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ANN ARBOR CITY COUNCIL MINUTES REGULAR SESSION - MARCH 3, 2003

Mayor John Hieftje called the regular session of the Ann Arbor City Council to order at 7:33 p.m. in the City Hall Council Chamber.

Council stood for a moment of silence.

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

ROLL CALL OF COUNCIL

PRESENT : Council Members Kim Groome, Robert M. Johnson, Joan Lowenstein, Michael R. Reid, Jean Carlberg, Heidi Cowing Herrell, Margie Teall, Marcia Higgins, Christopher Easthope, Wendy A. Woods, Mayor John Hieftje, 11.

ABSENT : 0.

INTRODUCTIONS

PRESENTATION OF THE ENVIRONMENTAL PROTECTION (EPA) REVOLVING LOAN FUND GRANT APPLICATION

Jeff Irwin presented to Council a draft of the Revolving Loan Fund Grant Application. He asked Council to provide feedback on the application and to share it with all constituents.

PUBLIC COMMENTARY - RESERVED TIME

CINDY PLETZ - COMMUNITY TELEVISION NETWORK (CTN) POLICIES AND PROCEDURES MANUAL

Cindy Pletz, 1501 Hetcher Crescent, spoke in opposition of the proposed Community Television Network Policies and Procedures Manual.

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RICH BIRKETT - MEDICAL MARIJUANA PETITIONS AND HASH BASH

Rich Birkett, 2919 Brandywine, spoke to Council regarding medical marijuana petitions and the up-coming Hash Bash event.

THOMAS PARTRIDGE - STOP THE WAR: THE CLASS WAR ON AMERICA'S MOST VULNERABLE PEOPLE

Thomas Partridge, 100 S. 4th Avenue #1010, addressed Council regarding the class war on America's most vulnerable people.

PUBLIC HEARINGS

THE DISCOVERY CENTER REVISED SITE PLAN

A public hearing was conducted on the proposed Discovery Center Revised Site Plan, 3.04 acres, located at 775 South Maple Road. Notice of public hearing was published March 2, 2003.

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

HILL ZONING (ORDINANCE NO. 3-03)

A public hearing was conducted on the proposed amendment to Chapter 55, Rezoning of 0.44 acre from

TWP (Township District) to R1C (Single-Family Dwelling District), Hill property, located at 373 Pinewood Street. Notice of public hearing was published February 16, 2003.

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

APPROVAL OF AGENDA

AGENDA APPROVED WITH CHANGES

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

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CONSENT AGENDA

Delete: Resolution Awarding the Sale of 2003 Michigan Transportation Fund Bonds (Broadway Bridges Project) General Obligation Limited Tax \$4,000,000.00 (Finance - Brenda L. Smith, Director) (Deleted 2/25/03)

MOTIONS AND RESOLUTIONS

Delete: Resolution to Amend the Community Development Executive Committee By-Laws and to Appoint up to Two Council Representatives (Community Development - Kathleen Hines, Interim Administrator) (Postponed from 2/18/03 Council Meeting) (Deleted 2/25/03)

Added After Newspaper Deadline:

Add: Resolution to Request Reconsideration of the Relocation of the Michigan Broadband Authority (Mayor Hieftje)

Add: Resolution in Support of Introduction of an Ordinance Relating to Wells Used for Monitoring, Injection and Extraction within the Boundaries of the City of Ann Arbor (Mayor Hieftje, Council Members Easthope, Woods)

Add: Resolution Eliminating Second Board of Review of the City of Ann Arbor and Reconstituting the Remaining Board of Review (Mayor Pro Tem Carlberg, Council Member Higgins)

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

APPROVAL OF COUNCIL MINUTES

MINUTES OF FEBRUARY 10, 2003 AND FEBRUARY 18, 2003 APPROVED

Council Member Johnson moved, seconded by Council Member Lowenstein that the working session minutes of February 10, 2003 and the regular session minutes of February 18, 2003 be approved with changes.

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

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CONSENT AGENDA

CONSENT AGENDA ITEMS REMOVED

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

Resolution to Approve the First Amendment to the FY 2002/03 Agreement with Avalon Housing, Inc., for Tenant Rental Assistance - (\$100,000.00) Ann Arbor Housing Trust Fund (Community Development - Kathleen Hines, Interim Administrator)

Resolution to Allocate \$5,750.00 to MotorCity StreetLife, Inc. for Nonprofit Capacity Building (Community Development - Kathleen Hines, Interim Administrator)

Resolution for Approval of a Contract with Manpower Employment Services to Provide Construction Inspection Services for the Filter Operating Controls Project (\$125,000.00) (Utilities - Sue F. McCormick, Director)

