



City of Ann Arbor

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Ann Arbor, MI 48104
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Legislation Text

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ANN ARBOR CITY COUNCIL MINUTES REGULAR SESSION - OCTOBER 18, 2004

Mayor John Hieftje called the regular session of the Ann Arbor City Council to order at 7:06 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 Robert M. Johnson, Michael R. Reid, Jean Carlberg, Leigh Greden, Margie Teall, Marcia Higgins, Christopher Easthope, Mayor John Hieftje, 8.

ABSENT : Council Members Kim Groome, Joan Lowenstein, and Wendy A. Woods, 3.

INTRODUCTIONS

None.

PUBLIC COMMENTARY - RESERVED TIME

MARC RIECHARDT - PROQUEST TAX ABATEMENT

Marc Riechardt, 2091 Stratton Court, spoke in opposition of the proposed ProQuest Tax Abatement.

WILLIAM OLIVER - FARMER'S MARKET

William Oliver, 2892 Bay Ridge, addressed Council regarding Farmer's Market. He asked that the market be preserved.

ELAINE RUMMAN - SILENCE ABOUT THE PALESTINE SUFFERING

Elaine Rumman, 1310 Pomona, addressed Council regarding the suffering of Palestinians in Israel.

HELEN FOX - HUMAN RIGHTS COMMISSION

Helen Fox, 2266 Georgetown Boulevard, a member of the Human Rights Commission, expressed concern with the City's attempt to allow the Human Rights Commission to die. She said that members who have resigned have not been replaced.

DIANE PORTER - AATA PARA TRANSIT

Diane Porter, 1485 Greenview Drive, addressed Council regarding the Para transit system provided by

AATA. She said that the average time it takes to pick up passengers has increased from 25 minutes to an hour and half to two hours.

PUBLIC HEARINGS

BAMM ZONING (ORDINANCE NO. 34-04)

A public hearing was conducted on the proposed amendment to Chapter 55, rezoning of, 0.21 acre from TWP (Township District) to R1D (Single-Family Dwelling District), Bamm property, located at 2962 Shady Lane. Notice of public hearing was published October 3, 2004.

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

MAPLE VIEW APARTMENTS SITE PLAN

A public hearing was conducted on the proposed Maple view Apartments Site plan, 0.85 acre, located at 900 S. Maple Road. Notice of public hearing was published October 12, 2004.

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

APPROVAL OF AGENDA

AGENDA APPROVED WITH CHANGES

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

CONSENT AGENDA

Move: Resolution to Approve Housing Rehabilitation Agreement with Tabitha D. Harris (\$55,963.00 - CDBG) (Community Services - Jayne Miller, Area Administrator) (Consider after Motions and Resolutions)

MOTIONS AND RESOLUTIONS

Added After Newspaper Deadline:

Move: Resolution to Uphold Decision of City Administrator Denying a Sidewalk Occupancy Permit to Sebastian Escalada (Attorney - Stephen K. Postema, City Attorney) (Added 10/12/04) (Consider after Closed Session)

Add: Resolution to Appoint Member to the City Environmental Commission (Council Members Teall and Higgins) (Added 10/14/04)

Add: Resolution Advocating to Permit In-Person Voter Registration at Local Clerks' Offices up to and Including Election Day (Council Member Carlberg) (Added 10/15/04)

Add: Resolution Affirming Freedom to Worship without Interference and Condemning the Picketing of Houses of Worship (Council Members Reid, Greden, Easthope, Lowenstein, Higgins, Carlberg, Teall, Woods; Mayor Hieftje) (Added 10/15/04)

Add: Resolution Recognizing Performance Network As a Nonprofit Organization Operating in the Ann Arbor Community for the Purpose of Obtaining a Charitable Gaming License (Council Member Carlberg) (Added 10/18/04)

CLERK'S REPORT OF COMMUNICATIONS, PETITIONS AND REFERRALS

Add: Communication from Michigan State University Extension regarding removal of dead and dying trees due to the infestation of Emerald Ash Borer - Public Services, Community Services (Added 10/15/04)

Add: Communication from the State of Michigan Department of Environmental Quality regarding Public Notice to place fill in a wetland for the purpose of constructing a new office building in an existing office complex (Added 10/15/04)

Add: Communication from Vice-Mayor Marjorie Decker of Cambridge, Massachusetts regarding American men and women that have been killed in the fighting in Iraq - File (Added 10/18/04)

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

APPROVAL OF COUNCIL MINUTES

MINUTES OF OCTOBER 4, 2004 APPROVED

Council Member Johnson moved seconded by Council Member Greden that the regular session minutes of October 4, 2004 be approved as presented.

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 Motions and Resolutions:

Resolution to Approve Housing Rehabilitation Agreement with Tabitha D. Harris (\$55,963.00 - CDBG) (Community Services - Jayne Miller, Area Administrator)

CONSENT AGENDA ITEMS APPROVED

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

R-430-10-04 APPROVED

**RESOLUTION to Transfer the Ownership
of a 2004 12-Months Resort Class C Licensed Business
Located at 3795 Washtenaw - D/B/A Chili's Grill & Bar**

RESOLVED, That the request of Brinker Restaurant Corporation (D/B/A Chili's Grill & Bar) to transfer the ownership of a 2004 12-Months Resort Class C licensed business, located at 3795 Washtenaw, to Brinker

Michigan Inc., be approved.

