

**CITY OF EAST LANSING  
REGULAR COUNCIL MEETING  
MINUTES  
March 20, 2012**

Present: Beard, Loomis, Power, Triplett, Goddeeris  
Absent: None

The meeting was called to order at 7:30 p.m. by Mayor Goddeeris. The meeting was held in Council Chambers of the 54-B District Court, 101 Linden Street, East Lansing.

**Item 1** **Approval of the Agenda**

It was moved by Power and seconded by Beard to approve the agenda with the following addition:

**CONSENT AGENDA**

**Item # 19 – New Item**

- Approval of a leave of absence for Claudia Combs-Wise of the Human Relations Commission from February 29 – June 27, 2012.

ALL YEAS  
MOTION CARRIED

**Item 2** **Approval of the Minutes**

It was moved by Beard and seconded by Triplett to approve the minutes of the March 6, 2012 administration of oath of office for City Manager.

ALL YEAS  
MOTION CARRIED

It was moved by Beard and seconded by Triplett to approve the minutes of the March 6, 2012 regular meeting.

ALL YEAS  
MOTION CARRIED

**Item 3** **Special Presentation**

Goddeeris said persons to be recognized were not in the audience and postponed recognition of the Interfraternity and Panhellenic Council on the success of Greek Week until a future meeting.

**Item 4** **Written Communication**

Between March 13 and 20, 2012, Council received written communication:

- 03/13/12 from Eliot Singer regarding City Center II

- 03/13/12 from Joe Reynolds regarding Ordinance No. 1252
- 03/14/12 from Sue Webster, Bailey Community Association, regarding Ordinance No. 1252
- 03/14/12 from Sally Silver regarding Ordinance No. 1252
- 03/14/12 from Dorothy McMeekin, regarding deer population
- 03/15/12 from Ralph Monsma regarding Ordinance No. 1252

Goodeeris said she received communication from Zachary Boyle Wenzel regarding a parking ticket notice.

**Item 5** **Communication from Audience**

None

**Item 6** **Communication from Mayor and Council Members**

Councilmember Power:

- Thanked 16 fraternity members of Delta Sigma Phi and other citizens who participated in clearing and cleaning at Henry Fine Park last Saturday.

Councilmember Loomis:

- Also thanked Delta Sigma Phi fraternity members for their contribution at Henry Fine Park and looks forward to the next project at White Park.

Councilmember Beard:

- No Report

Mayor Pro Tem Triplett:

- No Report

Mayor Goddeeris:

- Reported on meeting with Red Cedar Neighborhood Association including update on Michigan State Police building demolition and other upcoming MSU construction projects.

**Item 7** **Review of Work Session Actions**

Mayor Goddeeris reviewed the following actions taken at the work session of March 13, 2012:

1. Approved the minutes of the February 29, 2012 work session.
2. Did not approve offer of settlement in case of *Dino Cascardo Holdings v. City of East Lansing*.
3. Approved to retain law firm of Cummings, McClorey, Davis, and Acho to represent City of East Lansing in case pending in Federal District Court.
4. Approved right-of-way licenses for Leo's Coney Island, 333 Albert Avenue and Cosi Restaurant, 301 E. Grand River Avenue.

**Item 8**

**City Manager's Report**

City Manager George Lahanas:

- Requested Executive session for the purpose of discussing labor negotiations.

**Item 9**

**City Attorney's Report**

City Attorney Dennis McGinty:

- Reported on outcome in the case of *Bellfy v City of East Lansing*.

**Item 10**

**Public Hearing – Ordinance No. 1277**

Consideration of Ordinance No. 1277; an Ordinance to amend Section 38-31 of Division 1 – Generally – of Article II – Streets – of Chapter 38 – Streets, Sidewalks and other Public Places – of the Code of the City of East Lansing and to amend the Code of the City of East Lansing by adding a new division, which new division shall be designated as Division 3 – Complete Streets – of Article II – Streets – of Chapter 38 – Streets, Sidewalks and other Public Places – of said Code and shall contain Sections 38-81, 38-82, 38-83, 38-84, and 38-85.

Todd Sneathen, Director of Public Works and Environmental Services, gave an overview of Ordinance No. 1277.