CONSENT AGENDA ITEMS APPROVED

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

R-61-3-03 APPROVED

RESOLUTION TO APPROVE TENANT SELECTION CRITERIA AND DELEGATE RESPONSIBILITY FOR CITY ASSISTED AFFORDABLE HOUSING PROJECTS

Whereas, There has been an ongoing public discussion regarding the advisability of requiring landlords who provide housing to low-income tenants to undertake criminal background checks on all prospective tenants and to deny housing to tenants who have been convicted of crimes;

Whereas, The Housing Policy Board is the citizens advisory group created by Council to review and advise Council on housing policy issues;

Whereas, The Housing Policy Board believes that the City does have a role in seeking to assure tenant and neighborhood safety in projects that it funds and that the City's role is stipulated in project specific Housing Affordability Agreements approved by City Council;
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Whereas, The City's Human Rights Ordinance provides that all City residents be treated equally, while prohibiting discrimination based on a number of factors including the receipt of governmental assistance;
and

Whereas, At its meeting on November 21, 2002, the Housing Policy Board approved insertion of the following language into the standard Housing Affordability Agreement to give direction to the project's management: "The developer/owner shall make its best effort to provide that the project is managed to provide safe and habitable housing for its tenants and that its project will not adversely affect the neighborhood. To that end the developer/owner shall work with City staff to establish and maintain systems for tenant selection, tenant support, property maintenance, and communications with neighbors. The failure of the developer/owner to establish and maintain such systems shall be deemed a breach of this agreement"; and

Whereas, The mandatory tenant selection policy that was adopted by the US Department of Housing and Urban Development (HUD) for public housing and Section 8 rental assistance programs is not required for other HUD-funded programs;

RESOLVED, That housing property management decisions must be the responsibility of housing project owners, whether for profit or nonprofit,

RESOLVED, That the City shall adopt no policy establishing mandatory criminal background checks for city-funded housing projects, and

RESOLVED, That the Mayor and City Council affirm that appropriate policies with respect to tenant selection criteria for City-assisted affordable housing projects shall be provided by project developers and owners and monitored for sufficiency by the Community Development Department.

R-62-3-03 APPROVED

RESOLUTION TO GRANT SEWER SERVICE OUTSIDE CITY LIMITS TO 1180 BIRD ROAD

Whereas, Bank of Ann Arbor, owner of the property at 1180 Bird Road on November 22, 2002 has requested that the City extend public sewer service to their property in Ann Arbor Township in accordance with the Policy Statement of February 1, 1994 between the City of Ann Arbor and Ann Arbor Township;

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Whereas, The Bank of Ann Arbor desires to enter into an agreement with the City to provide an equitable method of obtaining City service outside of its corporate boundaries; and

Whereas, As part of this agreement, the owners shall have this property annexed not later than December 31, 2007;

RESOLVED, That the Mayor and Clerk be hereby authorized and requested to sign the agreement to allow City sewer service to the land during the time it is still outside of the Corporate Limits; that the Water Utilities Department be hereby directed to send a copy of this resolution and the agreement by first class mail to the above property owner; and that the Water Utilities Department shall promptly have this resolution and the agreement recorded in the office of the Register of Deeds of Washtenaw County, Michigan.

R-63-3-03 APPROVED

RESOLUTION FOR APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT WITH AYRES, LEWIS, NORRIS & MAY, INC., FOR CONSULTING SERVICES FOR FERC PART 12 INSPECTION AND SAFETY REPORT, RFP NO. 543

Whereas, It is necessary to comply with Federal Energy Regulatory Commission (FERC) Part 12 inspection requirements for Barton and Superior Dams;

Whereas, RFP No. 543 was issued to solicit proposals for Dam Inspection and Preparation of Safety Reports meeting FERC requirements for Barton and Superior dams;

Whereas, Of the three proposals received, Ayres, Lewis, Norris & May, Inc. (ALNM) is selected to be the most cost-effective and qualified to complete the work identified in RFP No. 543;

Whereas, ALNM submitted a proposal in the amount of \$34,880.00 perform the dam inspection and prepare

reports to be submitted to FERC; and

Whereas, Ayres, Lewis, Norris & May, Inc. has received Human Rights and Living Wage approval on February 3, 2003;

RESOLVED, That the professional services agreement in the amount of \$34,880.00 with Ayres, Lewis, Norris & May, Inc. be approved for the FERC Part 12 Inspection and Safety Report;
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RESOLVED, That Council approves a project budget of \$39,880.00 consisting of \$34,880.00 consulting services and \$5,000.00 for a contingency for potential change orders to be approved by the City Administrator;

RESOLVED, That the funds be available for the life of the project until expended without regard to the fiscal year; and

RESOLVED, That ALNM's services to perform dam inspection and prepare reports be funded from the approved FY 02/03 Operation and Maintenance Budget for Hydropower System.

