

**CITY OF EAST LANSING
REGULAR COUNCIL MEETING
MINUTES
April 3, 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 Goddeeris and seconded by Power to approve the agenda with the following change:

CONSENT AGENDA

Item # 13 – Removal of Item

- Approval of the appointment of Holly Wojtylko to the Downtown Management Board for a full term expiring on December 31, 2015. Re-number subsequent items.

ALL YEAS
MOTION CARRIED

Item 2 **Approval of the Minutes**

It was moved by Triplett and seconded by Beard to approve the minutes of the March 20, 2012 special meeting.

ALL YEAS
MOTION CARRIED

It was moved by Triplett and seconded by Power to approve the minutes of the March 20, 2012 regular meeting.

ALL YEAS
MOTION CARRIED

Item 3 **Special Presentation**

Goddeeris recognized the Interfraternity and Panhellenic Council on the success of Greek Week. She highlighted Greek events to raise funds, items donated to charities, and thanked members for \$240,000 raised in one week for American Cancer Society.

Item 4 **Written Communication**

Between March 27 and April 3, 2012, Council received written communication:

- 03/27/12 from John Caldwell regarding Barnes & Noble space
- 03/27/12 from Roger Stuart regarding City Center II

- 03/29/12 from Robert and Elizabeth Anderson regarding City Center II
- 03/29/12 from Bill Weckesser regarding City Center II
- 03/30/12 from Kathy Jacobs regarding fluoride recommendations
- 03/30/12 from Eliot Singer regarding City Center II
- 03/31/12 from Aaron Weiner regarding Food Trucks
- 04/03/12 from Robert Binder regarding City Center II
- 04/03/12 from Eliot Singer regarding City Center II
- 04/03/12 from Phil Bellfy regarding City Center II
- 04/03/12 from Eliot Singer regarding City Center II

Item 5 **Communication from Audience**

- Jim Anderson, 968 Roxburgh Avenue, spoke regarding City Center II.
- Jason Carlen, 445 Abbot Road, spoke regarding Theta Delta Chi fraternity events to raise awareness and funds for Autism Speaks.
- Stephen Osborn, 1942 Tamarisk Drive, spoke regarding City Center II.
- Roger Stuart, 616 Grove Street, spoke regarding City Center II.

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

Councilmember Loomis:

- No Report

Councilmember Beard:

- No Report

Councilmember Power:

- Thanked Councilmember Loomis for introducing him to fraternity members and thanked fraternities who are volunteering on City parks and Library projects.
- Said East Lansing Public Library fundraiser is Friday, April 13 from 6:00 to 8:00 p.m. and invited community to attend.

Mayor Pro Tem Triplett:

- Said a large number of applicants have been nominated for Crystal Awards and invited residents to the ceremony which will be held Thursday, April 19 at Hannah Community Center.

Mayor Goddeeris:

- Also reported on East Lansing Public Library fundraiser to be held April 13 and said it will be a family event.
- Said the first fiscal year 2012-13 budget review meeting will be April 10 at 5:00 p.m.

Item 7 **Review of Work Session Actions**

Mayor Goddeeris reviewed the following actions taken at the work session of March 27, 2012:

1. Approved minutes from the March 13, 2012 work session.
2. Directed City Manager to include a 1 mill levy to support the East Lansing Public Library in the City budget proposal for FY2013; and further directed City Manager and City Attorney to prepare documents necessary for the City Council to place a 1 mill levy to support the East Lansing Public Library on the November 6, 2012 ballot.
3. Approved Building Access License Agreement.
4. Approved request to suspend the City's purchasing policies requiring multiple competitive bids and authorized the City manager to sign the contract with E.T. MacKenzie Company to replace Sanitary Manhole SAN-35G and the associated work on a time and material basis in an amount not to exceed \$120,600.
5. Approved resolution authorizing submission of a Michigan Natural Resources Trust Fund Grant to the Michigan Department of Natural Resources for Patriarche Park playground replacement, storm water capturing, and rain garden installation.
6. Approved resolution authorizing submission of a Michigan Natural Resources Trust Fund Grant to the Michigan Department of Natural Resources for an extension of the Northern Tier Trail from the East Lansing Soccer Complex to Coolidge Road.
7. Approved resolution authorizing submission of a Michigan Recreation Passport Grant to the Michigan Department of Natural Resources for Patriarche Park youth baseball field improvement.
8. Approved amended right-of-way request from Leo's Coney Island, 333 Albert Avenue.

