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ANN ARBOR CITY COUNCIL MINUTES REGULAR SESSION - AUGUST 2, 2004

Mayor John Hieftje called the regular session of the Ann Arbor City Council to order at 7:07 p.m. in the City Hall Council Chamber.

Council stood for a moment of silence.

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

ROLL CALL OF COUNCIL

PRESENT : Council Members Kim Groome, Robert M. Johnson, Joan Lowenstein, Leigh Greden, Margie Teall, Christopher Easthope, Wendy A. Woods, Mayor John Hieftje, 8;

ABSENT : Council Members Michael R. Reid, Jean Carlberg, Marcia Higgins 3.

INTRODUCTIONS

THANK YOU TO THE SOUTH UNIVERSITY ART FAIR

Police Chief Daniel J. Oates thanked Maggie Ladd of the South University Art Fair for a gift presented to the new Community Standards Unit of the Ann Arbor Police Department. The art will be placed on the wall of the Community Standards Unit.

POLICE DEPARTMENT UPDATE ON NEW COMMUNITY STANDARDS UNIT

Police Chief Daniel J. Oates gave an update of the new Community Standards Unit to Council. The unit has done parking enforcement and has been trained in additional code enforcement responsibilities and took over those responsibilities in April 2004.

PUBLIC COMMENTARY - RESERVED TIME

PUBLIC (FARMER'S) MARKET

The following people spoke in opposition to the proposed structural changes to the Farmer's Market:

W. Ralph Michener, 2115 Devonshire
Chris Hildebrand, 2115 Devonshire

KAREN SYDNEY - BROADWAY VILLAGE

Karen Sydney, 100 Longman, spoke in opposition of the proposed Broadway Village Resolution.

PALESTINE

The following people addressed Council regarding the issues in Palestine:

Blaine Coleman, P.O. Box 7038
Henry Herskovitz, 404 Mark Hannah Place

CRAIG TROMBLEY - ANN ARBOR POLICE DEPARTMENT

Craig Trombley, 2355 Delaware, expressed concern with the behavior of the Ann Arbor Police Chief.

JIM MOGENSEN - FOG OF REORGANIZATION AND COMMUNITY STANDARDS ENFORCEMENT

Jim Mogensen, 3780 Greenbrier Blvd., #354C, expressed concern with the reorganization of the City of Ann Arbor and Community Standards Enforcement Unit.

PUBLIC HEARINGS

JUSTICE ASSISTANCE PROGRAM FOR LOCAL LAW ENFORCEMENT BLOCK GRANT AWARD TO THE ANN ARBOR POLICE DEPARTMENT

A public hearing was conducted on the proposed U.S. Department of Justice - Justice Assistance Program for Local Law Enforcement Block Grant Award to the Ann Arbor Police Department. Notice of public hearing was published July 24, 2004.

Jim Mogensen, 3780 Green Brier, expressed concern with the lack of information provided to the public regarding the block grant.

There being no further comment, the Mayor declared the hearing closed.

PROPOSED ORDINANCE AMENDMENTS FOR CLEAN COMMUNITY STANDARDS (ORDINANCE NO. 25-04)

A public hearing was conducted on the proposed ordinance to amend Sections 1:13 of Chapter 1 - Adoption; Section 2:14 of Chapter 26 - Contents and Interpretation; Sections 3:17 and 3:19 of Chapter 40 - Solid Waste Management; Section 4:14 of Chapter 47 Trees and Other Vegetation; Section 4:63 of Chapter 49 - Streets; Section 7:66 of Chapter 79 - Sidewalks; Sections 7:105 and 7:106 of Chapter 82 Solicitors and Peddlers; and Section 9:9 of Chapter 106 Littering and Distribution of Handbills and Nuisances. Notice of public hearing was published July 25, 2004.

There being no one present for comment, the Mayor declared the hearing closed.

APPROVE ADMINISTRATIVE FEE FOR TREES AND OTHER VEGETATION

A public hearing was conducted on the proposed Resolution to Approve Administrative Fee for Chapter 40, Section 3:17 - Trees and Other Vegetation. Notice of public hearing was published July 25, 2004.

The following people expressed concern or spoke in opposition of the proposed administrative fee increase of Chapter 40:

Kate Warner, 1804 Lynwood
W. Ralph Michener, 2115 Devonshire
Ann Arbor resident
Rita Claiborne, Ann Arbor resident
Erica Kempter, Ann Arbor business owner
Mary DeVine, Ann Arbor resident
Greg McClovich, Ann Arbor resident
Glen Thompson, Ann Arbor business owner

Jim Mogensen, 3780 Greenbrier Blvd., #354C, asked that properties that do not have sidewalks be considered in the proposed changes to the ordinance.

There being no further comment, the Mayor declared the hearing closed.

PROPOSED JENNINGS - NEWPORT HEIGHTS WATER MAIN AND SANITARY SEWER SPECIAL ASSESSMENT PROJECT

A public hearing was conducted on the proposed Jennings - Newport Heights Water Main and Sanitary Sewer Special Assessment Project. Notice of public hearing was published July 23, 2004.

There being no one present for comment, the Mayor declared the hearing closed.

APPROVAL OF AGENDA

AGENDA APPROVED WITH CHANGES

Council Member Woods moved seconded by Council Member Teall that the agenda be approved with the following changes:

MOTIONS AND RESOLUTIONS

Add: Resolution to Approve Broadway Village at Lower Town Development Agreement (Administration - Roger Fraser, City Administrator) (Added 7/28/04)

Add: Resolution to Accept Board Of Insurance Administration Meeting Minutes of July 29, 2004, and to Authorize Payments For Annual Insurance Premiums for August 15, 2004 - August 15, 2005 (Financial and Administrative Services Area - Tom Crawford, Chief Financial Officer) (Added 8/2/04)

Add: Resolution to Approve a Request to Transfer Ownership of a 2003 Class "C" Liquor Licensed Business, a new Entertainment Permit and Outdoor Service (to be located on a city Sidewalk) to Rush Street Restaurant LLC - 314 S. Main St., D/B/A Rush Street Restaurant (Council Member Woods and Easthope) (Added 8/2/04)

Add: Resolution to Approve a Request to Transfer Ownership and Location of a 1999 Class "C" Liquor

Licensed Business and an Outdoor Service Area to be Located on a City Sidewalk, to Spoon Restaurants I LLC - 215 E. Washington, D/B/A Spoon Restaurants (Council Member Easthope) (Added 8/2/04)

Add: Resolution Appointing a Task Force to Study and Report to Council on the City of Ann Arbor Park Maintenance Requirements (Mayor Hieftje) (Added 8/2/04)

On a voice vote, the Mayor declared the motion carried, with one no-vote made by Council Member Groome.

APPROVAL OF COUNCIL MINUTES

MINUTES OF JULY 19, 2004 APPROVED

Council Member Teall moved seconded by Council Member Greden that the regular session minutes of July 19, 2004 be approved with minor changes.

