and

Whereas, The State of Michigan Office of Community Corrections has reviewed this

application and approved funding of \$1,188,048.00 at the State Board of Community Corrections regularly scheduled meeting held on August 15, 2002 in Lansing, Michigan, with said funding contingent upon approval by the Ann Arbor City Council and the Washtenaw County Board of Commissioners;

RESOLVED, That the City Council approve the Washtenaw County/City of Ann Arbor Community Corrections Comprehensive Application for funding for fiscal year 2002/03.

Councilmember Upton moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-357-8-02 APPROVED

RESOLUTION TO POSTPONE REGULAR COUNCIL SESSIONS IN SEPTEMBER AND NOVEMBER, 2002

A resolution to postpone the first and second regular Council sessions in September and the first regular Council session in November, 2002 was considered.

Councilmember Robinson moved that the resolution be adopted.

Councilmember Carlberg moved that the first paragraph be deleted and the second paragraph of the resolution be amended as follows:

~~[RESOLVED, That the first regular Council session in September be postponed from Tuesday, September 3, until 7:30 p.m., Thursday, September 5, 2002, due to the Labor Day holiday;]~~

RESOLVED, That the second regular Council session in September be postponed from Monday, September 16, until 7:30 p.m., ~~[Thursday, September 19,]~~ **TUESDAY, SEPTEMBER 17, 2002**, due to the Jewish holiday of Yom Kippur which begins Sunday, September 15;

On a voice vote the Mayor declared the motion carried.

The question being the resolution as amended, on a voice vote the Mayor declared the motion carried.

The resolution as adopted reads as follows:

R-357-8-02 APPROVED

RESOLUTION TO POSTPONE THE SECOND REGULAR COUNCIL SESSION IN SEPTEMBER AND THE FIRST REGULAR COUNCIL SESSION IN NOVEMBER, 2002

RESOLVED, That the second regular Council session in September be postponed from Monday, September 16, until 7:30 p.m., Tuesday, September 17, 2002, due to the Jewish holiday of Yom Kippur which begins Sunday, September 15; and

RESOLVED, That the first regular Council session in November be postponed from Monday, November 4, until 7:30 p.m., Thursday, November 7, 2002, due to the election on Tuesday, November 5.

R-358-8-02

RESOLUTION TO ACCEPT BOARD OF INSURANCE ADMINISTRATION MINUTES OF AUGUST 2, 2002 AND TO AUTHORIZE PAYMENTS

RESOLVED, that the attached Board of Insurance Administration Minutes of August 2, 2002 be accepted and that the recommended courses of action therein, including payments, be authorized:

MINUTES CITY OF ANN ARBOR BOARD OF INSURANCE ADMINISTRATION AUGUST 2, 2002

- Present: Chris Easthope – Councilperson
- Karen Lancaster, Interim Treasurer (via telephone)
- James Armstrong - Risk Manager
- Abigail Elias – City Attorney
- Marilyn Mack – Claims Specialist
- Bob West – Assistant City Attorney
- Roger Fraser – City Administrator

CLAIMS DENIED:

- CC043-02 Washtenaw Minimart
- Property Damage
- Discussed by Marilyn Mack, Claims Specialist

- CC068-99 Katherine Frisch
Bodily Injury
Discussed by Marilyn Mack, Claims Specialist
- CC051-02 B. Virgil Janssen
Vehicle Damage
Discussed by Marilyn Mack, Claims Specialist
- CC063-02 Agnes Mattic
Bodily Injury
Discussed by Marilyn Mack, Claims Specialist

CLAIMS APPROVED:

- CC048-02 Jeffrey Rewolt
Vehicle Damage
Discussed by Marilyn Mack, Claims Specialist
- CC038-02 Sally Gillo
Vehicle Damage
Discussed by Marilyn Mack, Claims Specialist
- CC052-02 Ryan Clement
Vehicle Damage
Discussed by Marilyn Mack, Claims Specialist
- CC014-02 Christopher Kim
Property Damage
Discussed by Marilyn Mack, Claims Specialist
- CC040-02 Robert Keener
Vehicle Damage
Discussed by Marilyn Mack, Claims Specialist
- CC046-02 Dan Meisler/Laura Anthony
Vehicle Damage
Discussed by Marilyn Mack, Claims Specialist
- CC049-02 Ryan Shuchman
Vehicle Damage
Discussed by Marilyn Mack, Claims Specialist

- CC050-02 Howard Erman
 Property Damage
 Discussed by Marilyn Mack, Claims Specialist
- CC028-02 Country Place Condo Association
 Property Damage
 Discussed by Marilyn Mack, Claims Specialist
- CC057-02 Marilyn Harber
 Property Damage
 Discussed by Marilyn Mack, Claims Specialist

