

REGULAR SESSION - DECEMBER 5, 1994

The regular session of the Ann Arbor City Council was called to order at 7:38 p.m. in the City Hall Council Chamber by Mayor Ingrid B. Sheldon.

Council stood for one moment of silence.

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

ROLL CALL OF COUNCIL

PRESENT : Councilmembers Tobi Hanna-Davies, Patricia Vereen-Dixon, Peter Fink, Jane Lumm, Haldon L. Smith, Jean Carlberg, Peter Nicolas, Stephen C. Hartwell, Christopher Kolb, Elisabeth L. Daley, Mayor Ingrid B. Sheldon, 11.

ABSENT : 0.

INTRODUCTIONS

WASHTENAW DEVELOPMENT COUNCIL - BUSINESS RETENTION PROGRAM

David Wireman, Vice-Chair of the Washtenaw Development Council, and Susan Lackey, Executive Director of the Washtenaw Development Council, reported on the WDC's business retention program which helps existing businesses stay in the community and expand. Ms. Lackey urged Council's endorsement of the nonbinding Memorandum of Understanding between the WDC, utility companies, educational institutions and local governmental units to assist in the growth of existing businesses and in the creation of jobs. (Memorandum of Understanding on file in the City Clerk's Office)

ANN ARBOR SUMMER FESTIVAL, INC.

Ronald Cresswell, Chairman of the Ann Arbor Summer Festival Board, and Mary Oleniczak, Executive Director of the Ann Arbor Summer Festival, thanked the City for its past support of the Festival and requested increased funding for the coming year since State grant money has been reduced. Ms. Oleniczak reported on the Festival's successful 1994 season and stated that the Festival was able to provide approximately 1,000 complimentary tickets to people from nonprofit human services and educational organizations.

PUBLIC COMMENTARY - RESERVED TIME

ANDREW GULVEZAN - SONG DEDICATED TO VETERANS

Andrew Gulvezan, 432 Kellogg St., dedicated the song "Where Have All the Flowers Gone" to all Vietnam veterans.

LARRY FOX - ANN ARBOR Y

Larry Fox, 530 S. State St., spoke in opposition to the proposed management agreement between the City and the Ann Arbor YMCA. Mr. Fox objected to the "Annual Budget" section in the agreement which ties the amount of expenses to the Consumer Price Index. He also objected to the agreement's lack of controls over the expenses the "Y" could claim. Mr. Fox expressed concern with the City continuing to work to uphold the loan guaranty agreement which was declared illegal.

JONATHAN ROSE - ANN ARBOR Y

Jonathan Rose, 508 Benjamin St., tenant lawyer, spoke in opposition to the proposed management agreement with the Ann Arbor Y. Mr. Rose objected to the innkeeper management status at the "Y" which he believes violates the rights of the residents by denying due process for evictions. He further objected to the YMCA's practice of retaliatory evictions when tenants have complaints. (Statement on file in the City Clerk's Office)

DAVID DE VARTI - ANN ARBOR Y

David De Varti, 921 Dewey Ave., stated that the taxpayers expect Council to show fiscal responsibility by not giving any more money to the "Y" until it is willing to meet the City's terms in a management agreement. He requested that the agreement include terms that hold the "Y" accountable and suggested that the "Y" be required to: 1) reduce operation costs and meet future budget proformas or give City Council the right to choose a private outside housing manager; and 2) mount a fund raising campaign to share the burden of repaying the debt.

DAVID NOEL - ANN ARBOR Y

David Noel, 410 W. Washington St., requested that the December 12 public hearing on the proposed YMCA management agreement be rescheduled to a date after the holidays. Mr. Noel expressed concern with the innkeeper status used at the "Y" which he believes violates the rights of its residents.

PATRICE MAURER - ANN ARBOR Y

Patrice Maurer, 417 Skydale Dr., Coordinator of the Ann Arbor Tenants Union, spoke in opposition to the proposed management agreement with the Ann Arbor YMCA. She stated that any agreement allowing the YMCA to circumvent its obligations as a landlord under

the law is not acceptable. Ms. Maurer spoke in support of the letter from Robert Gillett, Director of Legal Services of Southeastern Michigan, summarizing the ethical and legal reasons why the proposed agreement and the "Y"'s innkeeper status are not acceptable.

PUBLIC HEARINGS

WETLANDS PRESERVATION ORDINANCE (ORDINANCE NO. 49-94)

A public hearing was conducted on the proposed ordinance to repeal the existing Chapter 60 and add a new Chapter 60 to Title V of the Ann Arbor City Code - Wetlands Preservation Ordinance. This ordinance would comply with recent changes to the State Wetland Act. The public hearing was originally held November 7, 1994 and recessed. Notice of the continued public hearing was published November 26, 1994.

The following persons appeared in support of the proposed ordinance:

Deborah Stenkamp, representing the Huron Valley Group of the Sierra Club, stated that implementation of a strong wetland ordinance would help insure protection of the region's natural areas by requiring the protection of all wetlands from unchecked development.

John Bendzick, former resident of Ann Arbor, spoke in support of the ordinance to help preserve the quality of life in Ann Arbor.

Christopher Graham, 725 Peninsula Ct., Natural Features Ordinance Committee Member, spoke in favor of the proposal including the five previously discussed amendments and the new statement of purpose.

Gwen Nystuen, 1016 Olivia Ave., Natural Features Ordinance Committee Member, stated that she sees adoption of the ordinance as a policy statement by City Council which reflects the community's values. Ms. Nystuen stated that the ordinance is a message that Ann Arbor citizens value the natural environment very highly and want to preserve and protect it for the future.

Paul Rentschler, Executive Director of the Huron River Watershed Council, spoke in support of the ordinance with the proposed amendments. He commended the public process used in adoption of the ordinance and praised Ann Arbor's high standards for public participation in the protection of the environment. (Statement in support of the additional amendments on file in the City Clerk's Office)

Wendy Carman, 2340 Georgetown Blvd., Natural Features Ordinance

Committee Member, spoke in support of the ordinance with the most recent amendments. Ms. Carman stated that the majority of Ann Arbor citizens support the preservation of important natural features and that this ordinance will provide an enforceable mechanism to protect important wetlands.