Goddeeris opened the public hearing on Ordinance No. 1277.

Seeing no one come forward, Goddeeris closed the public hearing on Ordinance No. 1277.

It was moved by Triplett and seconded by Beard to approve Ordinance No. 1277.

ALL YEAS  
MOTION CARRIED

**CITY OF EAST LANSING**

**ORDINANCE NO. 1277**

AN ORDINANCE TO AMEND SECTION 38-31 OF DIVISION 1 – GENERALLY- OF ARTICLE II – STREETS - OF CHAPTER 38 – STREETS, SIDEWALKS AND OTHER PUBLIC PLACES – OF THE CODE OF THE CITY OF EAST LANSING AND TO AMEND THE CODE OF THE CITY OF EAST LANSING BY ADDING A NEW DIVISION, WHICH NEW DIVISION SHALL BE DESIGNATED AS DIVISION 3 – COMPLETE STREETS - OFARTICLE II – STREETS - OF CHAPTER 38 – STREETS, SIDEWALKS AND OTHER PUBLIC PLACES – OF SAID CODE AND SHALL CONTAIN SECTIONS 38-81, 38-82, 38-83, 38-84, AND 38-85

## THE CITY OF EAST LANSING ORDAINS:

Section 38-31 of Division 1 of Article II of Chapter 38 of the Code of The City of East Lansing is hereby amended and Division 3 and sections 38-81, 38-82, 38-83 and 38-84 contained therein are hereby added to Article II of Chapter 38 to read as follows:

### **Sec. 38-31. Definitions.**

Unless the context specifically indicates otherwise, the meanings of terms used in this article shall be as follows:

*Building official* means the duly appointed head of the city building department or his/her authorized deputy.

*Complete Streets Infrastructure* means design features that contribute to a safe, convenient, or comfortable travel experience for users, including but not limited to features such as: sidewalks; shared use paths; bicycle lanes; automobile lanes; paved shoulders; street trees and landscaping; planting strips; curbs; accessible curb ramps; bulb outs; crosswalks; refuge islands; pedestrian and traffic signals, signage; street furniture; bicycle parking facilities; public transportation stops and facilities; transit priority signalization; traffic calming devices, and those features identified in the City of East Lansing's Non Motorized Plan

*Engineer* means the city engineer.

*Street* means all the area of land between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel, and includes lawn extensions, and sidewalks and the area reserved therefore when the same are not yet constructed.

*Street Project* means the construction, reconstruction, retrofit, or alteration, and includes the planning, design, approval, and implementation processes, except that "Street Project" does not include maintenance such as cleaning, sweeping, mowing, spot repair, or interim measures on detour routes

*Users* mean individuals that use streets, including pedestrians, bicyclists, motor vehicle drivers, public transportation riders and drivers, and people of all ages and abilities, including children, youth, families, older adults, and individuals with disabilities.

## DIVISION 3. COMPLETE STREETS

**Sec. 38-81. Public policy.** The City Council hereby finds and declares that it is the intent of the City Council in enacting this ordinance to encourage healthy, active living, reduce traffic congestion and fossil fuel use, and improve the safety and quality of life of residents of City of East Lansing by providing safe, convenient, and comfortable routes for walking, bicycling, and public transportation.

**Sec. 38-82. Purpose.**

The purpose of this division is to regulate and control the development of streets within the corporate limits of the city, in order to promote the public health, safety, comfort, convenience, and general welfare for walking, bicycling, and public transportation and encourage increased use of these modes of transportation, enable convenient travel as part of daily activities, improve the public welfare by addressing a wide array of health and environmental problems, and meet the needs of all inhabitants of the city of the streets, including children, older adults, and people with disabilities; to provide a means for carrying out the city's responsibilities relative to the division of land under the laws of this state; to provide for the orderly growth and harmonious development of the city consistent with the comprehensive development plan and the zoning ordinance; to secure adequate traffic circulation to the streets and highways; to insure adequate provisions for water, drainage, sanitary sewer facilities, and other health requirements; to achieve the maximum utility and livability on individual lots; and to provide logical procedures for the achievement of these purposes.