Item 8

City Manager's Report

City Manager George Lahanas:

- Said draft fiscal year 2012-13 budget has been delivered to Council members for review and thanked Finance Director Mary Haskell and her staff for their work.

Item 9

City Attorney's Report

City Attorney Dennis McGinty:

- No Report

Item 10

Consent Agenda

City Manager George Lahanas reviewed the Consent agenda:

1. Approval of a resolution establishing a public hearing on the preliminary FY2012-13 budget and tax rate for April 17, 2012.
2. Approval of the appointment of Jeffrey Kusler to the Downtown Management Board for a partial term ending December 31, 2014.
3. Approval of the following street and parking lot closure request for 2012 East Lansing Art Festival from May 18, 2012, beginning 3:00 a.m. through May 20, 2012, ending at 10:00 p.m.:

- Parking Lot #1: Friday May 18 at 3:00 a.m. to Sunday, May 20 at 10:00 p.m.
 - Parking Lot #4: Friday, May 18 at 3:00 a.m. to Sunday, May 20 at 10:00 p.m.
 - Parking Lot #15: Friday, May 18 at 7:00 a.m. to Sunday, May 20 at 10:00 p.m. (Parking Lot Administrator Dan O'Connor will issue alternate parking for permit holders)
 - Parking Lot #8: Friday May 18 at 7:00 a.m. to Sunday, May 20 at 10:00 p.m. (Parking Lot Administrator Dan O'Connor will issue alternate parking for permit holders)
 - Close Albert Avenue between Grove Street and Evergreen Avenue Friday, May 18 at 7:00 a.m. to Sunday, May 20 at 10:00 p.m.
 - Close Abbot Road from Grand River Avenue to Elizabeth Street Friday, May 18 at 9:00 a.m. to Sunday, May 20 at 10:00 p.m. (access to the Grove Street parking ramp will be open to artists and patrons with access from Elizabeth Street to Park Lane, Linden Street to Grove Street.)
4. Approval of Amendment No. 21 to the contract between the City of East Lansing and Ingham County for the operation of a 911 emergency telephone system.
 5. Approval of the Housing Commission's recommendation for a conditional Class III rental license that allows up to two unrelated persons or a family at 308 Milford Street. The owners are Roger, Mary and Erin Zoppa and the legal agent is Renaissance Property Management, represented by Kip Wilson.
 6. Approval of the Housing Commission's recommendation for a conditional Class III rental license that allows up to two unrelated persons or a family at 441 Anhinga Drive. The owner is Donglei Qiu and the legal agent is Renaissance Property Management, represented by Kip Wilson.
 7. Approval of the Housing Commission's recommendation for a change in classification from a Class I rental license that allows the owner and owner's family to have a roomer to a Class III rental license that allows up to two unrelated persons or a family in a non-owner occupied property at 148 Orchard Street. The owners are Stephanie Shephard (Lane), Harry Lane and Melissa Lane.
 8. Approval of Policy Resolution 2012-1; Public Disclosure Process.
 9. Set a public hearing for April 17, 2012, to consider Ordinance No. 1270; a City initiated ordinance to amend Article VI, Division 6 at Sections 50-792, 50-793, and 50-794 – of Chapter 50 – Zoning – of the Code of the City of East Lansing to amend the permitted land uses and minimum building height requirements.
 10. Approval of a request from the Community Relations Coalition to be recognized as a nonprofit organization in the community to be eligible for charitable gaming licenses through the State of Michigan.
 11. Approval of an Addendum to Development Agreement with A&G partnership for 201-211 Ann Street project.
 12. Approval of a Grant of License Agreement for an outdoor patio with A&G Partnership for 201-211 Ann Street project.

13. Approval of an Agreement for Exclusive Easement for Air Rights with A&G Partnership for 201-211 Ann Street project.
14. Approval of a Grant of Non-Exclusive Temporary Construction Easement with A&G Partnership for work to be performed on Grove Street stair tower.
15. Set a public hearing on May 1, 2012, for Brownfield Plan #17 for 514 Michigan Avenue redevelopment project.
16. Approval of a resolution proclaiming Friday, April 27, 2012, as Arbor Day in the City of East Lansing.