There being no one else to speak the Mayor declared the hearing closed.

FLOOR AREA PREMIUMS (ORDINANCE NO. 54-94)

A public hearing was conducted on the proposed amendment to Sections 5:64 and 5:65 of Chapter 55 of Title V of the Ann Arbor City Code - Floor Area Premiums. This ordinance would provide floor area premiums which more closely parallel the objectives of the Downtown Plan and Central Area Plan. The public hearing was originally held November 7, 1994 and recessed. Notice of the continued public hearing was published November 26, 1994.

The following person appeared:

Raymond Detter, Chair of the Downtown Development Authority Citizens' Council, spoke in support of proposals to encourage downtown housing, but expressed concern that the proposed ordinance does not go far enough to achieve the intended public benefit. He stated that the City Planning Department should continue to explore the use of premiums and variances for residential construction downtown, and suggested further reducing the number of housing units for granting premiums, permitting negotiated premiums for specific locations, and further amending the existing parking requirements.

There being no one else to speak the Mayor declared the hearing closed.

ARBOR LANDINGS PHASE I REVISED SITE PLAN AND LAND DIVISION

A public hearing was conducted on the proposed Arbor Landings Phase I Revised Site Plan and Land Division, 20.62 acres, southwest corner of Dexter Road and Rose Drive. Notice of public hearing was published November 26, 1994.

There being no one to speak the Mayor declared the hearing closed.

REVISED FEES FOR ENVIRONMENTAL ACTIVITIES

A public hearing was conducted on the proposed revised fee schedule for permits, inspections and appeals related to environmental activities. The public hearing was originally held November 7, 1994 and recessed. Notice of the continued public hearing was published November 26, 1994.

There being no one to speak the Mayor declared the hearing closed.

APPROVAL OF AGENDA

AGENDA APPROVED WITH CHANGES

Councilmember Lumm moved that the agenda be approved with the following changes:

CONSENT AGENDA

Delete: Resolution to Authorize a Public Services Agreement with the Ann Arbor Summer Festival, Inc. (\$15,000.00) **(Move to Motions and Resolutions - See Resolution No. R-574-12-94)**

MOTIONS AND RESOLUTIONS

Consider both easement resol's together: Resolution Accepting Easement for Road Right-of-Way from Lutheran Non-Profit Housing Corporation-Ann Arbor (Sequoia Place) (8 Votes Required)
Resolution Accepting Utility Easement from Lutheran Non-Profit Housing Corporation-Ann Arbor (Sequoia Place) (8 Votes Required)

Delete: Resolution Authorizing Settlement of Lawsuit to Condemn Property for Bader Park (8 Votes Required) **(Rescheduled for December 19, 1994 - See Communications from the City Attorney, Item 1)**

Move: Resolution to Approve Management Agreement with the Ann Arbor YMCA (Postponed August 15, 1994; tabled September 7, 1994) **(Move prior to Consent Agenda)**

Delete: Resolution to Approve Agreement with Economic Development Corporation Regarding the Ann Arbor YMCA **(See Communications from the City Attorney, Item 2)**

Add: Resolution Authorizing Application for Membership in the Michigan Municipal League CDL Consortium and Execution of Corresponding Personal Services Contract

Add: Resolution to Authorize a Public Services Agreement with the Ann Arbor Summer Festival, Inc. (\$15,000.00) **(Was on Consent Agenda)**

COMMUNICATIONS FROM THE CITY ADMINISTRATOR

Add: Wetlands Preservation Ordinance Proposed Changes

COMMUNICATIONS FROM THE CITY ATTORNEY

Add: Resolution Regarding Condemnation of Bader Park

Add: City Agreement with EDC in Connection with Refinancing the Ann Arbor YMCA

On a voice vote the Mayor declared the motion carried.

APPROVAL OF COUNCIL MINUTES**MINUTES OF NOVEMBER 14 AND 21 APPROVED**

Councilmember Hanna-Davies moved that the special session minutes of November 14, 1994 and the working and regular session minutes of November 21, 1994 be approved as presented.

On a voice vote the Mayor declared the motion carried.

MOTIONS AND RESOLUTIONS

POSTPONED

**RESOLUTION TO APPROVE MANAGEMENT AGREEMENT
WITH THE ANN ARBOR YMCA**

RESOLVED, That the Management Agreement with the Ann Arbor YMCA submitted under a letter dated December 1, 1994, from Hardy, Lewis, Pollard and Page, P.C., and presently on file in the City Clerk's Office be approved; and

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

Councilmember Lumm moved that the resolution be adopted.

With unanimous consent of Council, William Bluett, representing the Ann Arbor YMCA, and

James Crowley, counsel for the City, answered questions and reviewed changes in the proposed agreement.

Councilmember Kolb moved that the resolution be postponed and referred to a Committee of the Whole Session to be held on December 12, 1994, immediately following the public hearing scheduled for that date. The Committee of the Whole is charged with discussing the YMCA Management Agreement and making recommendations in a report back to Council.

On a voice vote the Mayor declared the motion carried.

CONSENT AGENDA

CONSENT AGENDA ITEMS APPROVED

Councilmember Daley moved that the following Consent Agenda items be approved as presented:

R-558-12-94 APPROVED

RESOLUTION TO APPROVE PURCHASE ORDER TO
SHAHEEN CHEVROLET FOR 10 POLICE PATROL VEHICLES

Whereas, The Fleet Services Division of the Public Services Department purchases new police patrol vehicles;

Whereas, Shaheen Chevrolet was the lowest responsible bidder, through Oakland County's Cooperative Purchasing Program, for \$166,127.30; and

Whereas, Shaheen Chevrolet received Human Resources approval November 17, 1994;

RESOLVED, That City Council approve the issuance of a purchase order to Shaheen Chevrolet for \$166,127.30.