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

CONSENT AGENDA

CONSENT AGENDA ITEMS REMOVED

With unanimous consent of Council, the following items were removed from the Consent Agenda and placed at the end of same:

Resolution to Approve a Contract with Michigan Municipal League Unemployment Compensation Group Account (Attorney - Stephen K. Postema, City Attorney)

Resolution to Award a Construction Contract to Heystek Contracting, Inc., (\$195,775.00, Bid No. 3646) and Approve the Construction Contract Contingency (\$20,000.00) for South Main Street Non-Motorized Path (Public Services - Sue F. McCormick, Area Administrator)

Resolution to Approve an Agreement with Mr. James L. McCoy, P.E., for Professional Engineering and Energy Management Services for the Wastewater Treatment Plant (\$30,000.00) (Public Services - Sue F. McCormick, Area Administrator)

CONSENT AGENDA ITEMS APPROVED

Council Member Lowenstein moved seconded by Council Member Easthope that the following Consent Agenda items be approved as presented:

R-326-8-04 APPROVED

RESOLUTION to Approve the Closing of City Streets for the 2004 University of Michigan Student Move-In Program - Tuesday, August 31, 2004 to Friday, September 3, 2004

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 31 and ending Friday, September 3, 2004, 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;

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

Whereas, The University of Michigan agrees to pay all fees associated with their sponsorship of the move-in program including \$10,450.00 for occupancy of the public right-of-way during the move-in, \$8000.00 (est.) for the cost of providing Police assistance and the costs for other city services provided during the move-in process;

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 31, 2004 through September 3, 2004; 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-327-8-04 APPROVED

RESOLUTION Approving Street Closings for the "Dancing in the Street" Special Event on September 5, 2004

Whereas, The City has received a request from the Ann Arbor Council for Traditional Music and Dance to sponsor a special event on Sunday, September 5, 2004 from 1:00 - 7:00 p.m.;

Whereas, The staging of this event will require the closing of Main Street between Huron and Liberty and Washington Street between Ashley and Fourth Avenue;

Whereas, The sponsor has the support of the Main Street Area Association;

Whereas, The sponsor will provide written notification to all affected religious institutions not less than 14 days prior to the event; and

RESOLVED, That the closing of Main Street between Huron and Liberty and Washington Street between Ashley and Fourth Avenue from 1:00 p.m. to 7:00 p.m. on Sunday, September 5, 2004 be approved.

Whereas, Two bids were received on July 8, 2004, and Ms. Rolph will be executing an agreement with Sharp

Building Company, the lowest responsible bidder, who has Human Rights and Living Wage Approval, to complete the rehabilitation work;

RESOLVED, That City Council approve the Housing Rehabilitation Agreement with Alice P. Rolph in the amount of \$37,730.00 as a 0% interest, deferred payment loan, to be repaid in full after 30 years or at the time the property changes ownership either by sale, gift, mortgage, land contract, conversion to rental property, inheritance, or change of the use of the property from a single-family residence;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute a Housing Rehabilitation Agreement with Alice P. Rolph consistent with this resolution, subject to approval as to substance by the City Administrator and approval as to form by the City Attorney with funds to be available without regard to fiscal year;

RESOLVED, That as a condition of loan disbursement, Alice P. Rolph will execute a mortgage and promissory note, subject to approval as to substance by the City Administrator and approval as to form by the City Attorney; and

RESOLVED, That the City Administrator, or his designee, be authorized to take necessary administrative actions and to execute any documents necessary to complete this transaction and to implement this resolution.

R-330-8-04 APPROVED

RESOLUTION to Approve Housing Rehabilitation Agreement with Lizzie M. Marshall

Whereas, An application was received from Lizzie M. Marshall for rehabilitation assistance for her home located at 721 Red Oak;

Whereas, The homeowner meets the City's criteria for participation in the Housing Rehabilitation Program; and

Whereas, Three bids were received on July 8, 2004 and Ms. Marshall will be executing an agreement with Home Creations, the lowest responsible bidder, who has Human Rights and Living Wage Approval, to complete the rehabilitation work;

RESOLVED, That City Council approve the Housing Rehabilitation Agreement with Lizzie M. Marshall in the amount of \$32,608.00 as a 0% interest, deferred payment loan, to be repaid in full after 30 years or at the time the property changes ownership either by sale, gift, mortgage, land contract, conversion to rental property, inheritance or change of the use of the property from a single-family residence;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute a Housing Rehabilitation Agreement with Lizzie M. Marshall consistent with this resolution, subject to approval as to substance by the City Administrator and approval as to form by the City Attorney, with funds to be available without regard to fiscal year;

RESOLVED, That as a condition of loan disbursement, Lizzie M. Marshall will execute a mortgage and promissory note, subject to approval as to substance by the City Administrator and approval as to form by the City Attorney; and

RESOLVED, That the City Administrator, or his designee, be authorized to take necessary administrative actions and to execute any documents necessary to complete this transaction and to implement this resolution.

R-331-8-04 APPROVED

RESOLUTION to Approve an Amendment to the Professional Services Agreement with the Corradino Group, Inc., and Revise the Project Budget for the Northeast Area Comprehensive Transportation Plan Project

Whereas, City Council approved a professional services agreement with The Corradino Group, Inc. for the Northeast Area Comprehensive Transportation Plan project on June 4, 2001; and

Whereas, It is necessary to amend the professional services agreement with The Corradino Group, Inc. to provide compensation for the additional work tasks necessary to correct the computer model for the project and revise the project budget accordingly;

RESOLVED, That City Council approve an amendment to the professional services agreement with The Corradino Group, Inc. to increase the amount of compensation by \$4,008.00, for a total of \$636,008.00, for the completion of the Northeast Area Comprehensive Transportation Plan;

RESOLVED, That the following amended project budget be adopted for the life of the project, to be available without regard to fiscal year:

Section I - Revenue

\$280,000.00	2000-2001 General Fund - Public Services
\$372,000.00	Federal High Priority Project Fund, to be advanced from General Fund pending reimbursement from Federal funds
<u>\$652,000.00</u>	Total

Section II - Expenses

\$637,000.00	Consulting engineering services
15,000.00	Contingencies to be approved by the City Administrator
<u>\$652,000.00</u>	Total

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute an amended professional services agreement with The Corradino Group, Inc. consistent with this resolution, following approval as to substance by the City Administrator and approval as to form by the City Attorney; and

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

R-332-8-04 APPROVED

RESOLUTION to Approve the Closing of South Main Street for the Staging of the Rock N' Rollin' Street Party on Monday, August 9, 2004

Whereas, The City has received a request from the Main Street Area Association to close S. Main between Huron and E. William and Washington between Ashley and the Washington Street Parking Structure entrance and Liberty between Ashley and Fourth Avenue from 4:00 - 11:00 p.m. on Monday, August 9, 2004

to facilitate the staging of the Rock N/Rollin' Street Party;

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

Whereas, The sponsor will obtain all necessary permits and comply with all procedures, rules and regulations for holding the event and pay all fees associated with their sponsorship of this event; and

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

RESOLVED, That City Council approve the closing of South Main from Huron to E. William at the indicated times.

R-333-8-04 APPROVED

RESOLUTION to Approve the Purchase of the Audio/Visual and Video Equipment to be used in the 911 Dispatch Center and the Emergency Operations Center from SBC DataComm

Whereas, The Ann Arbor Police and Fire Departments are constructing a combined 911 Dispatch Center and Emergency Operations Center on the second floor of Fire Station One;

Whereas, The Dispatch and Emergency Operations Centers require the use of audio/ visual, video and camera equipment for successful operation in everyday and emergency activation settings;

Whereas, Competitive bids were sought from four leading audio visual vendors and SBC DataComm was identified as the lowest responsible bidder;

Whereas, SBC DataComm has received Human Rights approval on July 15, 2004 and it complies with the Living and Prevailing Wage Ordinance; and

Whereas, Resolution #R-146-4-04 approved by Council on April 19, 2004 allocated \$100,000.00 from the Police Department Forfeiture Capital Fund 0028CF to be used for equipment in the Consolidated 911 Dispatch Center without regard to fiscal year;

RESOLVED, That City Council approve the purchase of the audiovisual equipment from SBC DataComm in the amount of \$64,938.00, which includes engineering, installation, cabling and hardware; and

RESOLVED, That the City Administrator be authorized to execute the necessary purchase documentation to implement this resolution.