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

ALL YEAS
MOTION CARRIED

CITY OF EAST LANSING

RESOLUTION ESTABLISHING PUBLIC HEARING

ON

PRELIMINARY FY2012-13 BUDGET AND TAX RATE

WHEREAS, a public hearing on the proposed budget for the City of East Lansing is required by City Charter and the State Budget Law; and,

WHEREAS, a public hearing is required under the provisions of the Truth in Taxation Law;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of East Lansing does hereby establish the date of Tuesday, April 17, 2012 at 7:30 p.m., in 54-B-Court Room 2, City Hall, 410 Abbot in East Lansing, Michigan, as the date, time, and place for the required public hearing; and be it further resolved that for the purposes of the hearing it shall be assumed that the total tax rate will be 21.8369 mills consisting of 17.5891 mills for operating purposes, 1.9000 mills for solid waste, 1.3478 mills for debt service, and 1.0000 mill for the Library.

CITY OF EAST LANSING

POLICY RESOLUTION 2012-1

A RESOLUTION TO REQUIRE DISCLOSURE OF
BUSINESS CONTACTS BY DEVELOPERS,
VENDORS, CONTRACTORS, APPLICANTS, AND
UNION STAFF REPRESENTATIVES WITH CITY
COUNCIL MEMBERS

WHEREAS, it is the policy of the East Lansing City Council to conduct their affairs as city council members in an ethical, open and transparent manner; and,

WHEREAS, the individual members of the City Council, in performing their duties as council members are at times asked to meet individually with developers, vendors, contractors, applicants, or union staff representatives who have active business with the City or are planning to engage in business with the City that would require Council action; and,

WHEREAS, with the exception of meeting with union staff representatives in contravention of labor laws, there is nothing inherently wrong or improper with meetings of this nature, and meetings of this nature can and do inure to the benefit of the City, they can sometimes be viewed by the public as having an appearance of impropriety if the meetings can occur without the knowledge of the general public; and,

WHEREAS, in the interest of open city government, City Council deems that it is in the best interest of the City of East Lansing to record and disclose the occurrence of such meetings.

NOW, THEREFORE, BE IT RESOLVED that it is the policy of the East Lansing City Council that the individual members of the City Council, upon meeting with a developer, vendor, contractor, applicant, or union staff representatives in which active or proposed business that would require Council approval is discussed, shall, within one calendar week or prior to taking any action on the matter discussed, whichever is sooner, advise the City Clerk of the following information:

- a. The date of the meeting,
- b. The time of the meeting,
- c. The place of the meeting, and
- d. The names and affiliations of the participants of the meeting.

BE IT FURTHER RESOLVED that said information shall be recorded by the City Clerk, under the supervision of the City Manager, in a document that shall be open to the public and subject to the Freedom of Information Act.

BE IT FURTHER RESOLVED that this policy does not apply to the following:

- a. Meetings that are subject to the Open Meetings Act,
- b. Phone conversations,
- c. Mail or e-mail communications, or
- d. Meetings in which no active or proposed business that would require Council action is discussed.

BE IT FURTHER RESOLVED that for purposes of this policy the following definitions apply:

- a. *Applicant* means any person who has applied for any license or permit or modification of any license or permit issued by the City of East Lansing which requires Council approval.
- b. *Contractor* means any person who is not an employee of the City or City official that is or is seeking to perform services for the City of East Lansing.
- c. *Developer* means any person who develops or intends to develop real estate in the city of East Lansing.
- d. *Person*, as used in these definitions, includes anyone acting on their

- own behalf as well as anyone who represents a business or other entity, or that has an economic interest in a business or other entity, that would meet the applicable definition.
- e. *Union Staff representative* means any non-employee representative of a group of City employees covered by a collective bargaining agreement that is seeking to influence a council member's decision or outcome on a matter concerning an issue involved in a City collective bargaining agreement or an issue that is covered by a collective bargaining agreement with the City.
 - f. *Vendor* means any person who sells or intends to sell supplies or products to the City of East Lansing.