R-431-10-04 APPROVED

RESOLUTION to Approve Agreements with the Michigan Information Technology Center Foundation to Allow Installation of Cable in the City Conduits, for an Indefeasible Right of Use of the City of Ann Arbor Communications System Conduits and for Maintenance of the System and Fiber Optic Cable

Whereas, Michigan Information Technology Center Foundation is a non-profit organization working to provide next-generation Internet access facility within the City of Ann Arbor;

Whereas, MITC has a need to install fiber optic cable in the City of Ann Arbor;

Whereas, MITC has requested the City to allow installation of fiber optic cables in the City's communications system conduits;

Whereas, Allowing MITC to use the City's communication conduits supports the public purpose of the not-for-profit organization and the economic development of the community; and

Whereas, Allowing MITC to use the City's communication conduits will result in some cost recovery of investments in the system;

RESOLVED, That Council approve an Agreement with the MITC to allow installation of fiber optic cable in the City's conduit;

RESOLVED, That Council approve an Indefeasible Right of Use Agreement with MITC; and

RESOLVED, That Council approve an Agreement with MITC for contracting with the City for the maintenance of the conduit system and the cable contained within.

R-432-10-04 APPROVED

Resolution Authorizing a Contract with Rantoul Truck Center for the Rental of Four Rear Load Refuse Trucks

Whereas, The City of Ann Arbor needs to rent rear load refuse trucks for use in the fall leaf collection program;

Whereas, Competitive bids were received by the Field Operations Unit of the Public Services Area and Rantoul Truck Center was the lowest responsible bidder;

Whereas, Rantoul Truck Center received Human Rights approval on September 16, 2004; and

Whereas, Sufficient funds are budgeted in the Public Services Area Solid Waste Enterprise Fund adopted FY 2005 budget;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute a rental contract with Rantoul Truck Center after approval as to substance by the City Administrator and as to form by the City Attorney; and

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

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

ORDINANCES - SECOND READING

34-04 APPROVED

BAMM ZONING

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

This ordinance would change the zoning of 0.21 acre, located at 2962 Shady Lane, from TWP (Township District) to R1D (Single-Family Dwelling District). (The complete text of Ordinance 34-04 is on file in the City Clerk's Office.)

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

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

ORDINANCES - FIRST READING

35-04 POSTPONED

employees' retirement system

An Ordinance to Amend Sections 1:560, 1:572 and 1:585 of Chapter 18 Of Title I of the Code of the City of Ann Arbor

(The complete text of Ordinance 35-04 is on file in the City Clerk's Office.)

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

Council Member Greden moved, seconded by Council Member Johnson to postpone the ordinance until November 8,2004.

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

36-04 APPROVED

TRAFFIC

An Ordinance to Amend Sections 10:85 and 10:156 of Chapter 126

Of Title X of the Code of the City of Ann Arbor

(The complete text of Ordinance 36-04 is on file in the City Clerk's Office.)

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

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

MOTIONS AND RESOLUTIONS

R-433-10-04 APPROVED

RESOLUTION TO APPROVE Maple View Apartments Site Plan

Whereas, Michigan Ability Partners has requested site plan approval in order to construct ten apartment units in one two-story building at 900 South Maple Road;

Whereas, The Ann Arbor City Planning Commission, on September 21, 2004, recommended approval of said requests;

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

Whereas, The development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, applying criteria for reviewing a natural features statement of impact set forth in Chapter 57; and

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

RESOLVED, That City Council approve the Maple View Apartments Site Plan, with the condition that two footing drain disconnections are completed before application for certificates of occupancy.

A communication was received from the City Planning Commission transmitting its recommendation of approval of the proposed Maple View Apartments Site Plan, 0.85 acre, located at 900 S. Maple Road.

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

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

R-434-10-04 APPROVED

RESOLUTION TO APPROVE Nimke Annexation

Whereas, The territory hereinafter described is located in the Township of Ann Arbor and is adjacent to the corporate limits of the City of Ann Arbor;

Whereas, Carol B. Nimke is the owner of said property; and

Whereas, It is the desire of Carol B. Nimke to annex said territory to the City of Ann Arbor, pursuant to the provisions of Act 279 of the Public Acts of the State of Michigan for the year 1909, as amended;

RESOLVED, That the following described lands and premises situated and being in the Township of Ann Arbor, Washtenaw County, Michigan, be detached from said Township of Ann Arbor and annexed to the City of Ann Arbor, to-wit:

Lot 9 of Bowen's Subdivision, Washtenaw County Records, Ann Arbor Township, Washtenaw County, Michigan.

A communication was received from the City Planning Commission transmitting its recommendation of approval of the proposed Nimke Annexation, 1.23 acres, located at 2160 Newport Road.

