



City of Ann Arbor

100 N. Fifth Avenue
Ann Arbor, MI 48104
www.a2gov.org

Action Minutes City Council

Monday, February 2, 2009

7:00 PM

G. C. Larcom, Jr. Municipal Bldg. 2nd Flr.

CALL TO ORDER

Mayor Hieftje called the meeting to order at 7:14 PM in the Guy C. Larcom Jr., Municipal Building, 2nd Floor Council Chambers, 100 N. Fifth Avenue.

MOMENT OF SILENCE

Council stood for a moment of silence.

PLEDGE OF ALLEGIANCE

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

ROLL CALL OF COUNCIL

- Present:** 10 - Mayor John Hieftje, Councilmember Stephen Rapundalo, Councilmember Leigh Greden, Councilmember Marcia Higgins, Councilmember Margie Teall, Councilmember Mike Anglin, Councilmember Sabra Briere, Councilmember Sandi Smith, Councilmember Christopher Taylor, and Councilmember Carsten Hohnke
- Absent:** 1 - Councilmember Tony Derezinski

APPROVAL OF AGENDA

A motion was made by Councilmember Briere, seconded by Councilmember Greden, that the Agenda be approved as presented. On a voice vote, the Mayor declared the motion carried.

INT INTRODUCTIONS

INT-1 09-0006 Environmental Assessment Process for Airport Improvements

Matt Kulhanek, City Fleet and Facilities Manager, and a representative of the Michigan Department of Transportation, updated Council on the environmental assessment process for the municipal airport improvements project. Amy Ecklan from JJR Planners stated a citizens advisory committee will be created to provide updates and receive feedback as the project progresses.

PUBLIC COMMENTARY - RESERVED TIME (3 MINUTES PER SPEAKER)*** (SPEAKERS ARE NOT PERMITTED TO GRANT THEIR RESERVED TIME TO AN ALTERNATE SPEAKER)***** ACCOMMODATIONS HAVE BEEN MADE FOR PERSONS NEEDING ASSISTANCE WHILE ADDRESSING COUNCIL**

1. Stewart Nelson - Fiscal Responsibility (DS-6)
Stewart Nelson, 2975 Hickory Lane, spoke in opposition of the proposed Police/Court Facility. He expressed concern about the expenditure required for the project.
2. Harvey Kaplan - Police/Court Facility and Economic Issues (DS-6)
Harvey Kaplan, 3065 Hunting Valley, spoke in opposition of the proposed Police/Court project.
3. Virginia Simon - Police/Court (DS-6)
Virginia Simon, 830 W. Washington, spoke in opposition of the proposed Police/Court Facility. She expressed concern about the cost of the project.
4. Patricia Lesko - Police/Court Facility
Patricia Lesko, 817 Brookside, spoke in opposition of the proposed Police/Court Facility
5. Thomas Partridge
Thomas Partridge, 4220 Eyrie Dr. in Scio Township, spoke on the following topic: End discrimination in Ann Arbor: Build transportation, housing, and health care for all. Stop discriminatory AATA fare increases.
6. Chris Hillebrand - Parks and Non-Parks
Chris Hillebrand, 2115 Devonshire Rd., addressed Council regarding the Farmer's Market. She said that the Market is not a park and should not be treated like a park facility.
7. Alex Levine - Recycling
Alex Levine, 1300 E. Ann, Room 4505, addressed Council regarding an upgraded recycling program. He urged Council to consider recycling #6 plastics.
8. Karen Sidney - Police/Court Facility (DS-6)
Karen Sidney, 100 Longman Lane, spoke in opposition of the proposed Police/Court building project, including the proposed project budget.

9. John Floyd - Police/Court Building

John Floyd, 519 Sunset Rd., spoke in opposition of the proposed Police/Court Facility. He urged Council to first seek public support for the project.