City of East Lansing, Michigan

RESOLUTION PROCLAIMING APRIL 27, 2012 AS ARBOR DAY IN THE CITY OF EAST LANSING

April 27, 2012

WHEREAS, the City manages 52 genus and 124 species of trees in the urban forest totaling nearly 8,000 trees, worth an estimated 11 million dollars; and,

WHEREAS, trees in our community increase property values, enhance the vitality of our business areas and neighborhoods, beautify our community and parks, provide wildlife habitat, clean the air we breathe, moderate temperatures, produce oxygen, and sequester carbon dioxide; and,

WHEREAS, the City has been recognized as a Tree City USA by the National Arbor Day Foundation for the past 25 years; and,

WHEREAS, John Rosenow, Chief Executive and Founder of the National Arbor Day Foundation stated "We all benefit when communities like East Lansing place a high priority on planting and caring for trees, one of our nation's most beautiful resources. We applaud East Lansing's elected officials, volunteers and citizens for providing vital care for its urban forest."

WHEREAS, Arbor Day is observed throughout the United States and the world; and,

WHEREAS, the City will observe Arbor Day by planting trees with East Lansing Elementary School children at Pinecrest Elementary School so that they can learn about Arbor Day and the many benefits of planting trees.

NOW, THEREFORE, BE IT RESOLVED, that the East Lansing City Council hereby proclaims Friday, April 27, 2012 as Arbor Day in the City of East Lansing in recognition of these events.

BE IT FURTHER RESOLVED, that we urge all citizens to plant, protect and care for trees so that they may be enjoyed by this and future generations.

- 1. Consideration of an application from the Michigan Farmhouse Association for Site Plan approval for the property at 151 Bogue Street, which would permit an expansion of the existing Farmhouse fraternity, increasing occupancy from 44 to 60 persons, and would add retail space on the first floor of the addition. The property is zoned EV, East Village.**

Darcy Schmitt, Planning and Zoning Administrator, summarized application timeline from Michigan Farmhouse Association and said staff recommends this item be deferred to April 17, 2012. Schmitt said a public hearing has been set for April 17, 2012, to consider Ordinance No. 1270 which amends permitted lands uses and minimum building height requirements in the East Village District.

It was moved by Beard and seconded by Triplett to defer until April 17, 2012, further consideration of an application from the Michigan Farmhouse Association for Site Plan approval for the property at 151 Bogue Street.

ALL YEAS
MOTION TO DEFER CARRIED

- 2. Consideration of the City Center II Pre-Development Agreement.**

Tim Dempsey, Planning and Community Development Director, updated Council on draft City Center II pre-development agreement and answers to March 27, 2012 Council member questions as outlined in his March 30, 2012 memorandum.

Scott Chappelle, Strathmore Development Company, said he was available to answer any questions.

Power distributed handout and highlighted appraisals, due diligence process, tentative review schedule, TIF (tax increment financing) information, and legal questions.

Goddeeris asked that a motion be made for the purpose of discussion.

It was moved by Power and seconded by Beard to approve City Center II pre-development agreement.

Loomis said he is from the old school where due diligence is completed first and then a business decision is made. He said, in fairness to all, there are four critical thresholds that a process of this nature should go through: set the structure, develop repayment analysis during due diligence period, evaluate repayment analysis, and then legally document proceedings. He said for the pre-development agreement there is the legal consideration and the business transaction consideration. He said he is not prepared at this point to defend any business decision and requires answers to questions.

Dennis McGinty, Chief Assistant City Attorney, and City staff answered questions regarding demolition and timing, site preparation, conferred rights, definition of commencement of work, expiration date and triggers which might advance Site Plan and Special Use Permit, bank property, plans to straighten Albert Street, amount of time needed to accomplish due diligence, and input from Downtown Development Authority (DDA).

Loomis said he would like to see due diligence period extended to 90 days and see a minimal amount of work done to legally trigger the advancement of the Site Plan and Special Use Permit. He said he would like to defer any substantial demolition of structure until City Council has concluded its due diligence period and can then make a final determination of how to proceed.

Triplett said there are two fundamental questions facing Council: 1) Is the project good for the City of East Lansing? 2) Can the project be financed responsibly? He said there is currently an unacceptable building on the corner of Abbot and Grand River, additional parking at the City's west entrance is in the City master plan, and the project has undergone an extensive review process involving over 20 public meetings and hearings, received positive recommendations from reviewing Boards and Commissions, and requested changes have been addressed. He said the more pressing question is: Can this project be financed responsibly? He said the most worthy project is worthless if it can not be responsibly financed.