R-334-8-04 APPROVED

RESOLUTION to Approve the Purchase of an Uninterruptible Power Source (UPS) from NetSource One, Inc., for Use in the New 911 Dispatch Center and the Emergency Operations Center

Whereas, The Ann Arbor Police and Fire Departments are constructing a combined 911 Dispatch Center and Emergency Operations Center on the second floor of Fire Station One;

Whereas, The Dispatch and Emergency Operations Centers demand the use of a Uninterruptible Power Source (UPS) which provides for continuous power and power surge protection to critical computer

components in the event of a power failure;

Whereas, Competitive bids were sought from three UPS vendors and NetSource One, Inc. was identified as the best value, quality and fit for the City. The City has an existing Liebert brand UPS in use in Information Technology and has found the equipment to be more reliable than similar equipment from other manufacturers;

Whereas, NetSource One, Inc. has received Human Rights approval on July 15, 2004, and it complies with the Living and Prevailing Wage Ordinance; and

Whereas, Resolution #R-146-4-04 approved by council on April 19, 2004 allocated \$100,000.00 from the Police Department Forfeiture Capital Fund 0028CF to be used for equipment in the Consolidated 911 Dispatch Center without regard to fiscal year;

RESOLVED, That City Council approve the purchase of the UPS from NetSource One, Inc. in the amount of \$24,060.00 which includes warranty and start up; and

RESOLVED, That the City Administrator be authorized to execute all necessary purchase documentation to implement this resolution.

R-335-8-04 APPROVED

**RESOLUTION to Grant Water and Sewer Services
Outside City Limits to 1580 Alexandra Blvd.**

Whereas, On July 1, 2005, the owners of the property at 1580 Alexandra Blvd. requested that the City extend public water and sewer service to their property in Ann Arbor Township prior to the completion of the annexation process;

Whereas, The owners desire to enter into the standard agreements with the City which provides an equitable method of obtaining City services outside of its corporate boundaries; and

Whereas, On July 1, 2004 the owners petitioned the City for annexation under Planning Department file number 9184J9.1 and 9184J9.2.

RESOLVED, That the Mayor and Clerk be authorized and requested to sign the agreements to allow City water and sewer services to the land during the time it is still outside of the Corporate City Limits; that the Public Services Area be directed to send a copy of this resolution by first class mail to the above property owners; and shall promptly have this resolution and the agreements recorded in the office of the Register of Deeds of Washtenaw County, Michigan and send a completely executed copy of the agreements to the owners.

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

R-336-8-04 APPROVED

RESOLUTION to Approve a Contract with Michigan Municipal League Unemployment Compensation Group Account

Whereas, The Michigan Municipal League was organized in 1899 for the purpose of improvement of municipal government and administration through cooperative effort;

Whereas, An Unemployment Compensation Group Account ("Group Account") composed of governmental entities was established and approved by the Michigan Employment Security Commission on January 1, 1978, with the Michigan Municipal League as representative of the Group Account;

Whereas, The City of Ann Arbor elected to be a participating member of the Group Account on January 8, 1978;

Whereas, The terms of membership have been revised requiring participating members to reaffirm its continued membership under the amended terms of the Group Account;

Whereas, The City Administration recommends continued membership in the Group Account for access the following services:

§ An unemployment compensation group reimbursement and service program in conformity with all statutes and other requirements of the State of Michigan;

§ An unemployment compensation claims management service program in accordance with the provisions of Michigan Employment Security Commission and the rules of the Michigan Bureau of Worker's and Unemployment Compensation (BW&UC);

§ Reserve management services for City legal obligations arising out of unemployment claims filed by former and current employees; and

Whereas, Membership contribution to the Group Account is budgeted annually as a pro-rata cost to the City's administrative service areas;

RESOLVED, That City Council approve membership in the Michigan Municipal League Unemployment Compensation Group Account under the terms of the current revised membership agreement and reaffirm appointment of the Michigan Municipal League as the City of Ann Arbor's attorney-in-fact representing the City in all activities relating to the Group Account and Michigan Employment Security Commission, BW&UC, courts and/or other agencies; and

RESOLVED, That Mayor and City Clerk be authorized and directed to execute the revised Membership Agreement after approval as to substance by the City Administrator and approval as to form by the City Attorney.

Council Member Teall moved, seconded by Council Member Johnson that the resolution be adopted.

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

R-337-8-04 APPROVED AS AMENDED

(RESOLUTION to Award a Construction Contract to Heystek Contracting, Inc., (\$195,775.00, Bid No. 3646) and Approve the Construction Contract Contingency (\$20,000.00) for South Main Street Non-Motorized Path)

Council Member Johnson moved, seconded by Council Member Woods that the resolution be adopted.

Council Member Johnson moved, seconded by Council Member Groome to amend the resolution as follows:

1st RESOLVED Clause:

...**RESOLVED**, That a contract in the amount of \$195,775.00 be awarded to Heystek Contracting, Inc. for the construction of the South Main Street Non-Motorized Path (Bid No. 3646), contingent upon demonstration that the contract meets the city's Living Wage requirements;...

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 amended reads as follows:

RESOLUTION to Award a Construction Contract to Heystek Contracting, Inc., (\$195,775.00, Bid No. 3646) and Approve the Construction Contract Contingency (\$20,000.00) for South Main Street Non-Motorized Path

Whereas, The South Main Street Non-Motorized Path project is included in the City's Capital Improvements Plan;

Whereas, On April 22, 2004, the City entered into an agreement with the Michigan Department of Transportation, for reimbursement of 80% of the participating construction costs of the project;

Whereas, The City Council, via resolution (R-568-11-00), approved the project budget of \$344,500.00 of which \$178,000.00 will be reimbursed upon completion by MDOT;

Whereas, Competitive bids were received by the City's Procurement Unit on June 1, 2004 and Heystek Contracting, Inc., of Montrose, Michigan, submitted the lowest responsible bid for the construction of the project at \$195,775.00;

Whereas, The contractual proposal sets forth the services to be performed by said company, and the payments to be made by the City therefore, all of which are agreeable to the City;

Whereas, It is now necessary to enter into a Contract with said company for said construction project;

Whereas, The agreement with the Michigan Department of Transportation requires that state and federal affirmative action and wage requirements will apply to this project; and

Whereas, On June 30, 2004, the Michigan Department of Transportation issued a Notification to Proceed with the award of the contract, indicating that the Contractor has met all state and federal requirements, including affirmative action and prevailing wage requirements;

RESOLVED, That a contract in the amount of \$195,775.00 be awarded to Heystek Contracting, Inc. for the construction of the South Main Street Non-Motorized Path (Bid No. 3646), contingent upon demonstration that the contract meets the city's Living Wage requirements;

RESOLVED, That City Council approve \$20,000.00 for contingencies approved by the City Administrator;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute said contract 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-338-8-04 APPROVED

RESOLUTION to Approve an Agreement with Mr. James L. McCoy, 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 electrical engineering and energy management services on an as-needed and as-approved basis during FY 05;

Whereas, It is cost effective and efficient for the Water Utilities Department to employ Mr. James L. McCoy, P.E. for engineering and energy management services because he has extensive familiarity with the WWTP and an hourly rate that is significantly lower than other electrical engineering service providers; and

Whereas, Mr. 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 an agreement with Mr. James L. McCoy, P.E., on an as-needed and as-approved basis for \$32,000.00 to provide professional engineering services for the WWTP during FY 05;

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

RESOLVED, That the Professional Services Agreement is funded from the approved FY 05 WWTP Operation and Maintenance Budget for the Sewage Disposal System.

Council Member Groome moved, seconded by Council Member Teall that the resolution be adopted.

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

ORDINANCES - SECOND READING

25-04 APPROVED AS AMENDED

ADOPTION, CONTENTS AND INTERPRETATION, SOLID WASTE MANAGEMENT, TREES AND OTHER VEGETATION, STREETS, SIDEWALKS, SOLICITORS AND PEDDLERS, LITTERING AND DISTRIBUTION OF HANDBILLS AND NUISANCES

An Ordinance to Amend Sections 1:13 of Chapter 1 of Title I; 2:14 of Chapter 26 Of Title Ii; 3:17 And 3:19 Of Chapter 40 Of Title Iii; 4:14 Of Chapter 47 Of Title Iv; 4:63 Of Chapter 49 Of Title Iv; 5:172 Of Chapter 59 Of Title V; 5:518 Of Chapter 61 Of Title V; 7:66 Of Chapter 79 Of Title Vii; 7:105 And 7:106 Of Chapter 82 Of Title Vii; And 9:9 Of Chapter 106 Of Title Ix Of The Code Of The City Of Ann Arbor

(The complete text of Ordinance 25-04 is on file in the City Clerk's Office.)