R-559-12-94 APPROVED

RESOLUTION TO ENTER INTO AN AGREEMENT WITH
AL WALTERS HEATING TO INSTALL REPLACEMENT HEATING
AND AIR CONDITIONING AT THE MAIN FIRE STATION

Whereas, Three of the six roof-top mechanical systems for Fire Station #1 were replaced a year ago and the remaining three units are in need of replacement;

Whereas, Bid #2659 was issued on October 20, 1994 by the Purchasing Division for the replacement of the remaining three roof-top mechanical systems at Fire Station #1;

Whereas, Four bids were received by the November 10 due date, and Al Walters Heating and Air Conditioning, Inc. was determined to be the lowest qualified bidder; and

Whereas, Al Walters Heating and Air Conditioning, Inc. received Human Resources approval on November 17, 1994;

RESOLVED, That City Council approve the contract with Al Walters Heating and Air Conditioning for \$22,500.00 from the remaining balance of the 1988 Energy Improvement Bond Fund, and authorize the Mayor and City Clerk to execute a contract approved as to form by the City Attorney and approved as to substance by the City Administrator; and

RESOLVED, That the Mayor and City Council approve a contract contingency in the amount of \$3,000.00 to cover potential contract change orders to be approved by the City

Administrator, and approve a total project budget of \$25,500.00 for the life of the project.

R-560-12-94 APPROVED

RESOLUTION TO APPROVE PURCHASE OF
SAFETY SHOES - BID NO. 2672

Whereas, The Safety Shoes and Boots contract expired on November 20, 1994;

Whereas, Bid No. 2672 was sent to four vendors;

Whereas, Four bids were received on November 16, 1994, with Michigan Industrial Shoe Company submitting the lowest responsible bid; and

Whereas, Michigan Industrial Shoe Company received Human Resources approval on November 17, 1994;

RESOLVED, That the Mayor and City Council approve Bid No.2672 for Safety Shoes and Boots in the approximate amount of \$20,996.00 to Michigan Industrial Shoe Company;

RESOLVED, That the City Administrator be authorized to issue purchase orders to Michigan Industrial Shoe Company in the approximate amount of \$20,996.00, in accordance with this resolution and Bid No. 2672;

RESOLVED, That the City Administrator may extend this bid for two one-year periods under the terms of Bid No. 2672; and

RESOLVED, That the source of funds be from various accounts, as each department charges the cost against the appropriate divisional accounts.

R-561-12-94 APPROVED

RESOLUTION TO APPROVE HOUSING REHABILITATION
AGREEMENT WITH DAISY SANDERS GRIFFITHS FOR
1008 WOODLAWN AVENUE

Whereas, An application was received from Daisy Sanders Griffiths for rehabilitation assistance for her home located at 1008 Woodlawn Avenue, Ann Arbor;

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

Whereas, Three bids were received on November 17, 1994 and Ms. Griffiths will be executing an agreement with the lowest responsible bidder to complete the rehabilitation work;

RESOLVED, That City Council approve the Housing Rehabilitation Agreement with Daisy Sanders Griffiths in the amount of \$11,825.00 as a 0% interest deferred payment loan, and authorize the Mayor and City Clerk to execute the necessary documents substantially in the form on file in the office of the City Clerk.

R-562-12-94 APPROVED

RESOLUTION TO APPROVE 1994 HOME CHDO AGREEMENT WITH WASHTENAW AFFORDABLE HOUSING CORPORATION

Whereas, An application was received in October, 1994 from Washtenaw Affordable Housing Corporation (WAHC) for Community Housing Development Organization (CHDO) Administrative Funding;

Whereas, WAHC has met the HUD requirements and has been designated as a CHDO; and

Whereas, The Human Resources Department has reviewed and approved the contractor on March 25, 1994;

RESOLVED, That City Council approve the 1994 HOME CHDO Agreement in the amount of \$10,350.00 with Washtenaw Affordable Housing Corporation and authorize the Mayor and City Clerk to execute the agreement substantially in the form on file in the office of the City Clerk, with funds to be available until expended without regard to fiscal year.

R-563-12-94 APPROVED

RESOLUTION TO ACCEPT BID FOR SALE OF VOTING MACHINES

Whereas, The City of Ann Arbor has adopted an Optical Scanning Voting System;

Whereas, The City is currently storing its old lever voting machines at a cost of \$2,000 per month;

Whereas, Several other jurisdictions in Michigan have attempted to sell their lever voting machines, with no success;

Whereas, The Clerk's Office has advertised in the Ann Arbor News that the machines are available; and

Whereas, The machines have been offered to several historical museums;

RESOLVED, That the City accept the bid of CNG Scrap Metal to purchase the City's old lever voting machines in the amount of \$5.00 per ton.

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

ORDINANCES - SECOND READING

49-94 APPROVED AS AMENDED

WETLANDS PRESERVATION

An Ordinance to Repeal the Existing Chapter 60 and Add a New Chapter 60 to Title V of the Code of the City of Ann Arbor

This ordinance would comply with recent changes to the State Wetland Act. The ordinance was postponed at second reading on November 7, 1994.

Councilmember Kolb moved that the ordinance be adopted at second reading.

Councilmember Smith moved that a new Section 5:220 be added to the proposed ordinance and that Section 2:204 be amended as follows:

5:220 Appeal or Variance.

- (1) A decision by an administrative official of the City regarding a use permit may be appealed to the Zoning Board of Appeals, in accordance with procedures established in Chapter 55. Except as provided for in Section (2), the Zoning Board of Appeals will have the same powers and limitations as provided in Chapter 55.

- (2) A variance may be granted from the provisions of this Chapter when evidence supports at least one of the following affirmative findings:
- (a) That the public benefit intended to be served by this Chapter will be retained, despite more disruption of the wetland than permitted.
 - (b) That the topographic features or special characteristics of the site create conditions such that strict application of the provisions of this Chapter will result in less protection of the wetland.
 - (c) That the application of this Chapter would deny all reasonable use of the property.
 - (d) That practical difficulties or unnecessary hardship exist or will occur as specified in Chapter 55, Section 5:99 of the City Code.