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

R-64-3-03 APPROVED AS AMENDED

**RESOLUTION TO APPROVE THE FIRST AMENDMENT TO THE
FY 2002/03 AGREEMENT WITH AVALON HOUSING, INC.,
FOR TENANT RENTAL ASSISTANCE (\$100,000.00) ANN ARBOR
HOUSING TRUST FUND**

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

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

2nd Whereas Clause:

...Whereas, Avalon Housing, Inc. has 19 units at 824 Stimson with residents that are very low-income and hard to serve due to chronic homelessness, substance abuse and mental illness;...

The question being the resolution as amended, on a voice vote, the Mayor declared the motion carried.

The resolution as adopted reads as follows:

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**RESOLUTION TO APPROVE THE FIRST AMENDMENT TO THE
FY 2002/03 AGREEMENT WITH AVALON HOUSING, INC.,
FOR TENANT RENTAL ASSISTANCE (\$100,000.00) ANN ARBOR
HOUSING TRUST FUND**

Whereas, In May 2002 City Council approved an Agreement with Avalon Housing Inc., for \$201,000.00 (R-253-6-02);

Whereas, Avalon Housing, Inc. has 19 units at 824 Stimson with residents that are very low-income;

Whereas, These residents are currently in stabilized housing with support services;

Whereas, Between March 2003 and July 2004 a gap in Shelter Plus Care rent subsidies will occur which will jeopardize stable housing;

Whereas, Avalon Housing, Inc. anticipates a renewal of its Shelter Plus Care subsidies in July 2004; and

Whereas, The Housing Policy Board at its meeting on January 9, 2003 recommended approval of the

\$100,000.00 in Affordable Housing Trust Funds to provide gap financing for tenants at 824 Stimson;

RESOLVED, That City Council approve the First Amendment to the Agreement with Avalon Housing, Inc.

for an additional \$100,000.00 of Affordable Housing Trust Funds to provide gap financing for tenants at 824 Stimson;

RESOLVED, That the Mayor and City Clerk be hereby authorized and directed to sign the amended agreement substantially in the form attached and approved as to form by the City Attorney, with funds to be available until expended without regard to fiscal year; and

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

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POSTPONED

**RESOLUTION TO ALLOCATE \$5,750.00 TO MOTORCITY STREETLIFE, INC.
FOR NONPROFIT CAPACITY BUILDING**

Whereas, MotorCity StreetLife, Inc. is a Michigan Nonprofit Corporation, whose parent organization has a

history of successfully serving the homeless in other communities;
Whereas, MotorCity StreetLife, Inc. has educated the public about poverty related issues and has established the selling of StreetWise newspapers as an alternative to giving money to panhandlers in other communities;

Whereas, The City of Ann Arbor is interested in new and innovative approaches to working with panhandlers in the downtown area and homeless citizens in the community;
Whereas, In FY2002-03, the Community Development Department budgeted \$5,750.00 for non-profit capacity building for new and innovative programs and services; and
Whereas, At their meeting on February 10, 2003, the Community Development Executive Committee recommend funding this project with available capacity building funds;

RESOLVED, That City Council approve the allocation of \$5,750.00 to MotorCity StreetLife, Inc. for capacity building to implement a homeless newspaper in Ann Arbor; and

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

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

City Administrator Roger Fraser arrived at 8:03 p.m.

Council Member Lowenstein moved, seconded by Council Member Easthope to postpone the resolution until the April 7, 2003 for additional information.

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

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R-65-3-03 APPROVED

**RESOLUTION FOR APPROVAL OF A CONTRACT WITH MANPOWER
EMPLOYMENT SERVICES TO PROVIDE CONSTRUCTION INSPECTION
SERVICES FOR THE FILTER OPERATING CONTROLS PROJECT**

Whereas, Construction inspection is necessary to ensure the successful completion of the filter operating controls project, which is identified as urgent in the approved CIP;

Whereas, Of the various options considered for construction inspection, hiring a temporary agency is the most cost-effective option;

Whereas, Manpower Employment Services is selected to provide the construction inspection services for the filter operating controls project;

Whereas, Cost of construction inspection services provided by Manpower Employment Services is estimated to be \$125,000.00 for the entire duration of the project;

Whereas, Council approved a project budget of \$4,450,000.00 that includes funds allocated for construction inspection services; and

Whereas, Manpower Employment Services has received Human Rights and Living Wage approval on December 2, 2002;

RESOLVED, That the contract for \$125,000.00 with Manpower Employment Services for construction inspection services be approved;

RESOLVED, That this contract with Manpower Employment Services be funded from the approved budget for the Filter Operating Controls project; and

RESOLVED, That the funds be available for the life of the project until expended without regard to the fiscal year.