PH PUBLIC HEARINGS (3 MINUTES PER SPEAKER)

- PH-1 09-0059** Resolution to Approve the Gas Station/Tim Hortons Site Plan, 1.32 Acres, 3240 Washtenaw Avenue, (CPC Recommendation: Approval - 8 Yeas and 1 Nay)
This matter was deleted from the agenda.
- PH-2 09-0060** Resolution to Approve the Wintermeyer Office Building Phase 2 Planned Project Site Plan, 1.87-Acres, 2144 and 2178 South State Street, (CPC Recommendation: Approval - 9 Yeas and 0 Nays)
A public hearing was conducted on the proposed Resolution to approve the Wintermeyer Office Building Phase 2 Planned Project Site Plan, 1.87 Acres, located at 2144 and 2178 South State Street. Notice of public hearing was published January 25, 2009.
Thomas Partridge, Scio Township resident, spoke in opposition of the proposed site plan.
There being no further comment, the Mayor declared the hearing closed.
- PH-3 09-0063** Resolution to Modify Fees at the City Golf Courses Effective for the 2009 Golf Season and Increase the Senior Citizen Qualification Age
A public hearing was conducted on the Resolution to modify fees at the City Golf Courses, effective for the 2009 Golf Season and increase the senior citizen qualification age. Notice of public hearing was published February 1, 2009.
Thomas Partridge, Scio Township, spoke in opposition of the proposed fee increase.
There being no further comment, the Mayor declared the hearing closed.

COMMUNICATIONS FROM COUNCIL

- 09-0104** Resolution to Appoint a Planning Commission Representative to the City Environmental Commission
Sponsors: Teall and Hohnke
Councilmember Teall introduced a resolution to appoint a Planning Commission Representative to the Environmental Commission. The resolution will be returned to Council on February 17 for final action.

A APPROVAL OF COUNCIL MINUTES

- A-1 09-0077** City Council Regular Session Minutes of January 20, 2009
A motion was made by Councilmember Rapundalo, seconded by Councilmember Teall, that the Minutes be Approved as presented. On a voice vote, the Mayor declared the motion carried.

CA CONSENT AGENDA**Passed on consent agenda**

A motion was made by Councilmember Greden, seconded by Councilmember Teall, that the following Consent Items be approved as presented. On a voice vote, the Mayor declared the motion carried.

CA-1 09-0058 Resolution Recognizing Vincent York's Jazzistry as a Civic Nonprofit Organization Operating in Ann Arbor for the Purpose of Obtaining a Charitable Gaming License
Enactment No: R-09-036

CA-2 09-0062 Resolution Recognizing The Ann Arbor Art Center as a Civic Nonprofit Organization Operating in Ann Arbor for the Purpose of Obtaining a Charitable Gaming License
Enactment No: R-09-037

B ORDINANCES - SECOND READING

None.

C ORDINANCES - FIRST READING

C-1 08-1167 An Ordinance to Amend Chapter 26, Solid Waste Ordinance, Sections 2:1, 2:2, 2:3, 2:5, 2:7, 2:9, 2:10 and 2:13 to Implement Commercial Recycling Recommendations (Ordinance No. ORD-09-03)

A motion was made by Councilmember Teall, seconded by Councilmember Hohnke, that the resolution be approved.

Enactment No: ORD-09-03

A motion was made by Councilmember Teall, seconded by Councilmember Hohnke, that the Ordinance be Amended as follows:

**PROPOSED FLOOR AMENDMENTS TO
ORDINANCE AMENDMENTS FOR COMMERCIAL RECYCLING**

ITEM #1: SECTION 2.9 VARIANCES

SUBSECTION 2.b Request for exemption from franchised service.

Any commercial, industrial, or institutional user that can document that it has a valid contract for refuse services in effect no later than January 31, 2009 and that the refuse hauler providing those services has secured and maintained a valid hauler license with the City may request and will be granted an exemption from the franchised service up to the initial contract termination date or through June 30, [2010] 2011, whichever is earlier, at which time exemptions granted for such purposes shall be terminated without option. For the purposes of this section the initial contract termination date is defined as the end of the current contract period and does not include any renewals or extensions, automatic or otherwise. Contracts signed after January 31, 2009 shall be valid only through June 30, 2009.