5:204 Activities Which Require a Use Permit.

Except as otherwise provided by this Chapter or by use permit obtained from the City, a persons shall not:...

- (3) Construct, operate, or maintain any use or development in a wetland including draining or directing water from an upland activity into a wetland.

On a voice vote the Chair declared the motion carried.

Councilmember Smith moved that Section 5:205 of the ordinance be amended as follows:

5:205 Non-Regulated Activities.

~~<Activities which are allowed in a wetland without a permit by the Goemaere-Anderson Wetland Protection Act, as amended, are not regulated by this Chapter. Storm water retention/detention basins not intended nor acting as mitigation of any wetland disturbed by development are not regulated by this Chapter.>~~

The following activities and uses are not regulated by this Chapter:

- (1) Activities which are allowed in a wetland without a permit by the Goemaere-Anderson Wetland Protection Act, as amended.

- (2) Storm water retention/detention basins not intended nor acting as mitigation of any wetland disturbed by development.
- (3) Construction of or addition to a single or two-family dwelling on an approved subdivision or condominium lot that is less than one-half acre in size and zoned solely for residential purposes where the wetland is wholly contained on the lot.

After further discussion, the amendment was postponed until the Building Director was present to answer questions concerning the size of residential lots in the City.

Councilmember Smith moved that Sections 5:206, 5:208, 5:209 and 5:210 of the ordinance be amended as follows:

5:206 Application for Use Permit.

Applications for a use permit shall be filed with the Building Department or the Planning Department as prescribed below:

- (1) Planning Department. When ~~<the>~~ any site is proposed for activity necessitating review and approval of a site plan or plat ~~<as per the requirements of Chapter 57, Subdivision and Land Use Control>~~, the application material shall be submitted to the Planning Department with the site plan or plat....

5:508 Departmental Review of Use Permit Application....

- (7)(a) In the case of an administrative amendment to ~~<an>~~ any approved site plan, ~~<as allowed by Chapter 57;>~~ the Planning Director shall be responsible for granting or denying the application....

5:209 Planning Commission Review of Use Permit Application.

After City departments have completed their review of a use permit application, the application shall be referred to the Planning Commission if it relates to a proposed development or activity which requires review by the Commission pursuant to the terms of ~~<Chapter 57>~~ another Chapter....The public hearing on the wetland permit application shall be held concurrently with the public hearing required by another Chapter ~~<57>~~....

5:210 City Council Review of Use Permit Application.

...The public hearing on the wetland permit application shall be held

concurrently with the public hearing required by [another](#) Chapter <57> for a site plan or <preliminary> plat....

On a voice vote the Chair declared the motion carried.

Council unanimously agreed to again consider the amendment to Section 5:205 previously placed on the table and postponed.

Councilmember Lumm moved that paragraph (3) of Section 5:205 in the proposed amendment be amended as follows:

- (3) Construction of or addition to a single or two-family dwelling on an approved subdivision or condominium lot that is less than <one-half> [3/4](#) acre in size and zoned solely for residential purposes where the wetland is wholly contained on the lot.

On roll call the vote was as follows:

Yeas, Councilmembers Carlberg, Smith, Nicolas, Hartwell, Lumm, Mayor Sheldon, 6;

Nays, Councilmembers Kolb, Daley, Hanna-Davies, Vereen-Dixon, 4;

Absent during vote, Councilmember Fink, 1.

The Mayor declared the motion carried.

The question on the tabled is the proposed amendment to Section 5:205 of the ordinance as follows:

5:205 Non-Regulated Activities.

~~<Activities which are allowed in a wetland without a permit by the Goemaere-Anderson Wetland Protection Act, as amended, are not regulated by this Chapter. Storm water retention/detention basins not intended nor acting as mitigation of any wetland disturbed by development are not regulated by this Chapter.>~~

The following activities and uses are not regulated by this Chapter:

- (1) Activities which are allowed in a wetland without a permit by the Goemaere-Anderson Wetland Protection Act, as amended.
- (2) Storm water retention/detention basins not intended nor acting as mitigation of any wetland disturbed by development.

- (3) Construction of or addition to a single or two-family dwelling on an approved subdivision or condominium lot that is less than 3/4 acre in size and zoned solely for residential purposes where the wetland is wholly contained on the lot.

On roll call the vote was as follows:

Yeas, Councilmembers Carlberg, Smith, Nicolas, Hartwell, Kolb, Daley, Vereen-Dixon, Lumm, 8;

Nays, Councilmembers Hanna-Davies, Mayor Sheldon, 2;

Absent during vote, Councilmember Fink, 1.

The Mayor declared the motion carried.

Councilmember Smith moved that Section 5:206 of the ordinance be amended as follows:

5:506 Application for Use Permit.

Applications for a use permit shall be filed with the Building Department or the Planning Department as prescribed below:...

- (4) ...In order to adequately review a proposed mitigation plan, the following information should be provided to the City:...

- (c) ~~<A planting plan and plant list for the area(s) to be established using only native or naturalized species characteristic of locally existing plant communities.>~~

A planting plan and plant list for the area(s) to be established. The use of native plants characteristic of local conditions is encouraged. Species should be selected based on the need for wildlife, restoration, landscaping, and recovery. Within 120 days from the effective date of this ordinance, the Building Department shall, in consultation with knowledgeable persons, develop a list of botanical species which are considered invasive. The Building Department shall maintain this list and may update it from time to time. Mitigation activities shall be performed without the use of invasive species. Until such time as the list is completed, species utilized in mitigation activities must appear on the draft Michigan Floristic Quality Assessment System as a native Michigan species and be

[approved by staff.](#)

On a voice vote the Mayor declared the motion carried.

Councilmember Smith moved that Section 5:200 of the ordinance be amended as follows:

5:200 Purpose.