**Sec. 38-83. Infrastructure design to ensure safe travel.**

- (a) The engineer shall make complete streets practices a part of everyday operations, shall approach every transportation project and program as an opportunity to improve public and private streets and the transportation network for all users, and shall work in coordination with other departments, agencies, and jurisdictions to achieve complete streets.
- (b) Every street project on public or private streets shall be designed to incorporate complete streets infrastructure sufficient to enable reasonably safe travel along and across the right of way for all categories of users; provided, however, that such infrastructure may be excluded, upon written approval by the engineer, where documentation and data indicate that:
  - (1) Use by non-motorized users is prohibited by law;
  - (2) The cost would be excessively disproportionate to the need or probable future use over the long term;
  - (3) There is an absence of current or future need; or
  - (4) Inclusion of such infrastructure would be unreasonable or inappropriate in light of the scope of the project.
- (c) As feasible, the City of East Lansing shall incorporate complete streets infrastructure into existing public and private streets to improve the safety and convenience of users, construct and enhance the transportation network for each category of users, and create employment.
- (d) If the safety and convenience of users can be improved within the scope of pavement resurfacing, re-striping, or signalization operations on public or private streets, such projects shall implement complete streets infrastructure where feasible to increase safety for users.

- (e) The engineer shall review all proposed revisions to all appropriate land use plans, zoning and subdivision codes, laws, procedures, rules, regulations, guidelines, programs, templates, and design manuals, including the comprehensive plan of the City of East Lansing and recommend measures to integrate, accommodate, and balance the needs of all users in all street projects on public and private streets.
- (f) In design guidelines, the engineer shall develop and review standards to incorporate complete streets infrastructure, such as bicycle lanes, sidewalks, street crossings, and planting strips.

**Sec. 38-84. Data collection, standards, and public input.**

- (a) The engineer or his or her designee shall collect data measuring how well the streets of the City of East Lansing are serving each category of users.
- (b) The engineer shall put into place performance standards with measurable benchmarks reflecting the ability of users to travel in safety and comfort.
- (c) The engineer shall establish procedures to allow public participation in policy decisions and transparency in individual determinations concerning the design and use of streets.
- (d) The engineer may make additional regulations pertaining to complete streets and is hereby authorized to issue, subject to approval of the City Council, all rules and regulations consistent with this chapter.
- (e) All initial planning and design studies, health impact assessments, environmental reviews, and other project reviews for projects requiring funding or approval by the City of East Lansing shall: (1) evaluate the effect of the proposed project on safe travel by all users, and (2) identify measures to mitigate any adverse impacts on such travel that are identified.
- (f) An assessment will be presented by the Engineer to the City Council within a year of the date of passage of this Ordinance regarding: the steps taken to implement this Ordinance; additional steps planned; and any recommended actions which may be taken by the City Council or other agencies or departments to implement the steps taken or planned.
- (g) The engineer is charged with the drafting and review of policies to implement the complete streets practices by: (i) addressing short-term and long-term steps and planning necessary to create a comprehensive and integrated transportation network serving the needs of all users; (ii) assessing potential obstacles to implementing complete streets practices in City of East Lansing; (iii) if useful, recommending adoption of policies containing additional steps; and (iv) proposing revisions to the comprehensive plan, zoning and subdivision codes, and other applicable law to integrate, accommodate, and balance the needs of all users in all street projects. The Commission shall report on the matters within its purview to the City Council.

**Sec. 38-85. Limitation of liability.**

Nothing in this ordinance authorizes any City agency to impose any duties or conflict with limitations on municipal authority established by federal or state law at the time such agency action is taken.

Nothing in this ordinance shall be construed to impose any duty not already imposed by law or establish any liability upon the City or any of its officials, officers, agents or employees.