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

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

R-435-10-04 APPROVED

RESOLUTION to Extend the Time Allowable for Consideration of the Proposed Lower Town Historic District

Whereas, The Lower Town Historic District Study Committee held a public hearing, pursuant to Section 3(2) of PA 169 of 1970 as amended, Michigan's enabling legislation for the creation of local historic districts, on December 3, 2003;

Whereas, Section 3(3) of PA 169 of 1970 as amended states that the legislative body of a local unit of government has one year to act on a study committee's final report, unless otherwise authorized by the legislative body of the local unit; and

Whereas, That one-year limit will expire on December 3, 2004;

RESOLVED, That the timeline for Council consideration of the proposed Lower Town Historic District is extended for six months, until June 3, 2005; and

RESOLVED, That Council direct the City Administrator to report on the status of this item within six months.

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

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

R-436-10-04 APPROVED

RESOLUTION to Amend the Established Construction Budget for the Safety Services Joint Dispatch Project and Appropriate Funds from the General Capital Fund OOCF Dispatch Project Budget to Increase the Construction Budget Contingency and Approve Amendment of the Irish Construction Company Design Build Contract for Services to Increase the Total Not to Exceed Amount of the Contract to \$326,870.00

Whereas, City Council approved a construction budget for the design and construction of the Safety Services Joint Dispatch Center on February 2, 2004 (R-30-2-04) with a contingency of \$25,170.00 to cover

potential contract change orders, if required;

Whereas, Additional site renovations required to comply with current building codes due to the age and condition of the existing structure necessitated modification of the construction plans for the Center identified in the list on file in the City Clerk's Office;

Whereas, The cost of the additional site renovations are anticipated to exceed the previously established contingency of \$25,170.00 of which only \$4,170.00 remains unencumbered;

Whereas, Funding in the General Capital Fund OOCF Dispatch Project Budget is available to increase the contingency; and

Whereas, Amendment of the Irish Construction Contract will be necessary to increase the established not to exceed amount for total compensation under the contract to allow for the issuance of the required change order(s) under the terms of the contract;

RESOLVED, That City Council approve amendment of the established Construction Budget for the Safety Services Joint Dispatch Project increasing the total contingency by \$50,000.00 to \$75,170.00 for the life of the project without regard to fiscal year;

RESOLVE, That City Council appropriate \$50,000.00 from the General Capital Fund OOCF Dispatch Project Budget to the Safety Services Joint Dispatch Center Construction Budget;

RESOLVED, That City Council approve amendment of the contract for design build services with Irish Construction Company to increase the not to exceed amount for total compensation under the contract, including all approved change orders, to \$326,870.00;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute the necessary amendment after 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 all necessary actions to implement this Resolution including approval of change orders, within the approved contingency amount and in accordance with the terms of construction contract with Irish Construction approved by City Council on February 2, 2004 (R-30-2-04) in connection with the completion of the Safety Services Joint Dispatch Center.

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

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

R-437-10-04 APPROVED

RESOLUTION TO APPROVE Amendment of the 2004 Michigan Department of Natural Resources - Michigan Natural Resources Trust Fund Acquisition Grant Application, Appropriate the Grant Funds if Awarded and Establish a Project Budget

Whereas, City Council approved an application to the Michigan Natural Resources Trust Fund on March 15, 2004 (R-94-3-04) for matching funds toward the purchase of 3.8 acres for a north addition to the Dolph Nature Area with an estimated purchase cost of \$950,000.00;

Whereas, The original grant listed \$513,000.00 (54% of the total estimated purchase price) in grant funds from the DNR and \$437,000.00 (46% of the total estimated purchase price) as a local match;

Whereas, The DNR review of the application indicated that the proposal earned 250 points;

Whereas, Increasing the local match by 10% (from 46% to 56%) of the estimated purchase cost, an additional 10 points could be earned, thereby making the proposal more competitive;

Whereas, A 10% increase will change the local match from \$437,000.00 to \$532,000.00;

Whereas, Sufficient funds are available in Fund 0024, Open Space and Parkland Acquisition Fund, for the local match, including the proposed increase; and

Whereas, The Park Advisory Commission, at its September 17, 2004 meeting, voted to recommend that City Council amend the grant application by increasing the City's local match by 10% to \$532,000.00;

RESOLVED, That City Council approve amendment of the grant application to the 2004 Michigan Department of Natural Resources Trust Fund decreasing the grant request to \$418,000.00 and increasing the local match to \$532,000.00, all other terms of the grant application remain unchanged;

RESOLVED, That City Administrator be authorized and directed to execute the necessary amendment document;

RESOLVED, That the grant funds if awarded be appropriated to Fund 0024, Open Space and Parkland Acquisition Fund for expenditure for the acquisition of land adjacent to Dolph Park and Lakewood Woods;

RESOLVED, That a Project Budget be established for the acquisition of an addition to Dolph Nature Area for the life of the project without regard to fiscal year in the amount of \$950,000.00 plus closing costs necessary for the acquisition; and

RESOLVED, That the City Administrator, or his designee, be authorized to act as closing agent for the City and execute all necessary documents required to implement this Resolution and finalize the land acquisition in accordance with the terms of the grant after approval as to form by the City Attorney.