~~<The City of Ann Arbor protects wetlands as a fragile natural resource which provide many public benefits, including wildlife habitats, environmental niches, biological diversity, flood control, open space, outdoor recreation, and water quality. Wetlands are protected to maintain water quality by serving as oxidation basins pollution treatment, nutrient recycling, and sediment trapping, and to control flood and storm water runoff and erosion through temporary water storage, slow release and groundwater recharge. Wetlands are preserved to maintain and restore ecological, recreational and quality of environment assets for the residents of the City.>~~

Preservation and enhancement of wetlands is essential to maintaining and improving the City's aesthetic character, its ecological stability, its economic well-being, its educational opportunities, and its quality of life.

Wetlands are protected to help reduce damage to aquatic resources from erosion, turbidity, siltation, and contamination. They are protected to minimize the loss of native plants and animals, to help preserve biological diversity and to minimize the loss of wildlife habitat within the City, and to sustain many benefits wetlands can help provide - including flood control, storm water storage and release, ground water recharge, and water quality improvement.

On a voice vote the Mayor declared the motion carried.

Council unanimously agreed to correct the following references in Sections 5:206, 5:208, 5:212 and 5:213 as follows:

5:206 Application for Use Permit...

- (3) The application material for a use permit shall consist of the following:
 - (c) A signed letter from the applicant which explains why the project meets the use permit standards and criteria contained in Section <5:211> [5:212](#) of this Chapter....

5:208 Departmental Review of Use Permit Application....

- (5) Plans for wetland mitigation shall be reviewed only after the requirements of Section <5:212> [5:213](#) of this Chapter have been met....

5:212 Use Permit Standards and Criteria....

- (1) Except as provided in subsection (4) of this section, a permit for an activity listed in Section <5:203> [5:204](#) shall not be approved unless...

5:513 Mitigation.

- (1) As authorized by Section <5:210(4)(b)> [5:211\(4\)\(b\)](#) of this Chapter,...

The question being the ordinance at second reading as amended, on a voice vote the Mayor declared the motion carried with Councilmember Fink and Mayor Sheldon dissenting.

54-94 APPROVED

FLOOR AREA PREMIUMS

An Ordinance Amend Sections 5:64 and 5:65 of Chapter 55 of Title V of the Code of the City of Ann Arbor

This ordinance would provide floor area premiums which more closely parallel the objectives of the Downtown Plan and Central Area Plan, include additional standards and requirements for public benefit, and clarify the existing language. The ordinance was postponed at second reading on November 7, 1994.

Councilmember Vereen-Dixon moved that the ordinance be adopted at second reading.

On a voice vote the Mayor declared the motion carried and the ordinance adopted at second reading.

ORDINANCES - FIRST READING

None.

MOTIONS AND RESOLUTIONS

R-564-12-94 APPROVED

**RESOLUTION TO APPROVE ARBOR LANDINGS PHASE I
REVISED SITE PLAN AND LAND DIVISION**

A communication was received from the City Planning Commission transmitting its recommendation of approval of the proposed Arbor Landings Phase I Revised Site Plan and Land Division, 20.62 acres, southwest corner of Dexter Road and Rose Drive.

Whereas, Arbor Landings Associates has requested land division approval in order to divide this 37.7-acre parcel (Parcel No. 08-24-306-001) into two separate parcels, and revised site plan approval for Phase I; and

Whereas, The Ann Arbor City Planning Commission, at its meeting of November 15, 1994, recommended approval of said request;

RESOLVED, By the Mayor and City Council that the Arbor Landings Phase I Revised Site Plan and Land Division be hereby approved, subject to payment of outstanding special assessments and completion of outstanding sidewalk improvements.

Councilmember Nicolas moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-565-12-94 APPROVED

**RESOLUTION ADOPTING A REVISED FEE SCHEDULE
FOR PERMITS, INSPECTIONS AND APPEALS RELATED
TO ENVIRONMENTAL ACTIVITIES**

Whereas, The City has adopted a new Wetlands Preservation Ordinance; and

Whereas, The revised fees are designed to generate revenues to offset the costs of implementation of this ordinance;

RESOLVED, That the attached fee schedule be approved; and

RESOLVED, That these revised charges become effective January 1, 1995.

ENVIRONMENTAL PERMIT FEES
(Effective January 1, 1995)

| | |
|-------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| Grading Permit Review | \$65 per acre computed to the nearest tenth of an acre. |
| Minimum Permit Review Fee | \$32.50 |
| Monthly Grading Inspection Fee | \$65 per acre computed to the nearest tenth of an acre. |
| Minimum Inspection Fee | \$32.50 |
| <Wetlands & Watercourse Permit Review Fee | \$100.00* |
| Use Permit Fee (Includes periodic inspections) | \$500 per acre computed to the nearest tenth of an acre, with a minimum fee of \$100 |

~~*Review Fee will be applied to User Permit Fee if a permit is issued.>~~

Wetland Use Permits

1. For projects which require staff level review only (Administrative approval).

Single one- or two-family dwelling on a parcel zoned for residential use: \$250 flat fee

All other administrative applications: \$400 flat fee

2. For projects which require City Planning Commission or City Council action.

All projects: \$1,000 flat fee

If project involves a condominium or subdivision: add \$300

For cumulative filling or draining more than 1 acre of wetland: add \$1,000 (An application for a permit shall not be deemed as received or filed until the Planning Department has received the correct application fee.)

3. Should construction activities begin prior to issuance of a wetland use permit fee, the applicant is subject to double the application fee, as determined by the Building Director.

4. Appeal Fee: \$200

Councilmember Kolb moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-566-12-94 APPROVED

RESOLUTION TO AUTHORIZE SUMMARY PUBLICATION OF
ORDINANCE NO. 49-94 - WETLANDS PRESERVATION ORDINANCE

Whereas, Section 7.4 of the City Charter authorizes the publication by summary of ordinances over 500 words in length;

RESOLVED, That Ordinance 49-94 be published by the following summary:

Ordinance 49-94 repeals the existing Chapter 60 (Wetlands/ Watercourses Preservation Ordinance) of the City Code and replaces it with a revised version (Wetlands Preservation Ordinance). This revised version complies with recent changes to the State Wetland Act.