**Item 11**

**Consent Agenda**

City Manager George Lahanas reviewed the Consent agenda:

1. Approval of a contract with Royal West Roofing of Whitmore in the amount of \$243,798 for City Hall and Bailey Community Center roofing and authorize City Manager to sign.
2. Approval of a contract with StructureTec of Kalamazoo in the amount of \$15,475 for Construction Administration and authorize City Manager to sign.
3. Approval of the settlement agreement for the Tribett case.
4. Approval of a contract with Terra Contracting, LLC for Sewer Cleaning and Televising (RPF 12-001) in the amount of \$38,524 and authorize City Manager to sign.
5. Approval of a contract with Mark 1 Restoration for the 2012 Division Street Parking Structure Rehabilitation in the amount of \$357,159 and authorize City Manager to sign.
6. Approval of the amendments to the FY12 budgets of the General, Major Streets, Brownfield Redevelopment Authority, Drug Forfeiture, Library, Capital Improvement, Sewage Disposal System, Computer Service and Technology, and Garage and Public Works Service Funds in the combined amount of \$1,139,541.
7. Approval of a resolution to schedule additional work sessions for the following dates at 5:00 p.m. at 410 Abbot Road, Conference Room A, to discuss various budget items:
  - Tuesday, April 10, 2012
  - Tuesday, April 17, 2012
  - Tuesday, April 24, 2012
  - Tuesday, May 1, 2012
  - Tuesday, May 8, 2012 (if needed)
8. Approval of a leave of absence for Claudia Combs-Wise of the Human Relations Commission from February 29 - June 27, 2012.

It was moved by Power and seconded by Beard to approve the Consent agenda.

ALL YEAS  
MOTION CARRIED

**1. Consideration of Ordinance No. 1252; a City-initiated Ordinance to amend Article III – of Chapter 50 – Zoning, Section 50-31 and add a Division 5 – of the Code of the City of East Lansing, to provide standards of review for rezoning property and provisions for conditional rezoning.**

Darcy Schmitt, Planning and Zoning Administrator, summarized timeline of Ordinance No. 1252, which was first introduced in November 2010, through Planning Commission, subcommittee, and citizen discussion and input.

Goddeeris asked if anyone in the audience wished to speak to this agenda item. No one came forward.

Goddeeris said Council will review Ordinance No. 1252 section by section.

It was moved by Triplett and seconded by Beard to approve Ordinance No. 1252 as included in the version in the March 20, 2012 Council packet.

It was moved by Beard and seconded by Power to amend Ordinance No. 1252 at Sec. 50-111 (j) by deleting “...*should prove evidence of...*” and inserting “...*shall describe...*” so that Sec. 50-111 (j) reads:

*The owner shall describe how the proposed use fits the Comprehensive Plan and zoning District involved.*

ALL YEAS  
MOTION TO AMEND CARRIED

Goddeeris asked Councilmembers if anyone wished to amend language in Sections 50-112 through 50-123. There were no further amendments.

Beard said citizens contributed good and thoughtful discussion and an ordinance has been crafted which allows for fair and objective conditional rezoning in a structured fashion.

Power said he commends the transparent process used to obtain citizen input for Ordinance No. 1252.

Triplett said Ordinance No. 1252 is a good flexible tool for conditional rezoning.

Goddeeris thanked all who worked many hours discussing input for Ordinance No. 1252.

Goddeeris brought Council back to the main motion of approval of Ordinance No. 1252, as amended.

ALL YEAS  
MOTION CARRIED

## **CITY OF EAST LANSING**

### **ORDINANCE NO. 1252**

AN ORDINANCE TO AMEND ARTICLE III – OF CHAPTER 50 - ZONING, SECTIONS 50-31 AND ADD A DIVISION 5 - OF THE CODE OF THE CITY OF EAST LANSING TO PROVIDE STANDARDS OF REVIEW FOR REZONING PROPERTY AND PROVISIONS FOR CONDITIONAL REZONINGS

#### **THE CITY OF EAST LANSING ORDAINS:**

Section 50-31 of Article II of Chapter 50 – Zoning – of the Code of the City of East Lansing is hereby amended to read as follows:

#### **ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

##### **DIVISION 1. GENERALLY**

##### **Sec. 50-31. Changes and amendments.**

- (a) The city council may of its own motion, or shall upon petition signed by the owners of a majority of the property proposed for rezoning, prepare an ordinance amending or changing the district boundaries or the regulations herein established. The ordinance shall, upon introduction thereof, be referred to the planning commission for review and recommendation. Prior to submitting its recommendation to the city council, the commission shall hold a public hearing, following notice thereof as required by section 202 of the Michigan Zoning Enabling Act, MCL 125.3202. For applications that require the submission and review of a traffic impact study under division 4 of this article, the required study shall be submitted with the application and forwarded to the city engineer for review. The study and the city engineer's report shall be submitted to the transportation commission for review. Final action on the application shall not be taken by the planning commission until the transportation commission has had the opportunity to review and comment on the application at a regular meeting. The city council shall, on receipt of the report of the planning commission, set a date for a public hearing for consideration of such proposed amendment, supplement or change. After public hearing upon such proposed amendment, supplement or change, following notice thereof as required by section 202 of the Michigan Zoning Enabling Act, MCL 125.3202, the city council may act upon the adoption thereof, with or without amendment. Whenever a written protest against such proposed amendment, supplement or change, signed by the owners of 20 percent or more of the area of land proposed to be altered or by the owners of 20 percent of the area of land within 100 feet of any part of the boundary of the land proposed to be altered, excluding any publicly-owned land from either calculation, shall have been filed with the city council, the ordinance providing for such proposed amendment, supplement, or change shall not be passed except by a two-thirds vote of all members of the city council.

- (b) In reviewing an ordinance for the rezoning of land, whether with or without an offer of conditions, factors that should be considered by the planning commission and the city council include, but are not limited to, the following:
1. Whether the rezoning is consistent with the policies and uses proposed for that area in the city's comprehensive land use plan;
  2. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
  3. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and
  4. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.
- (c) Following adoption of an ordinance to amend, supplement or change the district boundaries or the regulations herein established, the ordinance shall be filed with the city clerk and a notice of the ordinance adoption shall be published and mailed in accordance with the requirements of section 401 of the Michigan Zoning Enabling Act, MCL 125.3401. The ordinance shall take effect upon the expiration of seven days after its publication, unless a later effective date is specified by the city council, or unless a notice of intent to file a petition seeking to submit the ordinance to the electors of the city for action is filed with the city clerk in accordance with the provisions of section 402 of the Michigan Zoning Enabling Act, MCL 125.3402.

## DIVISION 5. CONDITIONAL REZONING

### Sec. 50-110. Purpose.

It is recognized that there are certain instances where it would be in the best interest of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of section 405 of the Michigan Zoning Enabling Act, 2008 PA 110, as amended (codified at MCL 125.3405 et seq;) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

### Sec. 50-111. Application and offer of conditions.

- (a) An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This written offer shall be made prior to the planning commission public hearing.
- (b) The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this division.

- (c) The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
- (d) The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
- (e) Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of section 50-91 of this code may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this code.
- (f) Any use or development proposed as part of an offer of conditions that would require a variance under the terms of section 50-61 of this code may only be commenced if a variance for such use or development is ultimately granted by the zoning board of appeals in accordance with the provisions of this code.
- (g) Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of section 50-36 of this code may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this code.
- (h) The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are voluntarily offered by the owner in writing, signed, dated, and made part of the record of proceeding. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the city council provided that, if such withdrawal occurs subsequent to the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing with appropriate notice and a new recommendation.
- (i) The offer shall be supplemented with sufficient graphic representation to depict written conditions.
- (j) The owner shall describe how the proposed use fits the comprehensive plan and zoning district involved.

Sec. 50-112. Planning commission review.

The planning commission, after public hearing and consideration of the factors for rezoning, set forth in section 50-31(b) of this code may recommend approval, or denial of the rezoning.

Sec. 50-113. City council review.

After receipt of the planning commission's recommendation, the city council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The city council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in section 50-31(b) of this code. Should the city council consider owner amendments, withdrawing all or part of its offer of conditions, to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of

conditions are acceptable to and thereafter offered by the owner, then the City council shall, in accordance with section 308(1) of the Michigan Zoning Enabling Act, MCL 125.3308, refer such amendments to the planning commission for review and recommendation thereon within a time specified by the city council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning.

Sec. 50-114. Approval.