CLAIMS TABLED:

- CC033-02 Blair Dudley
 Bodily Injury
 Discussed by Marilyn Mack, Claims Specialist
- CC053-02 FSA Properties/H. David Fee
 Property Damage
 Discussed by Marilyn Mack, Claims Specialist

OTHER AGENDA ITEMS DISCUSSED:

Amendment to Pear, Sperling, Eggan and Muskovitz contract
Discussed by Abigail Elias, City Attorney

Washington lawsuit
Discussed by Mel Muskovitz, outside counsel and Abigail Elias, City Attorney

Nievaard lawsuit
Discussed by Bob West, Assistant City Attorney

Englebert class action lawsuit
Discussed by Abigail Elias, City Attorney

Airport GL Insurance renewal
Discussed by James Armstrong, Risk Manager

Forest Avenue Parking Structure Insurance renewal
Discussed by James Armstrong, Risk Manager

Councilmember Easthope moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

RECESS FOR CLOSED SESSION

Councilmember Herrell moved that the regular session of Council be recessed for a closed session to discuss attorney-client privileged communications.

On roll call the vote was as follows:

Yeas, Councilmembers Upton, Reid, Carlberg, Herrell, Woods, Robinson, Johnson, Mayor Hieftje, 8;

Nays, Councilmembers Hartwell, Higgins, Easthope, 3.

The Mayor declared the motion carried and the meeting recessed at 11:02 p.m.

Councilmember Higgins moved that the regular session of Council be reconvened.

On a voice vote the Mayor declared the motion carried and the meeting reconvened at 11:20 p.m.

MOTIONS AND RESOLUTIONS (CONT.)

DEFEATED

RESOLUTION TO APPROPRIATE FUNDS AND TO APPROVE CONTRACT WITH SEELIGSON, DELOOF, HOPPER & DEVER, PLLC, FOR LEGAL SERVICES TO APPEAR AND/OR INTERVENE ON BEHALF OF THE ZONING BOARD OF APPEALS IN WASHTENAW COUNTY'S APPEAL OF THE ZONING BOARD OF APPEALS' DECISION REGARDING THE HOMELESS SHELTER

Whereas, On June 11, 2002, Washtenaw County filed an appeal in Washtenaw County Circuit Court of a decision by the City's Zoning Board of Appeals ("ZBA") on May 22, 2002, regarding the homeless Shelter being built by the County on Huron Avenue;

Whereas, Washtenaw County brought its case against the City of Ann Arbor and the Office of the City Attorney has appeared in the Circuit Court action as counsel for the City;

Whereas, The City Attorney is of the opinion that the ZBA does not have the right to intervene or appear separately from the City in the Circuit Court case;

Whereas, The City Attorney sought independent legal counsel for a second opinion as to whether the ZBA (1) could intervene or appear in the Circuit Court appeal, separate from the City; (2) had jurisdiction to hear the petitions on May 22, 2002, and (3) was correct in its interpretation of the Zoning Code relative to the homeless shelter;

Whereas, Attorneys from the law firm Seeligson, DeLoof, Hopper & Dever, PLLC, were selected to provide such advice and they advised that they were of the opinion that the ZBA could appear or intervene in the Circuit Court appeal, separate from the City;

Whereas, On July 24, 2002, at the continuation of the ZBA's June 26, 2002, meeting, the ZBA passed a motion by a 6-3 vote to request the City Council to approve a contract with Seeligson, DeLoof, Hopper & Dever, PLLC, to appear and/or intervene on behalf of the ZBA in the Circuit Court case, separate from the City;

Whereas, The firm estimates that it can provide the services in the Circuit Court for less than \$4,000.00, not including any appeal to the Michigan Court of Appeals; and

Whereas, The City's budget for fiscal year 2002/03 does not have funds for such legal services;

RESOLVED, That the City Administrator be authorized to sign a legal services agreement with Seeligson, DeLoof, Hopper & Dever, PLLC, approved as to form by the City Attorney, for legal services to appear and/or intervene on behalf of the Zoning Board of Appeals in Washtenaw County's appeal of the Zoning Board of Appeal's decision regarding the homeless shelter, in an amount not to exceed \$4,000.00;

RESOLVED, That \$4,000.00 be appropriated from the City's fund balance to the budget of the City Attorney's Office to cover the cost of this contract; and

RESOLVED, That the City Council's approval of this contract and appropriation of funds there for shall not be construed as approval of the position taken by the ZBA and the City Council reserves the City's rights to contest the ZBA's appearance and/or intervention in the Circuit Court case.

Councilmember Reid moved that the resolution be adopted.