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

On roll call the vote was as follows:

Yeas, Council Members Carlberg, Herrell,, Teall, Higgins, Easthope, Woods, Johnson, Lowenstein, Reid, Mayor Hieftje, 10;

Nays, Council Member Groome, 1.

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The Mayor declared the motion carried.

ORDINANCES - SECOND READING

3-03 APPROVED

HILL ZONING

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

This ordinance would change the zoning of 0.44 acre, located at 373 Pinewood Street, from C1 (Local

Business District) to) (Office District). (The complete text of Ordinance 3-03 is on file in the City Clerk's Office).

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

On roll call the vote was as follows:

Yeas, Council Members Carlberg, Herrell, Teall, Woods, Groome, Lowenstein, Mayor Hieftje, 7;

Nays, Council Members Higgins, Easthope, Johnson, Reid, 4.

The Mayor declared the motion carried.

ORDINANCES - FIRST READING

4-03 APPROVED

775 SOUTH MAPLE ZONING

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

This ordinance would change the zoning of 2.14 acres, located at 775 South Maple Road, from TWP (Township District) to R1C (Single-Family Dwelling District). (The complete text of Ordinance 4-03 is on file in the City Clerk's Office).

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

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

MOTIONS AND RESOLUTIONS

R-66-3-03 APPROVED

RESOLUTION TO PLACE A PROPOSITION TO AMEND THE ANN ARBOR CITY CHARTER SECTION GOVERNING ELIGIBILITY FOR ELECTED OFFICE ON THE NOVEMBER 4, 2003 GENERAL ELECTION BALLOT

Whereas, Section 12.2 of the City Charter currently reads:

Eligibility for City Office-General Qualifications

SECTION 12.2. Except as otherwise provided in this charter, a person is eligible to hold a City office if the person has been a registered elector of the City, or of territory annexed to the City or both, and, in the case of a Council Member, a resident of the ward from which elected, for at least one year immediately preceding election or appointment. This requirement may be waived as to appointive officers by resolution concurred in by not less than seven members of the Council.

; and

Whereas, Fewer restrictions on holding office are more consistent with open and democratic government; **RESOLVED**, That the following amended charter provision be placed on the ballot and submitted to the voters at the next general city election:

Eligibility for City Elective Office-General Qualifications

SECTION 12.2. Except as otherwise provided in this charter, a person is eligible to hold a City elective office if, at the time of election or appointment to that office, the person is a registered elector of the City and, in the case of a Council Member , of the ward from which election is sought or appointment is made. A person is eligible to hold public appointive office

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as a volunteer if that person is a resident of the City. The residency requirement may be waived as to volunteer appointive officers by resolution concurred in by not less than seven members of the Council.

RESOLVED, That November 4, 2003, be designated as the day for holding an election on the proposed Charter amendment;

RESOLVED, That the Clerk shall transmit a copy of the proposed amendment to the Attorney General and the Governor of Michigan and shall perform all other acts required by the law for holding the election;

RESOLVED, That the proposed Charter amendment shall appear on the ballot in the following form, which includes the statement of purpose:

ANN ARBOR CITY CHARTER AMENDMENT ESTABLISHING ELIGIBILITY REQUIREMENTS FOR ELECTED AND VOLUNTEER APPOINTED OFFICES

Shall the Charter be amended to replace the requirement that the Mayor and Council Members be registered electors in the City at the time of election and that Council Members be residents in their wards for one year prior to their election, with a requirement that the Mayor and Council Members be registered electors of the City, and the Council Members of their wards, on the date they are elected or appointed to

office, to require that volunteer appointed officers be residents rather than registered electors in the City, and to eliminate the requirement that paid appointed officers be registered electors?

_YES_NO

; and

RESOLVED, That the proposed Charter amendment and proposed ballot question, shall be published in full not fewer than two times in the Ann Arbor News.

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

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

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POSTPONED

RESOLUTION TO ADOPT AND IMPLEMENT A REVISED COMMUNITY TELEVISION NETWORK PUBLIC ACCESS CHANNEL POLICY MANUAL

Whereas, In 1973, Ann Arbor, Michigan was one of the first communities in the United States to successfully create "public access television" on its local cable television system;

Whereas, The City of Ann Arbor manages and operates what is now known as Community Television Network (CTN);

Whereas, CTN continues to provide "public access television services" in the form of television production training, television production equipment, and a public access cable television channel for the distribution of video programming provided by Ann Arbor citizens and non-profit agencies;

Whereas, The City's Cable Communications Commission (CCC) and CTN management developed a Public Access Channel Policy Manual originally adopted by City Council on May 25, 1994 as subsequently revised May 9, 1995 and September 4, 1997;