The complete text of this ordinance is available at the office of the City Clerk.

Councilmember Nicolas moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-567-12-94 APPROVED

RESOLUTION TO AUTHORIZE SUMMARY PUBLICATION OF
ORDINANCE NO. 54-94 - FLOOR AREA PREMIUMS

Whereas, Section 7.4 of the City Charter authorizes the publication by summary of ordinances over 500 words in length;

RESOLVED, That Ordinance 54-94 be published by the following summary:

Ordinance 54-94 amends Chapter 55 (Zoning Ordinance) of the City Code

regarding premiums. The amendments more closely parallel the objectives of the Downtown Plan and Central Area Plan, include additional standards and requirements for public benefit, and incorporate language to improve the overall content of the ordinance.

The complete text of this ordinance is available at the office of the City Clerk.

Councilmember Nicolas moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-568-12-94 APPROVED

RESOLUTION TO ADOPT SOLID WASTE MANAGEMENT STRATEGY UPDATE, 1994-2000

Whereas, The City of Ann Arbor's first *Solid Waste Management Strategy* was approved by City Council in 1989;

Whereas, A five year update of the *Strategy* was undertaken by the Solid Waste Commission over the past eighteen months;

Whereas, The *Strategy Update* builds on the original *Strategy*, providing a continuing emphasis on recycling, composting, and waste reduction strategies;

Whereas, The *Strategy Update* provides a sense of direction to the Solid Waste Department, Solid Waste Commission, and City Council in developing and evaluating specific programs, policies, and funding decisions; and

Whereas, All program funding decisions must still be brought before the Mayor and City Council for review and approval;

RESOLVED, That the Mayor and City Council adopt the *Solid Waste Management Strategy Update, 1994-2000*; and

RESOLVED, That the Mayor and City Council commend the efforts of the all-volunteer Solid Waste Commission in the preparation of this document.

Councilmember Kolb moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-569-12-94 APPROVED

RESOLUTION TO APPROVE RECYCLING AND WASTE REDUCTION LETTER OF AGREEMENT WITH WASHTENAW COUNTY BOARD OF PUBLIC WORKS

Whereas, The Washtenaw County Board of Public Works (WCBPW) was selected by Washtenaw County and a majority of the municipalities within Washtenaw County to serve as agent for the negotiation of landfill disposal capacity and other benefits;

Whereas, Washtenaw County has been receiving revenues as the result of these negotiations which can be used to support solid waste management activities within the County;

Whereas, Washtenaw County desires to continue providing direct financial support to local units of government for recycling or waste reduction activities through letters of agreements with local communities who have approved Washtenaw County's solid waste plans; and

Whereas, The City of Ann Arbor approved the 1989 Update of the Washtenaw County Act 641 Solid Waste Plan (Plan) and the 1992 amendment to the Plan;

RESOLVED, That the Mayor and City Clerk be authorized to execute the Recycling and Waste Reduction Letter of Agreement that is substantially in the form of that on file with the City Clerk; and

RESOLVED, That the City Administrator be authorized to accept payments estimated at \$117,592.00 per year from Washtenaw County through June 30, 1997.

Councilmember Kolb moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-570-12-94 APPROVED

RESOLUTION AUTHORIZING SUBMITTAL AND APPROPRIATION OF WASHTENAW COUNTY DEPARTMENT OF PUBLIC WORKS SOLID WASTE GRANT

Whereas, Finding and developing markets for collected recyclables continues to be a major element in the overall economics of recycling;

Whereas, The Washtenaw County Department of Public Works has funds available for innovative solid waste management projects; and

Whereas, Staff has developed a grant proposal to create awareness within the business, government, and non-profit sectors toward the purchase of recycled content products;

RESOLVED, That the Mayor and City Council authorize the submittal of a \$11,080.00 grant proposal to the Washtenaw County Department of Public Works for a buy recycled initiative;

RESOLVED, That the City's \$10,000.00 match for this project will be used for support services relating to the grant and is currently budgeted in the Solid Waste Department's 1994/95 budget;

RESOLVED, That if the City is successful in obtaining this grant, \$11,080.00 will be appropriated in the major grants fund for solid waste purposes;

RESOLVED, That, if approved, the City Administrator be authorized to execute all required documents in accordance with Washtenaw County grant requirements; and

RESOLVED, That this expenditure may be carried over to the 1995/96 fiscal year if necessary.

Councilmember Kolb moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

POSTPONED

RESOLUTION TO AUTHORIZE AMENDMENT NO. 2
TO PROFESSIONAL SERVICES AGREEMENT FOR
DAM RELATED ACTIVITIES

Whereas, By Resolution No. R-532-10-92, approved October 21, 1992, Council authorized a Professional Services Agreement with Harza Engineering Company for dam

safety inspections and related studies, and by Resolution No. R-445-9-94, approved September 7, 1994, Council authorized Amendment No. 1 to the said Professional Services Agreement to study the technical and economic feasibility to continue operation of the Superior Hydropower;

Whereas, It is necessary to proceed to design and construct spillway modifications at Barton Dam to meet FERC probable maximum flood flow requirements within the schedule specified by FERC;

Whereas, Harza Engineering Company has submitted a proposal in the amount of \$104,000.00 to provide engineering services for design and construction phase of the required spillway modifications at Barton Dam;

Whereas, Harza Engineering Company received approval from Human Rights Department on October 25, 1994; and

Whereas, It is recommended that Harza's proposal be accepted without competitive proposals due to Harza's familiarity with the project and experience in design and construction of such modifications;

RESOLVED, That Council accept the proposal and authorize Amendment No 2 to the Professional Services Agreement with Harza Engineering Company in the amount of \$104,000.00 to provide engineering services for design and construction phase of spillway modifications at Barton Dam;

RESOLVED, That Council approve a contingency of \$11,000.00 for change orders to be approved by the City Administrator;

RESOLVED, That \$115,000.00 for the engineering services for this project be available for the life of the project without regard to the fiscal year; and

RESOLVED, That the Mayor and the City Clerk be authorized and directed to sign Amendment No. 2 to the Professional Services Agreement substantially in a form on file with the City Clerk.