On roll call the vote was as follows:

Yeas, Councilmember Johnson, 1;

Nays, Councilmembers Upton, Reid, Carlberg, Herrell, Hartwell, Higgins, Easthope, Woods, Robinson, Johnson, 10;

The Mayor declared the motion defeated.

REPORTS FROM COUNCIL COMMITTEES

None.

COUNCIL PROPOSED BUSINESS

None.

COMMUNICATIONS FROM THE MAYOR

NOMINATIONS PLACED ON TABLE

Mayor Hieftje placed the following nominations on the table for approval at a later date:

Bicycle Coordinating Committee

Deborah Biggs (replacing Karl Kleitsch)
1303 Brook St. 48103
Term: 8/19/02 – 1/31/06

Jeanne L. Horvath (replacing Eric Britner)
1871 Lindsay Ln. 48104
Term: 8/19/02 – 11/8/03

Cable Communications Commission

R. Thomas Bray (replacing Tomas Chavez)
801 Amherst Ave. 48105
Term: 8/19/02 – 1/17/05

ANNOUNCEMENTS

- X The Ann Arbor Jaycees is sponsoring a Town Hall Meeting at 8:00 p.m., August 6, 2002, at Hutchins Hall, room 150. The topic will be “U.S.A. Patriot Act.”

COMMUNICATIONS FROM THE CITY ADMINISTRATOR

REVENUE SHARING VETO

City Administrator Roger Fraser distributed a draft letter to be signed by the Mayor and other members of Council concerning Governor Engler’s revenue sharing veto. The letter encourages the State House and Senate to support an override of the governor’s veto of statutory revenue sharing and of grants to local governments for fire protection of state institutions. (Draft letter on file in the City Clerk’s Office).

REPORTS SUBMITTED

City Administrator Fraser submitted the following reports:

1. June 2002 Investment Portfolio Report (Finance)
2. Amendments to Chapter 55 - Minimum Building Height (Planning – Karen Hart, Director)
3. Amendments to Chapter 63 – Storm Water Management (Planning – Karen Hart, Director)
4. Jefferson Court Water Main Improvements (Water Utilities – Sue McCormick, Director)
5. DDA Development Agreement for the First and Washington Site
6. Environmental Commission Resolution Recommending Development of a City-Wide Flood Mitigation Plan
7. Draft letter concerning Governor's Revenue Sharing Veto

(Reports on file in the City Clerk's Office)

COMMUNICATIONS FROM THE CITY ATTORNEY

None.

COMMUNICATIONS FROM COUNCIL

None.

CLERK'S REPORT OF COMMUNICATIONS, PETITIONS AND REFERRALS

The following communications were referred as indicated:

1. "Resolution Approving the Creation of the Ann Arbor/Ypsilanti Smart Zone Local Development Finance Authority," adopted by the Washtenaw County Board of Commissioners 7/17/02 – DDA

2. Communication from David Friend regarding services for disabled – File.
3. Communication from John M. Chlipala, representing Ann Arbor Railroad, regarding proposed 815 Wildt Street Rezoning (Ordinance 29-02) – Planning.
4. Communication from Terry Alexander, of Alexander and Ezati Architects, regarding infiltration rates for storm water at 3135 Professional Drive project site – Planning.
5. Communication from Attorney General Jennifer M. Granholm in response to City Council R-283-6-02, adopted June 17, 2002, regarding Michigan's sex offenders registry – File.

The following minutes were received for file:

1. Downtown Development Authority Board – June 5, 2002
2. Human Rights Commission – May 15, 2002
3. Employee's Retirement System Board – June 20, 2002
4. Retiree Health Care Board – June 20, 2002
5. Cable Communications Commission – May 7, May 28, June 27, 2002
6. Housing Communications – June 26 and July 9, 2002
7. Building Board of Appeals – June 12, 2002
8. Planning Commission – June 4 and June 18, 2002

Councilmember Carlberg moved that the Clerk's Report be accepted.

On a voice vote the Mayor declared the motion carried.

PUBLIC COMMENTARY - GENERAL

DAVID DIEPHUIS – DIEPHUIS PROPERTY REZONING

David Diephuis, 2096 S. State St., objected to Council's decision to deny the rezoning of his property from Office to Residential. He expressed concern that his right to make a statement during a public hearing has been denied because the ordinance was defeated at

first reading.

ADJOURNMENT

There being no further business to come before Council, it was moved by Councilmember Hartwell that the meeting be adjourned.

On a voice vote the Mayor declared the motion carried and the meeting adjourned at 12:27 a.m.

Yvonne Carl
Interim Clerk of the Council

Janet L. Chapin
Recording Secretary