Whereas, The CCC and CTN management staff have determined that revising the CTN Public Access Channel Policy Manual into two separate documents is necessary, to be referred to as the "CTN Public Access Channel Policy Manual" and the "CTN Public Access Channel Procedures Manual", to create a more effective method for understanding the rules and regulations applicable to this service while providing the CCC and CTN management staff with more flexibility in revising procedural elements by not requiring City Council review for non-policy changes;

Whereas, Primary revisions to the CTN Public Access Channel Policy Manual and CTN Public Access Channel Procedures Manual include: (1) clarification that the program schedule for the CTN Public Access Channel is determined by CTN staff; (2) a requirement to disclose certain content that may be unsuitable for viewing by children and/or is intended for a mature audience; (3) the creation of a revised "Viewer Comment Form" and new procedure for responding to viewer complaints regarding program content;

Whereas, The CCC and CTN have developed a program scheduling plan that calls for scheduling programs submitted by Ann Arbor citizens and non-profit agencies into logically defined "blocks" intended to create improved program promotion opportunities and increase viewership; and

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Whereas, The CCC approved a motion unanimously at their November 26, 2002 business meeting to forward the "CTN Public Access Channel Policy Manual" and the associated "CTN Public Access Channel Procedures Manual" to City Council for their consideration and approval;

RESOLVED, That City Council approve the "CTN Public Access Channel Policy Manual", as revised, and direct that it be promptly implemented in conjunction with the revised "CTN Public Access Channel Procedures Manual" by the Cable Communications Commission and Community Television Network staff.

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

Council Member Easthope moved, seconded by Council Member Higgins to postpone the resolution until March 17, 2003 for further review.

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

R-67-3-03 APPROVED

RESOLUTION TO APPROVE AMENDMENTS TO THE EXISTING COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF ANN ARBOR AND TEAMSTERS LOCAL 214, POLICE CLERICAL EMPLOYEES

Whereas, The existing collective bargaining agreement between the City of Ann Arbor and the Police Clerical Employees represented by Teamster's Local 214 contains two wage "re-openers" for fiscal years beginning July 1, 2002 and July 1, 2003;

Whereas, The parties have reached a tentative settlement on wage changes which provide for general across-the-board increases of 3.0% in each of the remaining two years of the collective bargaining agreement;

Whereas, There are no other changes to the provisions of the collective bargaining agreement;

Whereas, The Police Department has sufficient funds budgeted to accommodate the 3.0% wage changes in the current fiscal year; and

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Whereas, The City Administrator recommends approval of the proposed settlement;

RESOLVED, That the City Council approve the recommended wage settlement for the last two years of the Police Clerical collective bargaining agreement, and

RESOLVED, That the Mayor and City Clerk be hereby authorized to sign the collective bargaining agreement amendment on behalf of the City, after approval as to form by the City Attorney.

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

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

R-68-3-03 APPROVED

RESOLUTION TO APPROVE STONE SCHOOL TOWNHOMES ANNEXATION

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

Whereas, Marvin L. Vanek is the owner of said property; and

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

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

Commencing at the Southwest corner of Section 10, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan, thence Northerly along the West line of Section 10 and the centerline of Stone School Road 1469.95 feet for a PLACE OF BEGINNING; thence continuing Northerly 330.79 feet along said West line; thence East 88o48' 528.00 feet parallel with the south line of Section 10; thence South 91o12' 330.79 feet parallel with the West line of Section 10; thence West 88o48' 528.00 feet parallel to the South line of Section 10 to the PLACE OF BEGINNING.

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A communication was received from the City Planning Commission transmitting its recommendation of approval of the proposed Stone School Townhomes Annexation, 4.6 acres, located at 3625-3683 Stone School Road.

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

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

R-69-3-03 APPROVED

RESOLUTION TO APPROVE THE DISCOVERY CENTER REVISED SITE PLAN

Whereas, George Miller has requested revised site plan approval in order to construct a 2,184-square foot addition on to the north side of the existing childcare center at 775 South Maple Road;

Whereas, The Ann Arbor City Planning Commission, on February 4, 2003, recommended approval of the site plan;

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

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

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

RESOLVED, That City Council approve The Discovery Center Revised Site Plan.

A communication was received from the City Planning Commission transmitting its recommendation of approval of the proposed Discovery Center Revised Site plan, 3.04 acres, located at 775 South Maple Road.