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

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

R-438-10-04 APPROVED

RESOLUTION Accepting Easement for Public Utilities from Colony Packard, L.L.C., - 2715 Packard Road

Whereas, Colony Packard LLC, a Michigan limited liability company, is the fee simple owner of property located in the City of Ann Arbor, Washtenaw County, Michigan, as described in the Washtenaw County Records at Liber 4190, Page 704, recorded December 4, 2002;

Whereas, Pursuant to the Operating Plan For Colony Packard LLC, dated January 30, 2003, the Members have authorized the delivery of a perpetual easement to the City for the construction and maintenance of municipally operated public services comprising the public utilities system; and

Whereas, Colony Packard LLC, a Michigan limited liability company, has delivered an easement to the City

for the construction and maintenance of municipally operated public services to run with the land and burden the respective property perpetually, being more particularly described as follows:

30 foot Sanitary Sewer

Commencing at the NW corner of Lot 3, Waltan Subdivision, according to the Plat thereof, as recorded in Liber 17 of Plats, Page 11, Washtenaw County Records; thence S00° 56' 00" W 35.35 feet along the W line of said Lot 3 to the POINT OF BEGINNING; thence N90° 00' 00" E 99.45 feet; thence S00° 00' 00" E 30.00 feet; thence S90° 00' 00" W 99.94 feet; thence N00° 56' 00" E 30.01 feet along said W line to the POINT OF BEGINNING.

40 foot Water Main

Commencing at the NW corner of Lot 3, Waltan Subdivision, according to the Plat thereof, as recorded in Liber 17 of Plats, Page 11, Washtenaw County Records; thence S00° 56' 00" W 286.66 feet along the W line of said Lot 3 to a point on the N line of Packard Road; thence N89° 43' 00" E 127.11 feet along said N line to the POINT OF BEGINNING; thence N00° 56' 00" E 55.36 feet; thence S89° 04' 00" E 40.00 feet; thence S00° 56' 00" W 54.51 feet; thence S89° 43' 00" W 40.01 feet along said N line to the POINT OF BEGINNING.

RESOLVED, That the City hereby accept said easement.

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

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

R-439-10-04 APPROVED

RESOLUTION Authorizing a Grant of Easement to Detroit Edison Company for Transformer and Primary Electrical Service - Olson Park - Formerly Known as Northeast Area Park

Whereas, The City of Ann Arbor is the fee owner of the following described property:

Beginning at the S ¼ corner of Section 9, T2S, R6E, Ann Arbor Township, Washtenaw County, Michigan; thence S86° 28' 55" W 584.90 feet along the S line of said Section and the centerline of Dhu Varren Road to a point on the centerline of Pontiac Trail; thence along said centerline N13° 33' 16" W 423.29 feet; thence N76° 26' 44" E 50.00 feet to a point on the easterly right-of-way line of Pontiac Trail; thence along said right-of-way line in the following three (3) courses: N 13° 33' 16" W 200.00 feet; N76° 26' 44' E 25.00 feet and N13° 33' 16" W 46.03 feet; thence N86° 13' 00" E 760.89 feet; thence N86° 00' 00" E 884.90 feet; thence S04° 15' 00" E 670.80 feet to a point on the S line of said Section 9 and the centerline of Dhu Varren Road; thence along said S line and said centerline S85° 47' 30" W 1026.70 feet to the POINT OF BEGINNING. Being a part of the S ½ of Section 9, T2S, R6E, Ann Arbor Township, Washtenaw County, Michigan, and containing 25.43 acres of land, more or less. Being subject to the rights of the public over the northerly 33 feet of Dhu Varren Road and the easterly 33 feet of Pontiac Trail as occupied. Also being subject to easements and restrictions of record, if any.

Whereas, The Detroit Edison Company, a Michigan corporation, has requested a grant of easement from the City of Ann Arbor for the construction, operation and maintenance of a transformer for the purpose of providing primary electrical service to Olson Park, formerly known as Northeast Area Park, described as a 12 foot wide easement beginning at the north boundary line of Dhu Varren Road and following a northeasterly direction, described as follows:

12 Ft wide utility easement, the centerline described as follows:

Commencing at the South $\frac{1}{4}$ corner, Section 9, T2S, R6E, Ann Arbor Township, Washtenaw County, Michigan; Thence N 85° 47' 30" E 155.56 feet along the South line of said Section 9 and the Centerline of Dhu Varren Road; Thence N 02° 44' 39" W 33.01 feet to the Northerly line of said Dhu Varren Road and the Point of Beginning; Thence continuing N 02° 44' 39" W 17.29 feet; Thence N 84° 51' 32" E 232.04 feet; Thence N 00° 12' 02" E 268.68 feet; Thence N 06° 51' 21" E 46.77 feet; Thence N 11° 32' 51" E 55.41 feet; Thence N 17° 15' 24" W 20.76 feet; Thence N 24° 20' 54" W 50.34 feet to the POINT OF TERMINATION. Said easement being a part of the Southeast $\frac{1}{4}$ of Section 9, T2S, R6E, Ann Arbor Township, Washtenaw County, Michigan.