Source of Funds: FY 94/95 Approved Hydropower System Operating Budget

Councilmember Kolb moved that the resolution be adopted.

Councilmember Fink moved that the resolution be postponed to the December 19, 1994 regular session of Council to allow preparation of a cash flow analysis (revenues and expenses) through the year 2000.

On a voice vote the Mayor declared the motion carried.

R-571-12-94 APPROVED

RESOLUTION ACCEPTING EASEMENT FOR ROAD
RIGHT-OF-WAY FROM LUTHERAN NONPROFIT HOUSING
CORPORATION-ANN ARBOR (SEQUOIA PLACE)

Whereas, Lutheran Non-Profit Housing Corporation-Ann Arbor, a Michigan non-profit corporation, is the owner of property located in the City of Ann Arbor, Washtenaw County, Michigan, and more particularly described as follows:

Beginning at the East 1/4 corner of said Section 24, T2S, R5E, City of Ann Arbor, Washtenaw County, Michigan; thence S 00E06'00" W 43.27 feet along the East line of said Section 24, and the centerline of Maple Road; thence S 89E58'47" W 40.00 feet; thence N 00E06'00" E 43.32 feet along the westerly right-of-way line of said Maple Road; thence N 00E00'30" W 308.38 feet along said westerly right-of-way line; thence S 89E59'30" W 23.00 feet; thence N 73E30'14" W 28.16 feet; thence N 89E59'30" E 90.00 feet along the southerly right-of-way line of Sequoia Parkway; thence S 00E00'30" E 316.42 feet along the East line of said Section 24 and the centerline of said Maple Road to the Place of Beginning, being a part of the East 1/2 of said Section 24, containing 0.34 acres of land, more or less, and being subject to easements and restrictions of record, if any;

Whereas, Said owner has delivered to the City of Ann Arbor an easement over the above described premises for a road right-of-way;

RESOLVED, That the City of Ann Arbor hereby accept said easement.

Councilmember Carlberg moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-572-12-94 APPROVED

RESOLUTION ACCEPTING UTILITY EASEMENT FROM
LUTHERAN NONPROFIT HOUSING CORPORATION-
ANN ARBOR (SEQUOIA PLACE)

Whereas, Lutheran Non-Profit Housing Corporation-Ann Arbor, a Michigan non-profit corporation, is the owner of property located in the City of Ann Arbor, Washtenaw

County, Michigan, and more particularly described as follows:

Beginning at the East 1/4 corner of said Section 24, T2S, R5E, City of Ann Arbor, Washtenaw County, Michigan; thence S 00E06'00" W 43.27 feet along the East line of said Section 24, and the centerline of Maple Road; thence S 89E58'47" W 40.00 feet; thence N 00E06'00" E 43.32 feet along the westerly right-of-way line of said Maple Road; thence N 00E00'30" W 308.38 feet along said westerly right-of-way line; thence S 89E59'30" W 23.00 feet; thence N 73E30'14" W 28.16 feet; thence N 89E59'30" E 90.00 feet along the southerly right-of-way line of Sequoia Parkway; thence S 00E00'30" E 316.42 feet along the East line of said Section 24 and the centerline of said Maple Road to the Place of Beginning, being a part of the East 1/2 of said Section 24, containing 0.34 acres of land, more or less, and being subject to easements and restrictions of record, if any;

Whereas, Said owner has delivered an easement to the City of Ann Arbor for construction and maintenance of utilities;

RESOLVED, That the City of Ann Arbor hereby accept said easement.

Councilmember Carlberg moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-573-12-94 APPROVED

RESOLUTION AUTHORIZING APPLICATION FOR MEMBERSHIP
IN THE MICHIGAN MUNICIPAL LEAGUE CDL CONSORTIUM AND
EXECUTION OF CORRESPONDING PERSONAL SERVICES CONTRACT

Whereas, The Department of Transportation published in February 1994 supplemental rules to the Omnibus Transportation Employee Testing Act of 1991 which require the training and testing of safety-sensitive employees for drug use and alcohol misuse;

Whereas, The rules mandate implementation of anti-drug and alcohol misuse programs as well as expanding and supplementing existing drug testing rules by January 1, 1995;

Whereas, The Michigan Municipal League is forming a Consortium to handle the Drug and Alcohol Testing of Commercial Driver's License (CDL) or safety-sensitive employees;

Whereas, There are no other comparable packages available from other sources at this time to provide policy writing, training and testing; and

Whereas, There are not established laboratory services providing cost information in response to inquiry for comparative data;

RESOLVED, That the City Administrator be instructed to make application to the League for membership in the CDL Consortium and that the Mayor and Clerk be authorized to execute the terms of the contract on behalf of the City of Ann Arbor for the 1995 term; and

RESOLVED, That the costs of the membership of the City in this Consortium annually \$120.00 per affected employee, be funded out of the employee's Department's budget.

Councilmember Lumm moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

R-574-12-94 APPROVED

RESOLUTION TO AUTHORIZE A PUBLIC SERVICES AGREEMENT WITH THE ANN ARBOR SUMMER FESTIVAL, INC.

Whereas, The Ann Arbor Summer Festival has been a favorite community event for years, providing social events for public enjoyment;

Whereas, The Ann Arbor Summer Festival contributes significantly to nonprofit organizations serving low-income youth, senior citizens, and others who might not otherwise be able to attend such events through the distribution of hundreds of tickets to these organizations, as requested by City Council;

Whereas, The City of Ann Arbor has pledged its support for the Summer Festival in the past; and

Whereas, The continued success of the Summer Festival relies upon the generosity

of the community;

RESOLVED, That the City Council authorize the execution of a public services agreement in the amount of \$15,000.00 with the Ann Arbor Summer Festival, Inc.;

RESOLVED, That the \$15,000.00 be charged to the Community Events Account of the 1994-95 Adopted Budget.