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

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

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R-70-3-03 APPROVED

RESOLUTION TO APPROVE A CONTRACT WITH JOHNSON HILL - LAND ETHICS STUDIO IN THE AMOUNT OF \$51,250.00 FOR PROFESSIONAL DESIGN SERVICES FOR THE FARMERS MARKET MASTER PLAN, RFP #546 AND APPROPRIATE FUNDS AND ESTABLISH A PROJECT BUDGET OF \$56,375.00

Whereas, The Market Commission has envisioned and planned for the addition of a multipurpose space to the Farmers Market Facility for several years;

Whereas, The Farmers Market Addition project that has been identified in the Capital Improvements Plan, FY 2002-2007;

Whereas, The house located at 322 N. Fourth Ave. (City owned property) adjacent to the Market will be demolished in the spring of 2003 to accommodate potential expansion of the Farmers Market;

Whereas, The Market Commission designated a Selection Committee to review Requests for Proposal (RFP) submittals and make a recommendation to hire a Professional Consultant that would provide design services in developing a Master Plan for the Farmers Market Facility;

Whereas, RFP's were sought from Professional Design Consulting Firms (RFP No. 542) on November 27, 2002 and six companies submitted RFP's. The Farmers Market Master Plan Consultant Selection Committee reviewed the six proposals and conducted individual interviews with three of the selected consulting companies and a consensus of the Committee members determined that the Johnson Hill - Land Ethics Studio should be awarded the contract to provide design services for the Farmers Market Master Plan;

Whereas, Funds for the project are coming from the Market Fund balance in the amount of \$51,250.00, plus \$5,125.00 for potential contract change order(s); and

Whereas, The Human Rights approval and compliance with the Living Wage Ordinance was received on February 14, 2003 for The Johnson Hill - Land Ethics Studio;

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RESOLVED, That City Council approve a professional services contract, per the recommendations of the Farmers Market Master Plan Selection Committee based on RFP No. 546, with The Johnson Hill - Land Ethics Studio in the amount of \$51,250.00 to provide Design Services for the Farmers Market Master Plan;

RESOLVED, That the Mayor and City Clerk be authorized and directed to execute the agreement with The Johnson Hill - Land Ethics Studio after approval as to substance by the City Administrator and approval as to form by the City Attorney; and

RESOLVED, That City Council approve a contingency fund in the amount of \$5,125.00 (10%) to cover potential contract change orders to be approved by the City Administrator, appropriate \$56,375.00 from the Market fund balance and approve a total project budget of \$56,375.00 for the life of the project without regard to fiscal year.

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

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

POSTPONED

RESOLUTION TO APPROVE A CONTRACT WITH HOMRICH, INC., IN THE AMOUNT OF \$19,100.00 FOR DEMOLITION OF THE STRUCTURES AT 322 N. FOURTH AVENUE (ADJACENT TO THE FARMERS MARKET) (BID NO. 3575) APPROPRIATE FUNDS AND ESTABLISH A PROJECT BUDGET OF \$21,010.00

Whereas, The property located at 322 N. Fourth Ave. is owned by the City and was acquired to provide potential expansion of the Department of Parks and Recreation, Farmers Market;

Whereas, The house located at 322 N. Fourth Ave. is not designated as a historic structure as determined by the Historic Preservation Coordinator on May 20, 2002;

Whereas, The house located at 322 N. Fourth Ave. was offered to several alternative or non-profit housing organizations, with all agencies declining or expressing no interest in the structure;

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Whereas, Requests for Proposals (RFP) were sought to sell the house for relocation to the public (RFP No. 542) by the Department of Parks and Recreation on October 1, 2002 and no RFP's were submitted;

Whereas, Competitive bids were sought to demolish the structures (Bid No. 3575) by the Department of

Parks and Recreation with five bids received on February 6, 2003 and Homrich, Inc. was identified as the lowest responsible bidder;

Whereas, Funds for the project are provided from the Market fund balance in the amount of \$19,100.00, plus \$1,910.00 for potential contract change order(s); and

Whereas, The Human Rights approval and compliance with the living wage ordinance was received on February 14, 2003 for the Homrich, Inc.;

RESOLVED, That City Council approve award a demolition contract, per Bid No. 3575, with Homrich, Inc. in the amount of \$19,100.00 for Demolition and Removal of Structures at 322 N. Fourth Ave.;

RESOLVED, That City Council authorize and direct the City Administrator to execute the necessary contract documents after approval as to form by the City Attorney; and

RESOLVED, That City Council approve a construction contingency in the amount of \$1,910.00 (10%) to cover potential contract change orders to be approved by the City Administrator, appropriate \$21,010.00 from the Market fund balance and establishes a total project budget of \$21,010.00 for the life of the project without regard to fiscal year.

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

Council Member Groome moved, seconded by Council Member Carlberg to postpone the resolution until March 17, 2003 for further review.