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

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

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

POSTPONED

**RESOLUTION to Approve the Appropriation of Funds from
FY 2003/04 General Fund End Balance to FY 2004/05 and
to Approve a Contract with Washtenaw Development
Council for Business Support Services**

Whereas, The City has had a long-standing relationship with the Washtenaw Development Council since 1982 to provide services related to the economic development of the area;

Whereas, The Washtenaw Development Council provides a variety of services that relate to the economic development of the area including services to businesses, marketing efforts, improved coordination with other economic development and nonprofit entities and continues to identify entry-level job openings;

Whereas, The Washtenaw Development Council received Human Rights approval on July 15, 2004;

Whereas, Funding for services for FY 2003/04 were budgeted in the citywide membership account in the amount of \$40,000.00 but were not spent; and

Whereas, Funding for services for FY 2004/05 are budgeted within the approved budget under the citywide membership account in the amount of \$40,000.00;

RESOLVED, That City Council approve appropriation of funds in the amount of \$40,000.00 from FY 2003/04 General Fund End Balance to FY 2004/05;

RESOLVED, That City Council approve a two-year contract in the amount of \$80,000.00 with Washtenaw Development Council for business support services for the period of July 1, 2003 to June 30, 2005;

RESOLVED, That the Mayor and Clerk be authorized and directed to execute the contract after 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 all necessary actions to implement this resolution.

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

Council Member Easthope moved, seconded by Council Member Carlberg to postpone the resolution until November 22, 2004.

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

R-440-10-04 APPROVED

RESOLUTION to Accept a Grant and Appropriate Funds for a Flood Mitigation Plan from the Michigan Department of State Police, Emergency Management Division

Whereas, The City of Ann Arbor is a member of the National Flood Insurance Program;

Whereas, This City is committed to reducing flood damage risks;

Whereas, The City of Ann Arbor has been awarded a \$24,050.00 grant to develop a Flood Mitigation Plan;

Whereas, Adoption of a Flood Mitigation Plan will make the City eligible for future grants to implement the recommendations of the plan, if and when funds become available;

Whereas, The City will provide \$4,008.50.00 in-kind match for grant management plan preparation and a \$4,008.50 cash match which will come from the Public Services Area Stormwater System budget for a total grant total of \$32,067.00; and

Whereas, The Systems Planning Unit of the Public Services Area will provide grant management services for this grant;

RESOLVED, That the City accept the Michigan Department of State Police, Emergency Management Division grant of \$24,050.00 for a Flood Mitigation Plan and associated technical assistance;

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

RESOLVED, That the grant funds be appropriated to the Public Services Area, Systems Planning Unit Stormwater System, and be available without regard to fiscal year.

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

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

R-441-10-04 APPROVED

RESOLUTION TO Award a Construction Contract to JobSite Services, Inc. (\$203,724.64, Bid No. 3687) and Establish a Project Budget (\$260,725.00) for the Landfill Gas Migration Control System

Whereas, The Michigan Department of Environmental Quality (MDEQ) requires all the landfill owners to monitor for migrating landfill gas and install gas migration control systems as needed;

Whereas, Landfill gas has been detected in the monitoring wells north of the City of Ann Arbor landfill;

Whereas, The City Council in December 2003 approved a resolution for professional services agreement with SCS Engineers to complete the design of the landfill gas control system at the Ann Arbor Landfill;

Whereas, The plans and specifications for the landfill gas mitigation control system at the City's landfill are completed;

Whereas, Competitive bids for the construction of the landfill gas mitigation control system were received by the City procurement on August 12, 2004, and JobSite Services, Inc. of Bay City, Michigan, was the lowest responsible bidder at \$203,724.64;

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; and

Whereas, JobSite Services, Inc. received Human Rights approval on August 23, 2004 and complies with the Living Wage Ordinance;

RESOLVED, That a contract in the amount of \$203,724.64 be awarded to JobSite Services, Inc. for the construction of the Landfill Gas Migration Control System (Bid No. 3687);

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;

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

Section I - Revenue

\$ 260,725.00	Solid Waste Enterprise Fund-Unobligated Fund Balance
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\$ 260,725.00	TOTAL
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Section II - Expenses

\$ 203,725.00	Construction
\$ 20,000.00	Project Management
\$ 10,000.00	Consulting and Testing
\$ 17,000.00	Contingencies Approved by the City Administrator
\$ 10,000.00	Materials and Miscellaneous Costs

\$ 260,725.00	TOTAL; and
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RESOLVED, That Council authorize the City Administrator to take the necessary administrative actions to implement this resolution.

Council Member Carlberg 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-442-10-04 APPROVED

**RESOLUTION TO Ratify Emergency Purchase by
City Administrator from Bell Equipment for Repair
of Labrie Expert 2000 Recycle Trucks and Appropriate
\$5000.00 Contribution from Recycle Ann Arbor**

Whereas, Section 1:316 of the City Code provides for the emergency purchase of equipment by the City Administrator when immediate procurement of the equipment is necessary to the continuation of the related City services;

Whereas, In cases where the purchase exceeds \$25,000.00, the purchase must be ratified by City Council;

Whereas, City Council approved a purchase order on January 20, 2004 to order four Labrie recycling trucks and four Labrie refuse trucks;

Whereas, A miscommunication between City staff and Bell Equipment resulted in the manufacture of the four recycle trucks consistent with standard Labrie specifications rather than City of Ann Arbor alternate specifications (i.e., collection compartments reversed from what they should be);

Whereas, The parties mutually agreed to the following in an effort to resolve the matter and ensure the equipment was refitted and put into service as soon as possible:

§ Bell Equipment has agreed to pay for repairs on two of the four recycle trucks, for a total of \$38,000.00;