Council Member Easthope moved seconded by Council Member Teall that the ordinance be adopted at second reading.

Council Member Easthope moved, seconded by Council Member Johnson to amend the ordinance by striking all sections pertaining to Section 3:17 and 3:19 of Chapter 40.

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

Council Member Easthope moved, seconded by Council Member Groome to amend the ordinance as follows:

Section 2 (2:14) Penalties

... Violation of this chapter shall be punishable by a civil fine of not less than \$100.00 for the first offense, not less than \$250.00 and up to \$500.00 for the second offense, and not less than \$500.00 and up to

\$1,000.00 for each additional or subsequent offense within a 2 year time period, plus costs and all other remedies available by statute. The maximum fine for any offense shall not exceed \$1,000.00. Each day of violation shall be a separate violation except in a case when the maximum fine is levied. ...

On roll call the vote was as follows:

Yeas, Council Members Woods, Groome, Johnson, Teall, Easthope, Mayor Hieftje, 6;

Nays, Council Members Lowenstein, Greden, 2.

The Mayor declared the motion carried.

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

Yeas, Council Members Woods, Johnson, Lowenstein, Greden, Teall, Easthope, Mayor Hieftje, 7;

Nays, Council Member Groome, 1.

The Mayor declared the motion carried.

ORDINANCES - FIRST READING

26-04 APPROVED

CITY MARKET COMMISSION

**An Ordinance to Amend Section 1:195, of Chapter 8 of Title I
of the Code of the City of Ann Arbor**

This ordinance would modify the Membership of the Market Commission Appointment of the Market Manager and Advisory Role of the Market Commission. (The complete text of Ordinance 26-04 is on file in the City Clerk's Office.)

Council Member Greden moved seconded by Council Member Lowenstein that the ordinance be approved at first reading.

Council Member Groome moved, seconded by Council Member Easthope to postpone the ordinance until August 16, 2004.

On roll call the vote was as follows:

Yeas, Council Members Groome, 1.

Nays, Council Members Woods, Johnson, Lowenstein, Greden, Teall, Easthope, Mayor Hieftje, 7.

The Mayor declared the motion failed.

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

Yeas, Council Members Woods, Johnson, Lowenstein, Greden, Teall, Easthope, Mayor Hieftje, 7;

Nays, Council Member Groome, 1.

The Mayor declared the motion carried.

27-04 APPROVED

PUBLIC MARKET

An Ordinance to Amend Section 2:92, Section 2:93, Section 2:94, Section 2:95, Section 2:96, Section 2:98 of Chapter 31 of Title II of the Code of the City of Ann Arbor

This ordinance would transfer supervision of the market manager and the authority to establish market days, approve use of the market, hear appeals, establish seasonal stall fees, and promulgate operation and management rules for the market to the community services administrator and modify vendor responsibility for refuse. (The complete text of ordinance 27-04 is on file in the city clerk's office.)

Council Member Greden moved seconded by Council Member Teall that the ordinance be approved at first reading.

On roll call the vote was as follows:

Yeas, Council Members Woods, Groome, Johnson, Lowenstein, Greden, Teall, Easthope, Mayor Hieftje, 8;

Nays, 0.

28-04 POSTPONED

LIQUOR

An Ordinance to Amend Sections 9:71, 9:72, 9:73, 9:74, 9:75, 9:77, 9:80, 9:81, 9:82, 9:83, And 9:84 and to Repeal Sections 9:76 And 9:79 of Chapter 109 of Title IX of the Code of the City of Ann Arbor

(The complete text of Ordinance 28-04 is on file in the City Clerk's Office.)

Council Member Easthope moved seconded by Council Member Lowenstein that the ordinance be approved at first reading.

Council Member Lowenstein moved, seconded by Council Member Greden to postpone the ordinance until August 16, 2004.

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

The Mayor declared a recess at 9:06 p.m. and reconvened the meeting at 9:14 p.m.

MOTIONS AND RESOLUTIONS

POSTPONED

RESOLUTION to Revise the Current Executive Pay Plan, Professional Pay Plan and Non-Union Step Rate Compensation Program

Whereas, The City of Ann Arbor currently has three (3) non-union pay structures, the Executive Pay Plan, Professional Pay Plan and Non-Union Step Rate Compensation Program;

Whereas, The non-union employees of the City of Ann Arbor were notified in July 2003 and October 2003 that the City of Ann Arbor would transition to an annual, end-of-fiscal-year salary and performance review cycle and the step increase approach to be replaced with assigned salary ranges, and movement within the ranges will be based on performance;

Whereas, Public entities continue to reassess the goals of their compensation systems to increase employee performance and commitment;

Whereas, A primary reward strategy is a move from traditional step increases to pay-for-performance; and

Whereas, The City of Ann Arbor is committed to pay-for-performance and promoting a performance based pay system, with the flexibility to meet the challenges of the new organization structure;

RESOLVED, That the City Council hereby approve the recommended revision to the Executive Pay Plan, Professional Pay Plan and Non-Union Step Rate Compensation Program, as summarized in Attachment #1 of this resolution, to become the City's formal Salaried (Non-Union) Pay Plan Compensation Program;

RESOLVED, That the City Council hereby authorize and direct the City Administrator to implement the recommended revisions;

RESOLVED, That all prior resolutions of City Council that are inconsistent with this resolution in whole or in part be rescinded and superceded as of the effective date of this resolution; and

RESOLVED, That the effective date of this resolution shall be July 6, 2004.

Council Member Woods moved seconded by Council Member Easthope that the resolution be adopted.

Council Member Easthope moved, seconded by Council Member Woods to postpone the resolution until August 16, 2004.

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

TABLED

RESOLUTION TO APPROVE Administrative Fee for Chapter 40, Section 3:17 - Trees and Other Vegetation

Whereas, City Council action is necessary to set the administrative fee under Section 3:17 of Chapter 40 (Trees and Other Vegetation);

Whereas, City activity under Chapter 40 is generally related to overgrown grass and weeds;

Whereas, Community Standards has reviewed their administrative costs to enforce the provisions of Chapter 40;

Whereas, Administrative labor costs for a Clean Community action is currently \$42.61 and administrative fees for sidewalk snow and ice removal (Chapter 49) are currently set at \$50.00; and

Whereas, The current 15% administrative fee linked to clean-up costs is inadequate within Chapter 40;

RESOLVED, That the administrative fee outlined in Section 3:17 of Chapter 40 (Trees and Other Vegetation) shall be set at \$50.00 beginning on the same date that Ordinance No. 25-04 becomes effective; and

RESOLVED, That City Council authorize the City Administrator to take the necessary administrative actions to implement this resolution.

Council Member Easthope moved seconded by Council Member Johnson that the resolution be adopted.

Council Member Easthope moved, seconded by Council Member Greden to table the resolution.

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

R-339-8-04 APPROVED AS AMENDED

RESOLUTION Authorizing Summary Publication of Ordinance No. 25-04 Amending Sections 1:13 of Chapter 1 of Title I; 2:14 of Chapter 26 of Title II; 4:14 of Chapter 47 of Title IV; 4:63 of Chapter 49 of Title IV; 5:172 of Chapter 59 of Title V; 5:18 of Chapter 61 of Title V; 7:66 of Chapter 79 of Title VII; 7:105 and 7:106 of Chapter 79 of Title VII; 7:105 and 7:106 of Chapter 82 of Title VII; and 9:9 of Chapter 106 of Title IX of the Code of the City of Ann Arbor - **AS AMENDED**

Whereas, Section 7:4 of the City Charter authorizes the publication by summary of ordinances over 500 words in length;

RESOLVED, That Ordinance No. 25-04 be published by the following summary:

Ordinance No 25-04 amends the City Code by increasing the penalty for “clean community” ordinances with civil fines up to \$1,000.00 and also sets suggested minimum fines for first, second and subsequent offenses. In addition, an administrative fee set by City Council resolution replaces a 15% administrative cost add-on in Chapter 40 (Trees and Vegetation) and references to the Building, Solid Waste and Building Departments are removed from Chapter 82 (Littering and Distribution of Handbills).