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

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R-71-3-03 APPROVED

**RESOLUTION OPPOSING FEDERAL TELECOMMUNICATION
LEGISLATION THAT LIMITS LOCAL AUTHORITY TO REGULATE THE
USE OF PUBLIC RIGHT OF WAY**

Whereas, On August 2, 2002, Senator John McCain of Arizona introduced Senate Bill 2863 - "The Consumer Broadband Deregulation Act" in the 107th session of Congress;

Whereas, The stated intent of Senate Bill 2863 was to remove perceived barriers to the deployment of "broadband" facilities and services by telecommunications and cable television companies by severely limiting or eliminating the regulatory authority of local and state government over Public Right-Of-Way;

Whereas, The result of Senate Bill 2863 or any similar legislation would be to limit the ability of the City of Ann Arbor to effectively manage this public resource and secure fair compensation for its use by private enterprise;

Whereas, The financial impact of Senate Bill 2863, or similar legislation, would be to eliminate approximately \$1.6 million per year in revenue that the City receives in the form of cable franchise fees and other compensation for the use of Public Right-Of-Way;

Whereas, Michigan's Act 48 of the Public Acts of 2002, commonly referred to as the "METRO Act", effectively resolves jurisdictional and compensation issues related to use of Public Right-Of-Way by telecommunications providers in this state;

Whereas, The Cable Communication Act of 1984 already provides a tested and successful regulatory framework in which local government's serve as franchise authorities for cable television operator use of Public Right-Of-Way, including the ability to require compensation for this use in the form of franchise fees; and

Whereas, Public Right-Of-Way is a property asset developed, maintained, and managed in the public interest by local and state government, much in the same manner as the federal government owns and manages the electromagnetic spectrum and other federal resources;

RESOLVED, That the City Council of the City of Ann Arbor, Michigan stands opposed to legislation similar in nature to Senate Bill 2863 that would limit the regulatory authority of local and state government regarding Public Right-Of-Way, including the ability to manage these assets in the public interest and collect fair and reasonable compensation for the use of these assets by private telecommunications and cable television companies; and

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RESOLVED, That the City Council directs the City Administrator to communicate this position to our elected U.S. Senators and U.S. Representatives in Congress.

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

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

**R-72-3-03 APPROVED
RESOLUTION AUTHORIZING STREET CLOSINGS
FOR THE ST. PATRICK'S DAY PARADE ON MARCH 9, 2003**

Whereas, Conor O'Neill's Traditional Irish Pub will be sponsoring a St. Patrick's Day Parade on Sunday, March 9, 2003 commencing at 2:00 p.m. and ending at approximately 3:00 p.m.;

Whereas, In order to accommodate the participants in the parade, Conor O'Neill's has requested that the following downtown area streets be closed from 1:30 p.m. until 3:15 p.m.:

- Liberty from S. Fifth Avenue to South Ashley
- Washington from S. Fifth Avenue to South Ashley
- South Fourth Avenue from E. William to E. Huron
- South Main from E. William to E. Huron;

Whereas, The street closures will be signed and barricaded by the Public Services Department - Transportation Division and properly supervised by sponsor;

Whereas, The sponsor will obtain all necessary permits and be responsible to comply with the procedures, rules and regulations required by the City to stage such an event and pay the following estimated service charges associated with their sponsorship of the event:

Public Services Dept. for barricades \$423.83;

Whereas, Conor O'Neill's agrees to defend and save the City harmless against any claim arising from their sponsorship of this event; and

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Whereas, Conor O'Neill's will notify all religious institutions affected by the street closings not less than 10 days prior to the event;

RESOLVED, That Mayor and City Council hereby approve the closing of the streets as requested at the indicated times to facilitate this event.

Council Member Easthope moved, seconded by Council Member Reid that the resolution be adopted. On a voice vote, the Mayor declared the motion carried.

**R-73-3-03 APPROVED
RESOLUTION DIRECTING THE CITY ADMINISTRATOR TO DEVELOP
AN ORDINANCE REDUCING PHOSPHORUS APPLICATION TO TURF**

Whereas, The Environmental Commission recommends that the City of Ann Arbor develop an ordinance regulating phosphorus application to turf within the City of Ann Arbor;

Whereas, it is recommended that such an ordinance include at least the following standards:

- 1) The City licenses commercial applicators;
- 2) The ordinance covers homeowners and resident applicators but does not require homeowners and resident applicators to be licensed;
- 3) The City prohibits the use of phosphorus as a soil additive for turf within the City of Ann Arbor unless applicators are granted an exemption for a particular site based on soil analysis;
- 4) Retailers and commercial applicators provide an approved information sheet to consumers;
- 5) The City provides the content for the information sheet supplied to customers by retailers and commercial applicators; and
- 6) Commercial applicators provide documentation to the City of Ann Arbor customer of the phosphorus-free content of the applied product;