§ Recycle Ann Arbor has agreed to contribute \$5,000.00 to the repairs on the remaining two trucks

§ Bell Equipment has agreed to credit the City \$15,600.00 for accessory adjustments on the next three automated refuse trucks;

Whereas, These circumstances were deemed to meet the standards for an emergency purchase by the Administration; and

Whereas, Staff has reported information in detail to Procurement Services as required by Section 1:316 of the City Code;

RESOLVED, That City Council ratify the emergency purchase of the equipment from Bell Equipment as specified above in the amount of \$38,000.00 to pay for the repairs on two recycling trucks;

RESOLVED, That City Council appropriate the \$5,000.00 contribution from Recycle Ann Arbor to the Solid Waste FY05 Operating Budget;

RESOLVED, That the balance of the funds (\$33,000.00) be available in the approved FY05 Solid Waste Operating budget; and

RESOLVED, That Procurement Services Unit retain records of this purchase for two years as required by Section 1:316 of the City Code.

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

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

R-443-10-04 APPROVED

RESOLUTION TO APPROVE to Modify Resolution R-163-5-04 to Place Delinquent Water Utilities Charges on 2004 Tax Roll to Allow Placement on Winter Tax Statements

Whereas, On April 6, 2004 the City Administrator reported to this Council that there were \$73,880.13 of unpaid charges for water, sanitary sewer and stormwater services furnished to certain premises in the City which on March 31, 2004 had remained unpaid for a period of six months or more;

Whereas, By Resolution R-163-5-04 City Council authorized placement of those unpaid charges on the 2004 tax roll;

Whereas, Due to a lack of appropriate customer notification the delinquent amounts were not placed on 2004 summer tax statements;

Whereas, In accordance with Michigan Public Act 94 of the Public Acts of 1933 and Ann Arbor City Ordinance Code; Chapter 13, Section 2:92; Chapter 29, Section 2:72 and Chapter 33, Section 2:206; collection notices have been sent by first class mail to the owners of such premises that remain delinquent giving notice of the total amount due for such services and that such amounts would be assessed with a 10% penalty by this Council on December 2, 2004, unless sooner paid, as a tax against said premises;

Whereas, Notices have been sent by first class mail to the owners of the premises so served notifying them of the assessment with the 10% penalty to be placed against such property if the amount due is not paid by October 29, 2004; and

Whereas, Payments and reductions of delinquent utility charges have been processed, and as of October 18th delinquent utility charges of \$36,291.82 remain, which may further be reduced by additional amounts received prior to placement on the tax roll;

RESOLVED, That Resolution R-163-5-04 be modified by rescission of the last Resolved clause so that the City is not limited to placing the delinquent charges on 2004 summer tax statements; and

RESOLVED, That such outstanding (over 6 months) delinquent utilities charges be levied against such owners and premises and that the City Assessor shall place the same with a 10% penalty on 2004 winter tax statements and that the said charges so assessed shall be collected in the same manner as general City taxes.

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

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

R-444-10-04 APPROVED

Resolution to Appoint Member to the City Environmental Commission

Whereas, City Council passed an ordinance creating a City Environmental Commission;

Whereas, The ordinance requires City Council to nominate and appoint the members of the Commission;

Whereas, One member shall be appointed from the Planning Commission;

Whereas, This position is currently vacant; and

Whereas, Lori Elbing sits on the Planning Commission and has an interest in protecting and enhancing the well-being of the environment;

RESOLVED, That Lori Elbing be appointed to the Environmental Commission for a three-year term beginning October 28, 2004; and

RESOLVED, That the City Clerk notify the newly elected commission member and the chair of the Environmental Commission.

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

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

R-445-10-04 APPROVED

Resolution Advocating to Permit In-Person Voter Registration at Local Clerks' Offices up to and Including Election Day

Whereas, Voter participation is decreasing in our State, weakening the basis for our elected, representative democracy;

Whereas, The State of Michigan has yet to enact proposed election law reforms that would remove barriers to voting;

Whereas, There is a single, highly significant barrier created by the arbitrary and obsolete 30 day deadline for all forms of voter registration, enacted in Michigan Election Law, Act 116 of 1954, sec. 168.500d (as amended, 1975), "A person who has properly completed an application for registration...shall be permitted to vote in all elections occurring not less than 30 days after making application";

Whereas, Our state and county populations are highly transient, leading to the problem that new voters and even previously registered voters become disenfranchised if they move and register after the 30-day deadline;

Whereas, The added provision in sec. 168.507a, that such a voter must go back to the place of prior registration in order to vote, is unreasonable and unrealistic; a voter who arrives at her/his new precinct and is advised to go to a prior jurisdiction or precinct, may not have the time or the transportation in order to do so by the close of the polls at 8 p.m., resulting in disenfranchisement, discouragement, and frustration; and

Whereas, The current technology available in most Clerks' Offices, in the form of the Oracle client-server-based Qualified Voter File, allows 24-hour turnaround for a local registration to become uploaded to the Statewide version of the QVF database, thereby preventing a voter from being registered in more than one location, and allowing online look-up by Clerks and Precinct Election workers;

Resolved, That the Ann Arbor City Council supports the abolition of the obsolete 30 day time limit for in-person* registration at local Clerks' Offices, and recommends that the State Democratic Party advocate

legislation, to be introduced by our Democratic Representatives and Senators in the Michigan Legislature, that will permit in-person registration at local Clerks' Offices up to and including Election Day.