- (a) If the city council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written conditional rezoning agreement acceptable to the owner and conforming in form to the provisions of this section. The conditional rezoning agreement shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the city council to accomplish the requested rezoning.
- (b) The conditional rezoning agreement shall:
  - (1) Be in a form recordable with the register of deeds of the county in which the subject land is located or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving notice of the conditional rezoning agreement in a manner acceptable to the city council.
  - (2) Contain a legal description of the land to which it pertains.
  - (3) Contain a statement acknowledging that the conditional rezoning agreement runs with the land and is binding upon successor owners of the land.
  - (4) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the conditional rezoning agreement. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
  - (5) Contain a statement acknowledging that the conditional rezoning agreement or an affidavit or memorandum giving notice thereof may be recorded by the city with the register of deeds of the county in which the land referenced in the conditional rezoning agreement is located.
  - (6) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the conditional rezoning agreement.
  - (7) Other information as requested by the city necessary to define the conditional rezoning agreement.
- (c) Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a conditional rezoning agreement. The city clerk shall maintain a listing of all lands rezoned with a conditional rezoning agreement.

- (d) The approved conditional rezoning agreement or an affidavit or memorandum giving notice thereof shall be filed by the city with the register of deeds of the county in which the land is located.
- (e) Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the conditional rezoning agreement.

Sec. 50-115. Compliance with conditions.

- (a) Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the conditional rezoning agreement. Any failure to comply with a condition contained within the conditional rezoning agreement shall constitute a violation of this zoning code and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
- (b) No permit or approval shall be granted under this ordinance for any use or development that is contrary to an applicable conditional rezoning agreement.

Sec. 50-116. Time period for establishing development or use.

Unless another time period is specified in the ordinance conditionally rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the conditional rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the city council if (1) it is demonstrated to the city's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the city council finds that there has not been a change in circumstances that would render the current zoning with a conditional rezoning agreement is compatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

Sec. 50-117. Reversion of zoning.

If approved development and/or use of the rezoned land do not occur within the time frame specified under section 50-116, then the land shall revert to its former zoning classification as set forth in MCL 125.3405(2). The reversion process shall be initiated by the planning and zoning official, at the time which the conditional rezoning agreement is no longer valid, requesting that the planning commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

Sec. 50-118. Subsequent rezoning of land.

When land that is rezoned with a conditional rezoning agreement is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no conditional rezoning agreement, whether as a result of a reversion of zoning

pursuant to section 50-117 above or otherwise, the conditional rezoning agreement imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the city clerk shall record with the register of deeds of the county in which the land is located a notice that the conditional rezoning agreement is no longer in effect.

Sec. 50-119. Amendment of conditions.

- (a) During the time period for commencement of an approved development or use specified pursuant to section 50-116 above or during any extension thereof granted by the city council, the city shall not add to or alter the conditions in the conditional rezoning agreement.
- (b) The conditional rezoning agreement may be amended thereafter in the same manner as was prescribed for the original rezoning and conditional rezoning agreement.

Sec. 50-120. City right to rezone.

Nothing in the conditional rezoning agreement nor in the provisions of this section shall be deemed to prohibit the city from rezoning all or any portion of land that is subject to a conditional rezoning agreement to another zoning classification; provided, however, that no such rezoning shall be effective prior to the expiration of the time period for commencement of the development or land use as specified under section 50-116. Any rezoning shall be conducted in compliance with this ordinance and the Michigan Zoning Enabling Act, MCL 125.3308.

Sec. 50-121. Failure to offer conditions.

The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this code.

Sec. 50-122. Notice of adoption.

A notice of the conditional rezoning ordinance adoption shall include a summary of conditions of approval and be published and mailed in accordance with the requirements set forth in section 50-31(c).

Sec. 50-123. Enforcement.

The planning and zoning official shall make periodic investigations of developments authorized by conditional rezoning. Any violations shall be corrected within 30 days after an order to correct has been issued by the planning and zoning official. Violations not so corrected shall automatically cancel the certificate of occupancy and compliance.

**Item 13**

**Executive Session**

It was moved by Triplett and seconded by Power to adjourn to Executive session to discuss labor negotiations.

Roll Call:

YEAS – Beard, Loomis, Power, Triplett, Goddeeris

NAYS – None

MOTION CARRIED

Council adjourned to Executive session at 8:21 p.m.

Council returned to the regular meeting at 9:15 p.m.

It was moved by Triplett and seconded by Power to adjourn.

ALL YEAS

MOTION CARRIED

There being no further business the meeting was adjourned at 9:16 p.m.

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Diane Goddeeris  
Mayor

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Nancy O. Wagner  
Administrative Secretary