Background: The above date change provides a two year, rather than 1 year, window for transition to the waste collection contract for those commercial locations and their haulers that had a contract in place prior to January 31, 2009, consistent with the language describing the program when Request for Proposals for the waste collection contract went out. This allows a reasonable time period for all existing contracts to be phased out. The RFP was released during mid 2008 and the two-year window was part of the program description at that time. The difference between the RFP and the draft ordinance was identified during Contract negotiations with the recommended vendor and part of the discussion during legal review with the City Attorney's office – noting that the RFP description was the basis for soliciting proposals and should be used in the final ordinance language.

ITEM #2 part 1: SECTION 2.5 SOLID WASTE CONTAINERS

SUBSECTION 4b(x) Commercial Containers – Recycling

x. Commercial location owners and/or commercial location managers subject to this subsection shall have until July 1, [2011] 2012 to comply with its requirements, after which time the enforcement provisions of subsection 2:13 of this chapter shall become effective. Prior to July 1, [2011] 2012, the City will utilize a progressive enforcement program based on non-financial penalty Notices of Violation initiated by the offering of Recycling Containers and Recycling Services as described in subsection 2:5 (4) b.v.

ITEM #2 part 2: SECTION 2.9 VARIANCES

SUBSECTION 3.a. Request for exemption from city provided recycling services.

a. Effective July 1, [2011] 2012, any commercial location owner and/or

commercial location manager may request, using on-line forms made available by the City, to the city administrator or designee, that they be exempted from use of the City provided recycling service. The request shall specify the circumstances that necessitate such exemption status, which may include but are not limited to a corporate contract whose provisions are outside the person's or entity's control, or a specialized service that cannot be provided by the City service.

Background: The above date changes provides a three year, rather than 2 year, window for ramping up the commercial recycling services to all sites in the City. This change was suggested by staff after reviewing in detail the required implementation steps needed for the City's Field Operations Staff to roll-out the expanded network of recycling dumpsters to sites throughout the City. The additional time will allow the expansion to take place more smoothly.

On a voice vote, the Mayor declared the motion carried.

The question being, the motion made by Councilmember Teall, seconded by Councilmember Hohnke, that the Ordinance be approved on First Reading and should be returned to City Council by 2/17/2009. On a voice vote, the Mayor declared the motion carried.

Enactment No: ORD-09-03

C-2 09-0055

An Ordinance to Amend Chapter 55, Section 5:110 to Allow Certain Zoning Petitions to be Waived from Citizens Participation Requirements (CPC Recommendation: Approval - 9 Yeas and 0 Nay) (Ordinance No. ORD-09-04)

A motion was made by Councilmember Briere, seconded by Councilmember Smith, that the Ordinance be Approved on First Reading to the City Council and should be returned by 3/2/2009. On a voice vote, the Mayor declared the motion carried.

Enactment No: ORD-09-04

D MOTIONS AND RESOLUTIONS

DC New Business - Council:

DC-1 09-0065

Resolution Establishing the Line of Succession to the Emergency Management Director for the City of Ann Arbor Office of Emergency Management

Sponsors: Hieftje

A motion was made by Councilmember Hohnke, seconded by Councilmember Rapundalo, that the Resolution be Approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-038

Added After Newspaper Deadline:

- DC-2 09-0105** Resolution Recognizing the Jewish Community Center of Washtenaw County as a Civic Nonprofit Organization Operating in Ann Arbor for the Purpose of Obtaining a Charitable Gaming License

Sponsors: Teall

A motion was made by Councilmember Taylor, seconded by Councilmember Teall, that the Resolution be Approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-039

DB New Business - Boards and Commissions:

- DB-1 09-0059** Resolution to Approve the Gas Station/Tim Hortons Site Plan, 1.32 Acres, 3240 Washtenaw Avenue, (CPC Recommendation: Approval - 8 Yeas and 1 Nay)
This matter was deleted from the agenda on 1/30/09.