Councilmember Lumm moved that the resolution be adopted.

On a voice vote the Mayor declared the motion carried.

REPORTS FROM COUNCIL COMMITTEES

COUNCIL RULES COMMITTEE

Councilmember Vereen-Dixon stated that Council has the option of waiving its rules if needed and that the Ad Hoc Rules Committee will be looking into the time limit issue.

HUMAN SERVICES FUNDING TASK FORCE

Councilmember Lumm reported that City Council received a consolidated priority funding plan on November 19, and that the CDBG Executive Committee will be meeting on December 12 to make recommendations on the HUD funding for the RFP.

CABLE COMMUNICATIONS COMMISSION

Councilmember Hanna-Davies requested that Council study the communication from the City Administrator concerning a new site for Community Access Television since the issue will soon come before Council.

COUNCIL PROPOSED BUSINESS

None.

COMMUNICATIONS FROM THE MAYOR

PROCLAMATION

Mayor Sheldon announced that she has recently signed a proclamation for Art Day in Ann Arbor, December 3 and 4, 1994.

APPOINTMENTS APPROVED

Mayor Sheldon recommended the following appointments at the November 21, 1994 regular session of Council:

BUILDING BOARD OF APPEALS

Michael J. Green (to fulfill membership requirements - Mechanical Contractor)
1431 Golden Ave.
Term: 12/5/94 to 12/4/99

COMMISSION ON INCREASING SAFETY FOR WOMEN

Nancy O'Neill (Chamber of Commerce Representative)
Ann Arbor Area Chamber of Commerce
211 E. Huron St., Ste. 1

Liz Lindsey (Assault Crisis Center Representative)
c/o Assault Crisis Center
1866 Packard Rd.
Ypsilanti, MI

Donn L. Wolfe, Regional Representative (Detroit Edison Representative)
Detroit Edison
425 S. Main St.

COMMISSION ON INCREASING SAFETY FOR WOMEN (Cont.)

Debi Cain, Director (University of Michigan Sexual Assault Prevention
and Awareness Center Representative)
Sexual Assault Prevention and Awareness Center
The University of Michigan
580 Union Drive, Rm. L-107

Susan McGee, Executive Director (Domestic Violence Project Representative)
Domestic Violence Project, Inc.
P.O. Box 7052

Leo J. Heatley, Director (University of Michigan Department of Public Safety)
Department of Public Safety
The University of Michigan
1239 Kipke Dr.

Daniel Branson, Captain (Ann Arbor Police Department Representative)
Ann Arbor Police Department
P.O. Box 8647

TRAIN WHISTLE TASK FORCE

John and Beverly Howley (citizen representatives)
635 Swift St.

Councilmember Nicolas moved that Council concur with the recommendations of the Mayor.

On a voice vote the Mayor declared the motion carried.

NOMINATIONS PLACED ON TABLE

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

MICHIGAN EQUITY GRANT FUND COMMITTEE

Cathy E. Baldwin
3685 Platt Rd.

MICHIGAN EQUITY GRANT FUND COMMITTEE (Cont.)

Judith Rumelhart
505 E. Huron St.

Barbara Meadows
3117 Override Dr.

COMMISSION ON INCREASING SAFETY FOR WOMEN

Melanie Purcell, Assistant to the Administrator (City Administrator's
Representative)
City of Ann Arbor
P.O. Box 8647

Kristen Larcom, Assistant City Attorney (City Attorney's Representative)
City of Ann Arbor
P.O. Box 8647

INDOOR CLEAN AIR ORDINANCE TASK FORCE

Fred Gruber (to fill vacancy)

5572 Tanglewood

COMMUNICATIONS FROM THE CITY ADMINISTRATOR

REPORTS SUBMITTED

City Administrator Gatta submitted the following reports for information of Council:

1. C.O.P. Grant Personnel
2. New Streetlights on North Main Street
3. Market Search of Potential Relocation Sites for Ann Arbor Community Access Television
4. Department of Transportation CDL Rules
5. Status of Tree Trimming
6. Wetlands Preservation Ordinance Proposed Changes

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

COMMUNICATIONS FROM THE CITY ATTORNEY

REPORTS SUBMITTED

City Attorney John Van Loon submitted the following reports for information of Council:

1. Resolution Regarding Condemnation of Bader Park
2. City Agreement with EDC in Connection with Refinancing the Ann Arbor YMCA

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

COMMUNICATIONS FROM COUNCIL

COUNCILMEMBER KOLB

Councilmember Kolb thanked the Mayor for speaking at the World AIDS Day ceremonies on December 1, and recognized Councilmembers Hanna-Davies, Lumm and Carlberg for

their attendance.

COUNCILMEMBER FINK

Councilmember Fink requested that the Clerk record his vote as "no" on the second reading of Ordinance 49-94 - Wetlands Preservation Ordinance.

CLERK'S REPORT OF COMMUNICATIONS, PETITIONS AND REFERRALS

The following communications were referred as indicated:

1. Planning Commission - October 4 and 18, 1994
2. Housing Policy Board - November 16, 1994
3. Community Reinvestment Act Task Force - November 2, 1994
4. Human Rights Commission - October 19 and 22, 1994
5. Downtown Development Authority - July 21, September 8 and October 13, 1994
6. Housing Board of Appeals - October 4, 1994
7. CDBG Executive Committee/Human Services Task Force Public Hearing - November 14, 1994

Councilmember Nicolas moved that the Clerk's Report be accepted.

On a voice vote the Mayor declared the motion carried.

PUBLIC COMMENTARY - GENERAL

None.

ADJOURNMENT

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

On a voice vote the Mayor declared the motion carried and the meeting adjourned at 12:50 a.m.

W. Northcross
Clerk of the Council

Janet L. Chapin
Recording Secretary