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

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

R-446-10-04 APPROVED

Resolution Affirming Freedom to Worship without Interference and Condemning the Picketing of Houses of Worship

Whereas, All people with all viewpoints have a right to freedom of speech where it does not infringe on others' constitutional rights;

Whereas, Democracy and the freedoms it engenders cannot exist without civil discourse that shows tolerance for all beliefs;

Whereas, Freedom of religion and freedom of speech are both paramount values at the heart of American democracy;

Whereas, Worship is central to religious expression;

Whereas, Freedom to worship in peace, without obstruction or interference is the right of all people;

Whereas, State of Michigan laws prohibit interference with religious services;

Whereas, The City of Ann Arbor is home to many cultures and denominations of worship; and

Whereas, In the City of Ann Arbor, at least one house of worship has been subjected to weekly picketers who confront worshipers and ask passersby to honk their horns and cause a disturbance to worship services;

RESOLVED, That the Ann Arbor City Council affirms the right of people in the City of Ann Arbor to attend services at houses of worship without interference or obstruction; and

RESOLVED, That the Ann Arbor City Council condemns the picketing of houses of worship during the hours when congregants are attending worship services.

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

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

R-447-10-04 APPROVED

RESOLUTION Recognizing Performance Network As a Nonprofit Organization Operating in the Ann Arbor Community for the Purpose of Obtaining a Charitable Gaming License

Whereas, P.A. 382 of 1972, as amended, requires that local nonprofit organizations be recognized by

resolution adopted by the local governmental subdivision in which the organization conducts its principal activities and that a copy of said resolution be filed with any application for a license to conduct a bingo, raffle or charity game(s);

Whereas, Performance Network has requested that it be recognized as a nonprofit organization operating in the community for the purpose of obtaining a charitable gaming license; and

Whereas, Performance Network's mission is to providing uncompromising artistic leadership in the region and producing works that engage, challenge and inspire audiences and artists;

RESOLVED, That City Council hereby approve Performance Network as a local nonprofit organization operating in the Ann Arbor community for the purposes of its charitable gaming license application and required by P.A. 382 of 1972, as amended; and

RESOLVED, That the City Clerk be directed to provide a certified copy of this Resolution to Performance Network and to take all necessary administrative actions to provide notice of this Resolution to the Charitable Gaming Division, Michigan Department of Treasury.

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

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

The Mayor declared a recess at 7:48 p.m. and reconvened the meeting at 7:58 p.m.

R-448-10-04 APPROVED

RESOLUTION to Approve Housing Rehabilitation Agreement with Tabitha D. Harris

Whereas, An application was received from Tabitha D. Harris for rehabilitation assistance for her home located at 2535 Russell Street;

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

Whereas, Two bids were received on August 2, 2004, and Ms. Harris 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 Tabitha D. Harris in the amount of \$55,963.00 in CDBG funds 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 Tabitha D. Harris 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, Tabitha D. Harris 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.

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

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

REPORTS FROM COUNCIL COMMITTEES

None.

COUNCIL PROPOSED BUSINESS

COUNCIL MEMBER CARLBERG

Council Member Carlberg enquired to the procedure of someone filing a complaint relating the Affirmative Action Policy or relating to the Human Rights Ordinance. She asked where the complain/concern would be directed.

Mayor Hieftje replied that those complaints/investigations are being handled by the Human Resources Department with Carol Schuler.

Council Member Carlberg asked for report showing the kinds of complaints/concerns that have been sent to Ms. Schuler be made available.

COMMUNICATIONS FROM THE MAYOR

APPOINTMENTS APPROVED

Mayor Hieftje recommended the following appointments at the October 4, 2004 regular session of Council:

Ann Arbor Transit Authority

Paul Christopher Ajegba (Fill Vacancy of Steve Thorp)
3738 Creekside Court
Ann Arbor, MI 48105
Term: October 18, 2004 - May 20, 2005

Human Rights Commission

Anthony Ramirez (Re-appointment)
920 E. Ann Street
Ann Arbor, MI 48104
Term: November 1, 2004 - October 31, 2007

Victor C. Turner, Jr. (Re-appointment)
1219 Ardmoor Drive

Ann Arbor, MI 48103

Term: November 1, 2004 - October 31, 2007

Zoning Board of Appeals

David Gregorka (Re-appointment)

1723 Ivywood Drive

Ann Arbor, MI 48103

Term: October 18, 2004 - August 19, 2007

Zachary P. Mintzias (Re-appointment)

603 Lawrence St.

Ann Arbor, MI 48104

Term: October 18, 2004 - August 19, 2007

Council Member Higgins moved seconded by Council Member Carlberg 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:

Human Rights Commission

Carl Baird (re-appointment)

2422 Packard St.

Ann Arbor, MI 48104

November 8, 2004 - October 31, 2007

ANNOUNCEMENTS

Mayor Hieftje announced that a exercise was held in the City of Ann Arbor on October 16, 2004 testing our Emergency Management System. Council Members, Police Staff as well as other City Employees participated in the exercise. The exercises consisted of a bomb scare and an anthrax scare in City Hall, etc. Mayor Hieftje commended the staff that worked on the project and indicated that it was a success.