Triplett said the purpose this evening is not to answer the question if the project can be responsibly financed. He said the question before Council is to decide whether or not Council will take the time necessary to thoroughly evaluate the proposed financing plan so a decision can be made based on due diligence and facts. He said he supports taking the time to get this process decision right. He said the DDA has previously discussed demolition of bank building property, has approved the demolition, contingent upon Council's approval of a pre-development agreement, and it puts the City in position to successfully move forward, whether with this project or the next. He said the pre-development agreement outlines a clear way forward on City Center II project, and, if necessary, outlines a cleaner way out than exists today. He said after all the time, energy, and money expended to get to this stage in the evaluation process, it would be the height of irresponsibility to not provide the time necessary to do a complete and thorough evaluation of the proposed project financing to answer the fundamental question if City Center II can be responsibly financed.

Goddeeris clarified with Dempsey and McGinty draft pre-development agreement dates, issues in Power's handout, public availability of materials, and timeline of decision by entire Council.

Power said this sets in motion a process to find out if this project is valuable to the community and worth the tax dollars; institutions are restructuring due to the economy; all input has added value to the discussion; tearing down building and straightening road is of value to the City; prefers less than 30 year TIFs; and said this is the right thing to do for the City, for citizens, and for the developer.

It was moved by Beard and seconded by Power to amend the motion by changing the following dates in the draft pre-development agreement:

- Page 2: 1) DUE DILIGENCE, change June 12, 2012 to **June 26, 2012**
- Page 3: 3) DEVELOPMENT AGREEMENT, change June 12, 2012 to **June 26, 2012**
- Page 4: 3) DEVELOPMENT AGREEMENT, change July 17, 2012 to **July 31, 2012**

ALL YEAS
MOTION TO AMEND CARRIED

Loomis commented on Exhibit A: City Center II – Due Diligence Activities regarding City Debt to also evaluate decreases in taxable value, add Critical Priority line to conduct lien searches on all properties and entities, move Developer Risk Profile to Critical Priority category, and items 15 through 18 to be reviewed for comparison in market evaluations rather than “accuracy.”

Beard said he supports moving ahead with approving pre-development agreement as amended and concurs with remarks made by Triplett as to the rationale of why Council should go forward with this particular aspect at this time. Beard said this project came forward four years ago, was vetted across Boards and Commissions, was approved in two variations at Planning Commission and City Council, and said the piece that has been consistently missing is the financial plan. He said the pre-development agreement gives Council a period of time to discover and clarify other pieces of information, have consultants and staff make a recommendation and a plan to move forward with a development agreement, or a recommendation to exit. Beard also said 303 Albert Avenue demolition is a positive step for City Center II or some other future development.

Loomis said he does not have a problem with essential due diligence and is not suggesting to start the process all over again as that would not be fair to anyone. He said he believes there is a different way to advance the Special Use Permit and Site Plan and move into this critical due diligence evaluation period in fairness to developer and community without demolishing a building. He said Council is making a business decision tonight which will cause a commercial structure to be torn down. He said he disagrees with the statement that the pre-development agreement gives Council a far cleaner way out and referenced the current Dino Cascardo Holdings lawsuit. He said he will not be in support of the motion.

Goddeeris reviewed timeline of City Center II project and said she agrees with underlying premise that a more active downtown would be a plus for the City. She said the proposal followed the process used for all development projects, was approved in 2008, and the economic climate changed dramatically later that year. She said the project was approved with the condition that a development agreement must be presented to East Lansing City Council for its approval before the development could start. She said she has waited for financing to be in place and a development agreement to be presented that satisfies not only that the project can be built, but that once started it will be completed. She said she wants to be sure any decision to either go forward or walk away is made with the best information possible. She said the pre-development agreement is an important step toward making an informed decision in a timely manner and in no way pre-judges the outcome.

Goddeeris brought Council back to main motion of approval of City Center II pre-development agreement, as amended.

YEAS – 4
NAYS – 1 Loomis
MOTION CARRIED

Item 12

Adjournment

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 10:09 p.m.

Diane Goddeeris
Mayor

Nancy O. Wagner
Administrative Secretary