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

Council Member Teall moved seconded by Council Member Easthope that the resolution be adopted.

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

R-340-8-04 APPROVED

RESOLUTION TO APPROVE a Consultant Contract with Resource Recycling Systems, Inc., (RRSI) for Pittsfield Township PUD Application Support; Appropriation Adjustment to Maintenance Facility Construction Fund

Whereas, The City of Ann Arbor is in the process of securing a rezoning of its 266.85 acres property located within Pittsfield Township known as the Swift Run Service Center, from Agricultural to PUD Zoning;

Whereas, This rezoning is necessary in order to submit detailed site plans to Pittsfield Township for the development of the City’s proposed maintenance facility, waste transfer station, compost facility, drop-off station and active/passive recreational uses on this property;

Whereas, The City has already expended \$47,525.00 with Resource Recycling Systems, Inc. (RRSI) for the

development of the initial PUD proposal and a number of revisions based on Pittsfield Township feedback;

Whereas, Final PUD revisions, drawings, presentations and follow-up are needed to secure final Pittsfield Township Planning Commission and Board approval;

Whereas, RRSI of Ann Arbor, Michigan has received Human Rights approval on August 8, 2003 and complies with the Living Wage Ordinance; and

Whereas, Funding for this project is available through the unobligated fund balance of the maintenance facility construction fund;

RESOLVED, That City Council approve a contract with Resource Recycling Systems, Inc. in an amount not to exceed \$29,340.00 for the Phase III Pittsfield Township PUD application process relating to the City's Swift Run Service Center;

RESOLVED, That funding for this contract will be provided by way of an appropriation adjustment through the maintenance facility construction fund unobligated fund balance to be expended without regard to fiscal year; and

RESOLVED, That the Mayor and City Clerk be authorized to sign the agreement after approval as to substance by the City Administrator and approval as to form by the City Attorney.

Council Member Teall moved seconded by Council Member Easthope that the resolution be adopted.

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

R-341-8-04 APPROVED

RESOLUTION Approving the Washtenaw County/City of Ann Arbor Community Corrections Comprehensive Application for Funding for the Period of October 1, 2004 through September 30, 2005 in the Amount of \$1,277,441.00

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 thirteen consecutive successful years of implementation based on the original Comprehensive Corrections Plan;

Whereas, At a regularly scheduled meeting held June 22, 2004 the application for FY 2004/05 funding has been reviewed and approved by the Washtenaw County / City of Ann Arbor Community Corrections Advisory Board;

Whereas, The Washtenaw County Board of Commissioners approved the application at their July 7, 2004 meeting and request the review and approval of the Ann Arbor City Council at the next regularly scheduled meeting; and

Whereas, The State of Michigan Office of Community Corrections will review this application at the State Board of Community Corrections regularly scheduled meeting held in August 2004 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 FY 2004/05.

Council Member Easthope moved seconded by Council Member Greden that the resolution be adopted.

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

R-342-8-04 APPROVED

RESOLUTION Granting an Easement for an Underground Natural Gas Pipeline to Michigan Consolidated Gas Company - Located on Airport and Landfill Property

Whereas, The Michigan Consolidated Gas Company has requested an easement for the construction and maintenance of a natural gas pipeline in, on and over City owned property located at the City Airport and City Landfill;

Whereas, The terms and conditions of the grant of easement also include payment to the City for the pipeline at a rate of \$10.00 per linear foot for an approximate amount of \$91,670.00; and

Whereas, The City staff have determined that the request of Michigan Consolidated Gas Company is reasonable and that the terms and conditions of the easement will not interfere with City operations;

RESOLVED, That the City of Ann Arbor approve the granting of an easement to Michigan Consolidated Gas Company for the construction and maintenance of the underground natural gas pipeline part of which is over City Airport land, described as follows:

A 20.00 foot wide parcel of land located in Section 17, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan described as follows:

Commencing at the NW corner of said Section 17; thence S05° 52' 36" E 57.38 feet to the Point of Beginning; thence S82° 47' 04" E 71.86 feet; thence S05° 52' 36" E 2522.77 feet; thence S01° 37' 56" E 1272.02 feet; thence N87° 21' 23" E 854.92 feet; thence N84° 33' 58" E 676.62 feet; thence N88° 23' 21" E 1822.55 feet; thence S81° 51' 17" E 86.53 feet; thence N88° 22' 42" E 238.48 feet; thence N71° 24' 31" E 342.87 feet; thence N50° 53' 59" E 394.57 feet; thence N68° 59' 10" E 174.45 feet; thence N87° 07' 24" E 295.46 feet; thence N13° 53' 24" E 156.77 feet; thence N13° 53' 24" E 220.15 feet; thence N50° 08' 04" E 371.64 feet; thence S85° 58' 03" E 706.42 feet; thence N21° 57' 14" E 358.89 feet; thence N88° 00' 28" E 130.50 feet to the centerline of State Road and the POINT OF ENDING.

RESOLVED, That payment for the grant of easement in the amount of \$68,310.00 be deposited in the Airport Fund; and

RESOLVED, That the Mayor and City Clerk be authorized to execute the grant of easement in the form approved by the City Attorney.

Council Member Easthope moved seconded by Council Member Johnson that the resolution be adopted.

On a voice vote, the Mayor declared the motion carried, thus satisfying the eight-vote requirement.

R-343-8-04 APPROVED

**RESOLUTION to Accept Board of Insurance Administration
Minutes of July 23, 2004 and to Authorize Payments**

RESOLVED, That the attached Board of Insurance Administration Minutes of July 23, 2004 be accepted and that the recommended courses of action therein, including payments, be approved and authorized.

MINUTES

JULY 23, 2004

CITY OF ANN ARBOR BOARD OF INSURANCE ADMINISTRATION

Present: **Jim Armstrong - Risk & Safety Manager**
 Brenda Smith, Finance Director
 Joan Lowenstein - City Council Member
 Mary Siefert -Treasurer (via email)
 Constance Hayes - Risk Management Administrator
 Abigail Elias- Chief Assistant City Attorney
 Nancy Niemela - Assistant City Attorney
 David Swan - Assistant City Attorney
 Robert West - Assistant City Attorney

Claims Recommended for Approval:

CC007-04	Izrail Barskiy Bodily Injury Discussed by David Swan, Assistant City Attorney
CC062-03	Wendy Woodworth Bodily Injury Discussed by David Swan, Assistant City Attorney
BI-173-03	Kathryn Raus Personal Injury Discussed by Nancy Niemela, Assistant City Attorney
CC-017-04	Robert Powell Property Damage Discussed by Brenda Smith, Finance Director
CC027-04	Ronald/Anoush Suny Vehicle Damage Subrogation Discussed by Brenda Smith, Finance Director
CC033-04	Oakbrook Condominium Association Property Damage Discussed by Brenda Smith, Finance Director

Claims Recommended for Denial:

CC00214	David Herman Vehicle Damage
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Discussed by Brenda Smith, Finance Director

CC031-04 Matthew Dolinar
Vehicle Damage
Discussed by Brenda Smith, Finance Director

CC037-04 Allison Tingwall
Property Damage
Discussed by Brenda Smith, Finance Director

CC040-04 Reynold Cook
Property Damage
Discussed by Brenda Smith, Finance Director

CC041-04 Lynn Tracy
Property Damage
Discussed by Brenda Smith, Finance Director

CC045-04 Michael Nazareth
Property Damage
Discussed by Brenda Smith, Finance Director

CC-050-04 Yune Lindsay
Denied in Part Property Damage
Approved in Part Clean-up to be paid from Fund 0043
Discussed by Brenda Smith, Finance Director

Claims Tabled:

CC-035-04 MICHCON
Property Damage
Discussed by Brenda Smith, Finance Director

Prepared by: Constance Hayes, Risk Management Administrator
Date: July 23, 2004

Council Member Lowenstein moved seconded by Council Member Johnson that the resolution be adopted.