COMMUNICATIONS FROM THE CITY ADMINISTRATOR

REPORTS SUBMITTED

Acting City Administrator Daniel Oates, submitted the following reports for information of Council:

- 1. Section 8 Renewal of Increments Expiring June, 2004 (Housing - Elizabeth A. Lindsley, Executive Director)**
- 2. Halloween (Safety Services - Police Chief Daniel J. Oates, Administrator)**

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

ANNOUNCEMENT

Chief Oates announced that Halloween will be held on October 31, 2004 from 5 p.m. to 8 p.m.

COMMUNICATIONS FROM THE CITY ATTORNEY

REPORT ON COMPLETED ANNEXATIONS

City Attorney Stephen Postemas submitted reports on the following completed annexations:

1. Newell Property, 37 Valhalla Drive
2. Hensel Property, North Side of Robert Street between James Street and Victoria Avenue
3. The Oaks of Ann Arbor Property, 3589, 3599 and 3621 Stone School Road
4. Schopbach Property, 2926 Shady Lane

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

ANNOUNCEMENT

City Administrator Stephen Postema thanked Louis Wolford for her 30 years of service to the City of Ann Arbor working as a legal secretary in the Attorney's Office.

COMMUNICATIONS FROM COUNCIL

COUNCIL MEMBER EASTHOPE

Council Member Easthope announced that there was a CTN Debate last week. There was a question regarding Affordable Housing payment to the Trust Fund. The actual amount was \$100,000.00 different that what was stated at the debate.

COUNCIL MEMBER CARLBERG

Council Member Carlberg thanked City Staff for their expertise in handling the emergency management exercise over the past weekend.

COUNCIL MEMBER TEAL

Council Member Teall announced that leaf pick-up has not started yet, and that citizens should not be raking leaves into the streets at this time.

CLERK'S REPORT OF COMMUNICATIONS, PETITIONS AND REFERRALS

The following communications were referred as indicated:

1. Communication from the State of Michigan, Department of Environmental Quality on Public Notice for Ann Arbor Gateway, L.L.C. Having Applied for a Wetlands Permit
2. Communication from William J. Oliver, MD, honoring Gottlob Luick (1899 - Mayor 1901) for His Liberal Financial Aid in Securing the Public Market for the City of Ann Arbor
3. Communication from the Michigan Department of Quality regarding a National Pollutant Discharge Elimination System (NPDES), Permit No. MI0022217, Designated Name: Ann Arbor WWTP - Utilities

4. Communication from Michigan State University Extension regarding removal of dead and dying trees due to the infestation of Emerald Ash Borer - Public Services, Community Services
5. Communication from the State of Michigan Department of Environmental Quality regarding Public Notice to place fill in a wetland for the purpose of constructing a new office building in an existing office complex
6. Communication from Vice-Mayor Marjorie Decker of Cambridge, Massachusetts regarding American men and women that have been killed in the fighting in Iraq

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

1. Planning Commission - August 3 and 17, 2004
2. Building Board of Appeals - June 9 and July 14, 2004
3. Housing Commission - August 24, 2004

(Minutes on File in the City Clerk's Office.)

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

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

PUBLIC COMMENTARY - GENERAL

None.

RECESS FOR CLOSED SESSION

Council Member moved, seconded by Council Member that the regular session of Council be recessed for a closed session to discuss pending litigation and attorney client privileged communication.

On roll call, the vote was as follows:

Yeas, Council Members, Carlberg, Greden, Teall, Higgins, Easthope, Johnson, Reid, Mayor Hieftje, 8;

Nays, 0.

The Mayor declared the motion carried and the meeting recessed at 8:11 p.m.

Council Member Johnson moved, seconded by Council Member Reid that the regular session of Council be reconvened.

On a voice vote the Mayor declared the motion carried and the meeting reconvened at 8:38 p.m.

R-449-10-04 APPROVED

Resolution to Uphold Decision of City Administrator Denying a Sidewalk Occupancy Permit to Sebastian Escalada

Whereas, Under City Code Section 4:14(9) and administrative regulations adopted to implement Section

4:14 the City Administrator may review the Building Department's decision to deny an application for a sidewalk occupancy;

Whereas, The decision of the Building Department to deny a sidewalk occupancy permit for the northeast corner of State Street and North University was appealed to the City Administrator;

Whereas, On July 2, 2004, an appeal of the decision of the City Administrator was filed; and

Whereas, The City Council has reviewed the City Administrator's decision and has had an opportunity to review the entire record upon which the administrator made his decision;

RESOLVED, That City Council affirm the June 30, 2004, decision of the City Administrator.

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

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

MOTION TO SUPPORT THE SETTLEMENT TERMS IN THE HBA CLASS ACTION MATTER

Council Member Greden moved, seconded by Council Member Carlberg to approve the settlement terms within the parameters given in Closed Session in the HBA Class Action matter.

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

ADJOURNMENT

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

On a voice vote, the Mayor declared the motion carried and the meeting adjourned at 8:39 p.m.

**Anissa R. King
Acting Clerk of the Council
Recording Secretary**