- DB-2 09-0060** Resolution to Approve the Wintermeyer Office Building Phase 2 Planned Project Site Plan, 1.87-Acres, 2144 and 2178 South State Street, (CPC Recommendation: Approval - 9 Yeas and 0 Nays)
Councilmembers Higgins, Hohnke and Greden were absent from the table during discussion and voting.

A motion was made by Councilmember Briere, seconded by Councilmember Smith, that the Resolution be approved. On a voice vote, the Mayor declared the motion carried with 7 members at the table.

Enactment No: R-09-040

DS Old Business - Staff:

- DS-1 08-1147** Resolution to Approve a Grant Contract with the Michigan Department of Transportation for Work Related to the Environmental Assessment and Preliminary Engineering for the Safety Extension of Runway 6/24 at the Ann Arbor Municipal Airport (\$179,000.00)

A motion was made by Councilmember Rapundalo, seconded by Councilmember Teall, that the Resolution be Approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-041

- DS-2 08-1148** Resolution to Approve a Grant Contract with the Michigan Department of Transportation for Work Related to the Environmental Assessment and Integrated Noise Modeling for the Safety Extension of Runway 6/24 at the Ann Arbor Municipal Airport (\$75,000.00)

A motion was made by Councilmember Teall, seconded by Councilmember Taylor, that the Resolution be Approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-042

DS-3 08-1144 Resolution to Approve the October 2008 Professional Services Agreement between the City and URS Corporation Great Lakes for Work Related to the Environmental Assessment and Preliminary Engineering for the Safety Extension of Runway 6/24 at the Ann Arbor Municipal Airport (\$186,000.00)

A motion was made by Councilmember Rapundalo, seconded by Councilmember Teall, that the Resolution be Approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-043

DS-4 08-1145 Resolution to Approve the December 16, 2008 Professional Services Agreement between the City and Smith Group JJR, LLC for Work Related to the Environmental Assessment for the Safety Extension of Runway 6/24 at the Ann Arbor Municipal Airport (\$112,489.53)

A motion was made by Councilmember Taylor, seconded by Councilmember Teall, that the Resolution be Approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-044

DS-5 08-1162 Resolution to Approve Amendment No. 1 to Existing Professional Services Contract with Beckett & Raeder, Inc. to Increase the Contract Budget by \$122,862.62 for a Total Contract Amount of \$232,246.62, Accept and Appropriate \$13,538.67 Grant from the DDA, Appropriate \$30,661.97 from the Market Fund Fund Balance, Transfer \$48,000.00 from the Stormwater Fund FY09 Operations and Maintenance Budget, Appropriate \$30,661.98 from the Parks Rehabilitation and Development Millage Fund Balance, and Appropriate \$122,862.62 from the Parks Rehabilitation and Development Millage to the Farmers Market Master Plan Construction Design Project Budget to Create a Total Project Budget of \$2,056,900.00 (8 Votes Required)

A motion was made by Councilmember Rapundalo, seconded by Councilmember Teall, that the Resolution be Approved.

A motion was made by Councilmember Briere, seconded by Councilmember Rapundalo, that the Resolution be Laid on the table. On a voice vote, the Mayor declared the motion carried

RECESS

The Mayor declared a recess at 8:22 p.m. and reconvened the meeting at 8:33 p.m.

New Business - Staff:

DS-6 09-0064 Resolution to Approve an Amendment to the Construction Manager Agreement with Clark Construction Co. for the Courts/Police Building (\$35,874,422.00)

It was noted by councilmembers that the proposal for a new community meeting room would not be moving forward at this time and was not a part of this agreement.

Councilmember Higgins requested that the City Administrator bring all expenditures of contingency funds to the Council Building Committee for approval prior to any expenditure of the funds.