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

R-344-8-04 APPROVED AS AMENDED

(RESOLUTION TO APPROVE to Approve Broadway Village at
Lower Town Development Agreement)

Council Member Greden moved seconded by Council Member Teall that the resolution be adopted.

Council Member Easthope moved, seconded by Council Member Greden to amend the Agreement as follows:

Amendment #1

...Article IV
Project Financing

B. Minimizing Risk Terms. As follows.

10. PROPRIETOR must sign a separate Financial Agreement which has terms acceptable to the City Council, which terms include, but are not limited to, terms and conditions of the issuance and repayment of the bonds, the terms and conditions of the payment of any bond monies to the PROPRIETOR, satisfactory guarantees to secure the re-payment of the bonds, the provision of any financial documents necessary for the City to evaluate the PROPRIETOR'S financial capability, the payment of the costs of eligible activities, and any other term or condition the City deems relevant to the project financing. In this separate Financial Agreement, the City, among other things, reserves the sole right to make all determinations of financial capability to proceed and complete this project. ...

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

Council Member Easthope moved, seconded by Council Member Greden to amend the Agreement as follows:

Amendment #2

...ARTICLE IV
PROJECT FINANCING

A. Generally. In the event that all of the "Minimizing Risk Terms" provided for in this Section have been met or waived in writing by both the PROPRIETOR and the CITY then CITY shall use commercially reasonable efforts to issue and sell, upon terms acceptable to CITY, bonds evidencing the full faith and credit of the CITY in the amount up to \$40,000,000.00 and earmark such funds, in accordance with this Agreement, and the separate Financial Agreement to pay the costs of Eligible Activities as defined in a separate Financial Agreement. ...

On roll call, the vote was as follows:

Yeas, Council Members Woods, Groome, Johnson, Lowenstein, Greden, Teall, Easthope, Mayor Hieftje, 8.

Nays, 0.

The Mayor declared the motion carried.

Council Member Johnson moved, seconded by Council Member Groome to amend the Agreement as follows:

Amendment #3

...ARTICLE IV
PROJECT FINANCING

A. Generally. In the event that all of the "Minimizing Risk Terms" provided for in this Section have been met or waived in writing by both the PROPRIETOR and the CITY COUNCIL then CITY shall use commercially reasonable efforts to issue and sell, upon terms acceptable to CITY, bonds evidencing the full faith and credit of the CITY in the amount up to \$40,000,000.00 and earmark such funds, in accordance with this Agreement, and the separate Financial Agreement to pay the costs of Eligible Activities as defined in a separate Financial Agreement.

On roll call, the vote was as follows:

Yeas, Council Members Groome, Johnson, 2;

Nays, Council Members Woods, Lowenstein, Greden, Teall, Easthope, Woods, Mayor Hieftje, 6.

The Mayor declared the motion failed.

Council Member Greden moved, seconded by Council Member Teall moved to amend the Agreement as follows:

Amendment #4

**...Article VI
AFFORDABLE HOUSING**

...A(2)(c): The PROPRIETOR or its designee shall work with the CITY to market the units to low-income households that are served by the Ann Arbor Housing Commission and local nonprofit agencies.

A(7)... If at any time the property is converted from rental housing to owner occupied housing or condominium units, the PROPRIETOR shall provide written notice to the CITY at least 45 days prior to conversion. At the time of conversion, the new unit owners will be required to execute agreements subject to approval of the CITY, to be recorded on the property, that require the long term affordability of the Affordable Housing Unit, and include terms including, but not limited to, CITY verification of the low income eligibility of the purchaser and sale price limitations for the unit. In no event shall such agreements require greater than or less than the number of affordable housing units required under this Agreement. ...

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

Council Member Johnson moved, seconded by Council Member Groome to postpone the resolution until August 16, 2004.

On roll call, the vote was as follows:

Yeas, Council Members Groome, Johnson, 2;

Nays, Council Members Woods, Lowenstein, Greden, Teall, Easthope, Mayo Hieftje, 6.

The Mayor declared the motion failed.

Council Member Groome moved, seconded by Council Member Johnson to amend the Agreement as follows:

Amendment #6

**...ARTICLE VI
AFFORDABLE HOUSING**

A. PROPRIETOR'S Obligations Relative to Affordable Housing.

7. In the event of a transfer of ownership or conveyance of Broadway Village, the PROPRIETOR (and in case of any subsequent transfers or conveyances, the then grantor) shall be automatically freed and relieved from, after the date of such transfer or conveyance, all liability thereafter arising on the part of the PROPRIETOR under this Agreement. If at anytime the property is converted from rental housing to owner occupied housing or condominium units, the PROPRIETOR shall provide written notice to the CITY at least 45 days prior to conversion. Prior to conversion, the PROPRIETOR and the CITY shall negotiate and City Council shall approve the condominium fees to be attached to the affordable condominium units. ...

The Mayor declared a recess at 10:05 p.m. and reconvened the meeting at 10:19 p.m.

Council Member Groome withdrew her amendment at this time.

Council Member Groome moved, seconded by Council Member Greden to amend the resolution as follows:

Amendment #6a

Last RESOLVED Clause:

...RESOLVED, That the Mayor and City Council Clerk are authorized and directed to execute the Development Agreement after approval as to substance by the City Administrator and approval as to form by the City Attorney.

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

Council Member Johnson moved, seconded by Council Member Groome to amend the Agreement as follows:

Amendment #7

...ARTICLE III
BROWNFIELD WORK PLANS; CAPTURE OF TAX INCREMENT REVENUES

B. Covenant to Not Sell Project.

(1) The PROPRIETOR hereby agrees that in the event any portion of the Project is sold to an entity that is exempt from paying personal or real property taxes, PROPRIETOR shall be responsible to immediately pay to the CITY the outstanding balance full amount of the Brownfield TIFF ...

On roll call the vote was as follows:

Yeas, Council Members Woods, Groome, Johnson, Lowenstein, Mayor Hieftje, 4;

Nays, Council Members Lowenstein, Greden, Teall, Easthope, 4.

The Mayor declared that the motion failed.

Council Member Johnson moved, seconded by Council Member Groome to amend the Agreement as follows:

Amendment #8:

...Article III.
BROWNFIELD WORK PLANS; CAPTURE OF TAX INCREMENT REVENUES

...B. Covenant to Not Sell Project.

1. The PROPRIETOR hereby agrees that in the event any portion of the Project is sold to an entity that is exempt from paying personal or real property taxes The PROPRIETOR hereby agrees that the sale of any portion of the Project to an entity that is exempt from paying personal or real property taxes will be subject to approval by City Council. In the event of such sale, PROPRIETOR shall be responsible to immediately pay to the CITY the outstanding balance of the Bonds along with any penalty and interest at time of sale. Upon payment of the amount in full along with any penalties and interest, the CITY, upon request, will execute an instrument in recordable form acknowledging full satisfaction of this condition. ...

On roll call the vote was as follows:

Yeas, Council Members Woods, Groome, Johnson, Lowenstein, Greden, Teall, Easthope, Mayor Hieftje, 8;
Nays, 0.

They Mayor declared the motion carried.

Council Member Groome moved, seconded by Council Member Teall to amend the Agreement as follows:

Amendment #9:

**ARTICLE II
DONATION OF THE DECK PARCEL AND THE GREENWAY PARCEL**

I. Consummation of the Donation of the Deck Parcel and Greenway Parcel.

4. Closing:

ii) Deliver to the PROPRIETOR evidence of the CITY COUNCIL'S approval and authorization to enter into and execute each of the documents required to be executed under this Agreement.

On roll call the vote was as follows:

Yeas, Council Members Groome, Johnson, 2;

Nays, Council Members Woods, Lowenstein, Greden, Teall, Easthope, Mayor Hieftje, 6.