A motion was made by Councilmember Greden, seconded by Councilmember Higgins, that the Resolution be Approved. On a roll call, the vote was as follows with the Mayor declaring the motion carried.

Yeas: 8 - Mayor Hieftje, Councilmember Rapundalo, Councilmember Greden, Councilmember Higgins, Councilmember Teall, Councilmember Smith, Councilmember Taylor, and Councilmember Hohnke

Nays: 2 - Councilmember Anglin, and Councilmember Briere

Absent: 1 - Councilmember Derezinski

Enactment No: R-09-045

DS-7 09-0012 Resolution to Approve the Management Agreement with Washtenaw County to Administer the Barrier Busters Program and to Release the Fund Balance of \$10,636.00 in the Ann Arbor Assistance Fund (0038) to Washtenaw County (\$10,636.00 Ann Arbor Assistance Fund) (8 Votes Required)

This matter was deleted from the agenda on 2/2/09.

DS-8 08-1171 Resolution Accepting the Warranty Deed from Charter Oak Homes, Inc. (Mallets Creek Park) (8 Votes Required)

A motion was made by Councilmember Rapundalo, seconded by Councilmember Teall, that the Resolution be Approved. On a voice vote, the Mayor declared the motion carried unanimously, thus satisfying the eight-vote requirement.

Enactment No: R-09-046

DS-9 09-0063 Resolution to Modify Fees at the City Golf Courses Effective for the 2009 Golf Season and Increase the Senior Citizen Qualification Age

A motion was made by Councilmember Rapundalo, seconded by Councilmember Taylor, that the Resolution/Public Hearing be Approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-047

Added After Newspaper Deadline:

DS-10 09-0094 Resolution Restricting Peddling and Sidewalk Occupancy Permits during the Ann Arbor Art Fairs

A motion was made by Councilmember Teall, seconded by Councilmember Hohnke, that the Resolution be Approved. On a voice vote, the Mayor declared the motion carried.

Enactment No: R-09-048

E-1 09-0103

Appointment - Confirmations

Nominations:

Board of Review

Doris Preston (Re-Appointment)

593 Landings Blvd.

Ann Arbor, MI 48103

Term: February 17, 2009- January 31, 2012-1/31/12

Human Rights Commission

Lisa D. Schrader (Replacing -Rachel Bendit)

2489 Packard Apt. A

Ann Arbor, MI 48104

Term: February 17, 2009-October 31, 2012

Approved as a one-step process:

Historic District Commission

Patrick M. McCauley (Replacing- Michael Bruner)

1526 Pontiac Trail

Ann Arbor, MI 48105

Term: February 2, 2009-February 2, 2012

(Nominate & Confirm on 2/2/09)

A motion was made by Councilmember Briere, seconded by Councilmember Taylor, that the appointment nominations be Referred to the City Council, due on 2/17/2009 and that the appointment to the Historic District Commission be approved as a one-step process. On a voice vote, the Mayor declared the motion carried, thus satisfying the eight-vote requirement.

COMMUNICATIONS FROM COUNCIL

COUNCILMEMBER TAYLOR

Councilmember Taylor reported that the Burns Park Players were doing a production of Annie Get Your Gun on February 6 and 7 and 13 and 14. It was noted that his wife is starring in the lead role.

COUNCILMEMBER TEALL

Councilmember Teall reminded Council that the annual Dicken Woods candlelight walk was being held on Tuesday, February 3 at 7PM.

F COMMUNICATIONS FROM THE CITY ADMINISTRATOR

F-1 08-1169

City-County Shared IT Data Center

F-2 09-0057 Fourth Quarter 2008 Investment Portfolio Report

G COMMUNICATIONS FROM THE CITY ATTORNEY

None.

H & I CLERK'S REPORT OF COMMUNICATIONS, PETITIONS AND REFERRALS

H The following communications were referred as indicated:

Passed on consent agenda

A motion was made by Councilmember Briere, seconded by Councilmember Hohnke, that the following Consent Items be approved as presented. On a voice vote, the Mayor declared the motion carried.

H-1 09-0075 Communication from SEMCOG regarding their Regional Update Biweekly Publication of SEMCOG, Vol. 14, No. 1, January 12, 2009 - File

H-2 09-0076 Communication from Washtenaw County Administrator Robert E. Gunzel, regarding an opportunity to discuss future collaborations between Washtenaw County and the City - File

I The following minutes were received for file:

I-1 09-0013 Recreation Advisory Commission Minutes - December 2, 2008

I-2 09-0016 Council Liquor License Review Committee - December 12, 2008

I-3 09-0022 Ann Arbor Downtown Development Authority Minutes - December 3, 2008

I-4 09-0023 Downtown Area Citizens Advisory Council Minutes December 3, 2008

I-5 09-0026 Greenbelt Advisory Minutes of November 5, 2008

I-6 09-0053 City of Ann Arbor Employees' Retirement System Minutes - December 18, 2008

I-7 09-0054 City of Ann Arbor Retiree Health Care Benefit Plan & Trust Minutes - December 18, 2008

PUBLIC COMMENT - GENERAL (3 MINUTES EACH)*KAREN SIDNEY - POLICE COURT BUILDING*

Karen Sidney, 100 Longman Lane, responded to several comments made by councilmembers, including concerning the existing city leases. She expressed concern about the City's experts in this matter.

CITY RESIDENT - BONDS

Ann unidentified city resident expressed concerns about the City's bonds. He stated staff is not advising the Council well regarding this matter.

THOMAS PARTRIDGE - AFFORDABLE SERVICES

Thomas Partridge, Scio Township resident, addressed Council regarding affordable transportation services, housing the homeless, making housing affordable and a number of other issues.

CLOSED SESSION TO DISCUSS PENDING LITIGATION AND ATTORNEY / CLIENT PRIVILEGED COMMUNICATION AND/OR LAND ACQUISITION

A motion was made by Councilmember Briere, seconded by Councilmember Hohnke, that the Council enter into Closed session at 9:50 p.m. On a roll call, the vote was as follows with the Mayor declaring the motion carried.

Yeas: 10 - Mayor Hieftje, Councilmember Rapundalo, Councilmember Greden, Councilmember Higgins, Councilmember Teall, Councilmember Anglin, Councilmember Briere, Councilmember Smith, Councilmember Taylor, and Councilmember Hohnke

Nays: 0

Absent: 1 - Councilmember Derezinski

RECONVENE

A motion was made by Councilmember Briere, seconded by Councilmember Taylor, that the meeting reconvene. On a voice vote, the Mayor declared the motion carried and the meeting reconvened at 9:59 p.m.

ADJOURNMENT

A motion was made by Councilmember Taylor, seconded by Councilmember Hohnke, that the meeting be Adjourned. On a voice vote, the Mayor declared the motion carried and the meeting adjourned at 10:00 p.m.

COMMUNITY TELEVISION NETWORK (CTN) CABLE CHANNEL 16:

LIVE: MONDAY, FEBRUARY 2, 2009; 7:00 PM

REPLAYS: TUESDAY, FEBRUARY 3, 2009 10:00 AM AND FRIDAY FEBRUARY 6, 2009 7:30 PM

REPLAYS SUBJECT TO CHANGE WITHOUT NOTICE

Persons with disabilities are encouraged to participate. Accommodations, including sign language interpreters, may be arranged by contacting the City Clerk's Office by telephone at 734-794-6140 or by written request addressed to the City Clerk's Office, 100 N. Fifth Ave., Ann Arbor, MI 48104, at least 24 hours in advance.

A hard copy of this Council packet can be viewed at the front counter of the City Clerk's office.

Jacqueline Beaudry
Clerk of the Council

Anissa R. Bowden
Recording Secretary