The Mayor declared the motion failed.

The Mayor declared a recess at 10:58 p.m. and reconvened the meeting at 11:15 p.m.

Council Member Groome moved, seconded by Council Member Johnson to amend the Agreement as follows:

Amendment #10

**...Article IX
MISCELLANEOUS PROVISIONS**

B. Perpetual. This Agreement and all related Agreements shall be perpetual, shall run with the land and shall be recorded by the CITY in the real property records of the Washtenaw County Register of Deeds, with the recording costs to be paid by the PROPRIETOR, which are deemed to be an Eligible Expense. All deeds conveying any interest in any of the property shall contain language specifically reciting that the property is subject to this Agreement. Contracts pertaining to a transfer of the property, or any part thereof, during the continuation of this Agreement also shall contain a complete and full disclosure of the restrictions existing under this Agreement.

On roll call the vote was as follows:

Yeas, Council Members Groome, Johnson, 2;

Nays, Council Members Woods, Lowenstein, Greden, Teall, Easthope, Mayor Hieftje, 6;

The Mayor declared the motion failed.

Council Member Johnson moved, seconded by Council Member Groome to amend the agreement as follows:

Amendment #11

**...ARTICLE IV
PROJECT FINANCING**

G. Credit Enhancement

1. The annual Credit Enhancement Fee shall be 1.25% of the outstanding balance of the bonds beginning in the year in which the bonds are issued unless modified by the Financing Agreement.

On roll call, the vote was as follows:

Yeas, Council Members Woods, Groome, Johnson, Lowenstein, Teall, Easthope, Mayor Hieftje, 7;

Nays, Council Member Greden 1.

They Mayor declared the motion carried.

Council Member Johnson moved, seconded by Council Member Greden to amend the Agreement as follows:

Amendment #12

**...Article III
BROWNFIELD WORK PLANS; CAPTURE OF TAX INCREMENT REVENUES**

B. Covenant to Not Sell Project.

1. The PROPRIETOR hereby agrees that the sale of any portion of the Project to an entity that is exempt from paying personal or real property taxes will be subject to approval by City Council to the extent permitted by law.

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

Council Member Johnson moved, seconded by Council Member Easthope to amend the resolution as follows:

Amendment #13

5th Whereas Clause:

Whereas, City Council will review and may approve a the separate financing agreement to be negotiated once lease terms and bond financing options are defined.

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

Council Member Groome moved, seconded by Council Member Johnson to amend the Agreement as follows:

Amendment #14

New Whereas Clause:

... Whereas, City Council will review and may approve a Parking Deck Operating Agreement, a separate Finance Agreement and all other Agreements referenced in this Development Agreement; and ...

On roll call, the vote was as follows:

Yeas, Council Member Woods, Groome, Johnson, Easthope, 4;

Nays, Council Members Lowenstein, Greden, Teall, Mayor Hieftje, 4.

The Mayor declared the motion failed.

Council Member Johnson moved, seconded by Council Member Groome to amend the resolution as follows:

Amendment #15

Add a Second RESOLVED Clause:

...RESOLVED, To assist the City Council in its consideration of the Finance Agreement, the City Administrator will obtain an appraisal of the project's value. This appraisal shall include an appraisal of the value of the leases from an independent appraisal firm and the Administrator will certify to City Council the tax revenues to generated are adequate to pay the principal and interest on any bond issued by the City for the benefit of the Broadway Village Project.

On roll call, the vote was as follows:

Yeas, Council Members Groome, Johnson, 2;

Nays, Council Members Woods, Lowenstein, Greden, Teall, Easthope, Mayor Hieftje, 6.

They Mayor declared the motion failed.

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

Yeas, Council Members Woods, Lowenstein, Greden, Teall, Easthope, Mayor Hieftje, 6;

Nays, Council Members Groome, Johnson, 2.

The Mayor declared the motion carried.

The resolution as amended reads as follows:

**Resolution to Approve Broadway Village at
Lower Town Development Agreement**

Whereas, The Ann Arbor City Council approved the Broadway Village PUD zoning district and PUD site plan;

Whereas, The Development Agreement includes provisions outlining the phasing of the project, affordable housing units, environmental clean up standard, 75% pre-leasing provision, parking deck cost maximum, baseline environmental assessments, among others;

Whereas, An approved Development Agreement is necessary for the Michigan Economic Development

Corporation to review and approve the Brownfield Plan;

Whereas, Any financing by the City is dependent on minimizing specific risk terms including 75% pre-leasing of the space at initial terms acceptable to the City and construction bids satisfactory to the Proprietor and the City for the entire project; and

Whereas, City Council will review and may approve a separate financing agreement to be negotiated once lease terms and bond financing options are defined.

RESOLVED, That the City Council approve the Broadway Village at Lower Town Development Agreement, substantially in the form of that attached, dated July 19, 2004; and

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute the Development Agreement after approval as to substance by the City Administrator and approval as to form by the City Attorney.

(The Agreement as amended is on file in the City Clerk's Office.)

R-345-8-04 APPROVED

RESOLUTION TO Accept Board Of Insurance Administration Meeting Minutes of July 29, 2004, and to Authorize Payments For Annual Insurance Premiums for August 15, 2004 - August 15, 2005

Whereas, A meeting of the Insurance Administration Board was held on July 29, 2004 to review the annual 2004-05 insurance premium renewals;

Whereas, The City's insurance broker, A. J. Gallagher submitted quotes from insurance carriers for each of the insurance coverage types; and

Whereas, The Insurance Board members reviewed and recommended approval of the insurance premiums for the period of August 15, 2004 - August 15, 2005, with final approval by Council at the August 2, 2004 meeting;

RESOLVED, That the attached Board of Insurance Administration Minutes of July 29, 2004 be accepted and that the recommended courses of action therein, including payments, be authorized.

MINUTES

CITY OF ANN ARBOR BOARD OF INSURANCE ADMINISTRATION

July 29, 2004

Present: Mary Siefert, Treasurer
Joan Lowenstein, Council Member(via phone)
Tom Crawford, Chief Financial Officer
Connie Hayes, Administrative Support Technician
Brenda L. Smith, Finance Director
Abigail Elias, Chief Assistant City Attorney

On Thursday, July 29, 2004 a special insurance board meeting was called to review and discuss the annual insurance renewal proposals submitted by the City's insurance broker A. J. Gallagher. A. J. Gallagher solicited proposals from all carriers that submitted proposals for the 2003-04 policy year. A. J. Gallagher

submitted the following rate proposals for review by the staff and the Insurance Board members:

Insurance Type	2003-2004 Premium	2004-2005 Premium		
Fiduciary Liability	\$20,825.00	\$21,800.00		
Crime Coverage	\$5,862.00	\$9,018.00		
Airport Premises Liability	Surplus Lines	\$12,213.00	\$23,919.00	\$597.98.00
Airport Excess Liability	Surplus Lines Tax	\$9,706.00	\$243.00	Included in above
Property/All Risk	\$220,690.00	\$227,321.00		
Underground Storage Tanks	\$1002.00	\$1,117.00		
Excess Liability	Surplus Lines Tax	\$415,151.00	\$10,379.00	\$414,388.00 \$10,360.00
Excess Follow Form Liability	Surplus Lines Tax	\$141,463.00	\$3,537.00	\$141,500.00 \$3,538.00
Forest Avenue Parking Structure	\$58,772.50	\$59,419.00		
Total	\$899,843.50	\$912,977.98		

Property/All Risk - Insurance Carrier - Fm Global Insurance
Fiduciary Liability - Insurance Carrier - Chubb Insurance Co.
Fidelity Bond - Insurance Carrier - Hartford Insurance Co.
Excess Liability - Insurance Carrier - International Hanover Ltd.
Excess Follow Form Liability - Insurance Carrier - Gulf Insurance Co.
Airport Liability - Insurance Carrier - Old Republic Insurance
Underground Storage Tanks - Insurance Carrier - Zurich Insurance Co.
Forest Avenue Parking Structure - Insurance Carrier - Burlington/St Paul/Westchester

The Insurance Board recommended acceptance of the insurance renewal premiums as submitted by A.J. Gallagher, to be submitted to Council for final approval.

Prepared by: Brenda L. Smith, Finance Director
Reviewed by: Tom Crawford, Chief Financial Officer
Approved by: Abigail Elias, Chief Assistant City Attorney
Approved by: Roger Fraser, City Administrator

Council Member Lowenstein moved seconded by Council Member Teall that the resolution be adopted.

(Council Member Greden absent at 12:00 a.m.)

On roll call the vote was as follows:

Yeas, Council Members Woods, Johnson, Lowenstein, Teall, Easthope, Mayor Hieftje, 6;

Nays, Council Members Groome, 1.

The Mayor declared the motion carried.

R-346-8-04 APPROVED

RESOLUTION TO APPROVE a Request to Transfer Ownership of a 2003 Class “C” Liquor Licensed Business, a new Entertainment Permit and Outdoor Service (to be located on a city Sidewalk) to Rush Street Restaurant LLC - 314 S. Main St., D/B/A Rush Street Restaurant

RESOLVED, That the request from Rush Street Restaurant LLC, to transfer ownership of a 2003 Class “C” Licensed Business with Dance Permit, located in escrow at 314 S. Main, Ann Arbor, MI, 48104, Washtenaw County, from Tchoupitoulas of Ann Arbor, Inc.; a request for a new Entertainment Permit; cancel existing Dance Permit; and a request for an Outdoor Service area to be located on a city sidewalk be approved.

Council Member Woods moved seconded by Council Member Teall that the resolution be adopted.

On a voice vote, the Mayor declared the motion carried with one no vote made by Council Member Groome.

R-347-8-04 APPROVED

RESOLUTION TO APPROVE a Request to Transfer Ownership and Location of a 1999 Class “C” Liquor Licensed Business and an Outdoor Service Area to be Located on a City Sidewalk, to Spoon Restaurants I LLC - 215 E. Washington, D/B/A Spoon Restaurants

RESOLVED, That the request from Spoon Restaurants I LLC, to transfer ownership of a 1999 Class “C” Liquor Licensed Business, located in escrow at 1435 E. Michigan, Ypsilanti, MI 48197, from Marcia D. Bertrand; and transfer location to 215 E. Washington, Suite 101. There is an additional request for an Outdoor Service Area to be located on a city sidewalk be approved.

Council Member Johnson moved seconded by Council Member Easthope that the resolution be adopted.

On a voice vote, the Mayor declared the motion carried, with one no vote made by Council Member Groome.

R-348-8-04 APPROVED

RESOLUTION Appointing a Task Force to Study and Report to Council on the City of Ann Arbor Park Maintenance Requirements

Whereas, The City of Ann Arbor has been viewed as a standard setting agency in regards to park maintenance;

Whereas, The urban forest in Ann Arbor is viewed by industry professionals as diverse and well maintained;

Whereas, Standards for park maintenance have changed in recent years as the result of decreased resources and increased responsibilities; and

Whereas, A review and survey of existing conditions and comparison to national parks maintenance standards will identify unmet needs;

RESOLVED, That Council appoints a task force comprised of 3 members of the Park Advisory Commission and 3 members of Public Service Area staff in Field Operations to survey, benchmark, and analyze information regarding park maintenance standards;

RESOLVED, That the Park Advisory Commission identify the 3 members of PAC to participate on this task force;

RESOLVED, That the task force conduct a thorough review including benchmarking with other communities, evaluation and comparisons of current standards, and a public survey;

RESOLVED, That options for the task force explore utilizing community resources including an “adopt a park” program; and

RESOLVED, That the information assimilated through this process be presented to the City Council for review and input by January 1, 2005.

Council Member Easthope moved seconded by Council Member Lowenstein that the resolution be adopted.

(Council Member Greden returned at 12:06 a.m.)

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

REPORTS FROM COUNCIL COMMITTEES

None.

COUNCIL PROPOSED BUSINESS

None.

COMMUNICATIONS FROM THE MAYOR

APPOINTMENTS APPROVED

Mayor Hieftje recommended the following appointments at the July 19, 2004 regular session of Council:

Downtown Development Authority

David DeVarti, Business Owner (Re-appointment)
1231 Baldwin Avenue
Ann Arbor, MI 48104
Term: August 2, 2004 - July 31, 2008

Council Member Lowenstein moved seconded by Council Member Johnson that Council concur with the recommendations of the Mayor.

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

NOMINATIONS PLACED ON TABLE

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

Energy Commission

Tim Athan (Re-appointment)
515 Spring Street
Ann Arbor, MI 48103
Term: August 16, 2004 - July 1, 2007

Robert Black (Re-appointment)
516 Spring Street
Ann Arbor, MI 48103
Term: August 20, 2004 - August 19, 2007

Kurt Brandle (Re-appointment)
3115 Lexington Drive
Ann Arbor, MI 48105

Term: August 20, 2004 - August 19, 2007

Stephen Miller (Re-appointment)

2412 Georgetown Blvd.

Ann Arbor, MI 48105

Term: August 20, 2004 - August 19, 2007

Kerry Sheldon (Fill vacancy left by Kenneth Saulter)

521 B Longshore Drive

Ann Arbor, MI 48105

Term: August 16, 2004 - July 9, 2006

ANNOUNCEMENT

Mayor Hieftje asked that the Community Standards Rules relating to snow fall be reviewed prior to snow falling this year.

COMMUNICATIONS FROM THE CITY ADMINISTRATOR

REPORTS SUBMITTED

City Administrator Roger Fraser submitted the following reports for information of Council:

- 1. Street Closing for Farmer's Market 85th Anniversary Celebration Special Event (Community Services - Jayne Miller, Area Administrator)**
- 2. Housing Rehabilitation Program Assistance Adjustment for FY 04-05 (Community Services - Jayne Miller, Area Administrator)**
- 3. Adjustment to Section 8 HAP Renewal Funding (Housing Commission - Elizabeth Lindsley, Executive Director)**

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

COMMUNICATIONS FROM THE CITY ATTORNEY

None.

COMMUNICATIONS FROM COUNCIL

COUNCIL MEMBER GROOME

Council Member Groome expressed concern with items being submitted to Council on the date of the meeting. She suggested looking over Council Rules to determine a time limit on late submissions.

COUNCIL MEMBER GREDEN

Council Member Greden followed up by stating that staff has an obligation to get items to Council in a timely manner, and that Council has an obligation to do its homework in advance of Council Meetings and get caucus questions to appropriate staff members in a timely manner as well.

COUNCIL MEMBER JOHNSON

Council Member Johnson stated that the issues discussed today regarded policy and can only be discussed with Council.

CLERK'S REPORT OF COMMUNICATIONS, PETITIONS AND REFERRALS

The following communications were referred as indicated:

1. Communication from Corner House Lofts, L.L.C., sending Notice of Intent to Take Reservations, and Record Master Deed
2. Communication from Kathleen M. Babcock regarding the Ordinance n Height of Extension Plantings

The following minutes were received for file:

1. City of Ann Arbor Employees Retirement System - June 17, 2004
2. City of Ann Arbor Retiree Health Care Benefit Plan & Trust (V.E.B.A.) - June 17, 2004

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

Council Member Woods moved seconded by Council Member Teall that the Clerk's Report be accepted.

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

PUBLIC COMMENTARY - GENERAL

Jim Mogensen - ITEMS SUBMITTED TO COUNCIL AGENDAS

Jim Mogensen, 3780 Greenbrier Blvd., #354C, expressed concern with items being submitted to the agenda at the last minute.

ADJOURNMENT

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

On a voice vote, the Mayor declared the motion carried and the meeting adjourned at 12:15 a.m.

Anissa R. King
Acting Clerk of the Council
Recording Secretary