Whereas, The successful regulation of the application of phosphorus to turf will be dependent on the cooperation of commercial applicators, retailers of fertilizer products, other business owners and citizens of Ann Arbor; and

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Whereas, Such cooperation may be obtained by involving various interested parties in the development of appropriate policies to regulate phosphorus uses on turf;

RESOLVED, That the City Administrator take the following actions to develop a draft ordinance for City Council review:

- Develop an initial draft ordinance based on the recommendations of the Environmental Commission and city staff;
- Submit the draft ordinance to affected stakeholders and other interested parties for review and comment;
- Hold a public, televised working session with the Environmental Commission to discuss the revised draft; and thereafter

__provide a draft ordinance for City Council review.

Council Member Reid moved, seconded by Council Member Easthope that the resolution be adopted. On a voice vote, the Mayor declared the motion carried.

**R-74-3-03 APPROVED AS AMENDED
RESOLUTION TO REQUEST RECONSIDERATION OF THE
RELOCATION OF THE MICHIGAN BROADBAND AUTHORITY**

Council Member Higgins moved, seconded by Council Member Teall that the resolution be adopted. With unanimous consent of Council, the resolution was amended by adding the following:

Last RESOLVE Clause:

...RESOLVED, That the Mayor and City Council of Ann Arbor request a copy of the Resolution along with a letter from the City Administrator be forwarded to Governor Jennifer Granholm, Director David Hollister, State Representative Chris Kolb and Senator Liz Brater.

The question being the resolution as amended, on a voice vote, the Mayor declared the motion carried.

The resolution as adopted reads as follows:

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**RESOLUTION TO REQUEST RECONSIDERATION OF THE
RELOCATION OF THE MICHIGAN BROADBAND AUTHORITY**

Whereas, The Michigan Broadband Authority (Authority) was created for the purpose of attracting public and private investment that will both expand broadband infrastructure and increase utilization of broadband services among users all across the state;

Whereas, The Authority is intended to be an agency focused on facilitating partnerships, identifying potential investment projects and leveraging additional financial resources to increase and enhance broadband utilization across the state;

Whereas, The Authority does not rely upon state appropriations for its operations, but rather from the proceeds from financing successful initiatives throughout the state;

Whereas, One of already established projects of the Authority is with the Merit Network (the non-profit provider of high-speed Internet service to the majority of universities, colleges, schools and libraries in the state), which is headquartered in Ann Arbor;

Whereas, Another Broadband Authority "development" initiative was to be its involvement in the construction of a new data center as home for Internet 2 and Merit in Ann Arbor. This "Michigan Information Technology Center" will create a globally recognized development cluster for the broadband industry;

Whereas, The Broadband Authority financing assistance for the Michigan Information Technology Center would expect to yield revenues in excess of \$6 million to the Authority;

Whereas, The Ann Arbor area is home to no less than 200 technology based companies with 3,500 employees in these firms; and

Whereas, Ann Arbor is the location of the IT Zone, a partnership of the University of Michigan, businesses and local government to stimulate and grow the IT industry in the area.

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RESOLVED, That the Mayor and City Council of Ann Arbor request that Governor Jennifer Granholm and Department Director David Hollister consider the unique synergy that exists in the Ann Arbor area for technology based firms and the attractive potential revenue stream for the Authority and reconsider the decision to move the Authority headquarters from Ann Arbor to Lansing; and

RESOLVED, That the Mayor and City Council of Ann Arbor request a copy of the Resolution along with a letter from the City Administrator be forwarded to Governor Jennifer Granholm, Director David Hollister, State Representative Chris Kolb and Senator Liz Brater.

**R-75-3-03 APPROVED
RESOLUTION IN SUPPORT OF INTRODUCTION OF AN ORDINANCE RELATING TO WELLS USED FOR
MONITORING, INJECTION AND EXTRACTION
WITHIN THE BOUNDARIES OF THE CITY OF ANN ARBOR**

Whereas, A significant amount of water used in the City of Ann Arbor is obtained from underground ("groundwater") sources which are subject to impairment in quality and purity;

Whereas, The impairment of the quality and purity of groundwater sources has a detrimental impact on the health, safety, and welfare of the people of Ann Arbor;

Whereas, The installation and use of monitoring wells is indicative of possible contamination in groundwater;
Whereas, The data and other information generated with respect to such monitoring wells may provide information helpful to understand the underground geology, aquifers and possible contamination of groundwater;
Whereas, The installations of monitoring wells and extractions wells into groundwater aquifers may serve as conduits for migration of contamination into and between groundwater aquifers;
Whereas, The use of extraction wells may cause changes in the rate and direction of flow of groundwater and contamination within aquifers which may threaten or impair the quality and purity of groundwater under the City; and

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Whereas, The installation, operation and maintenance of monitoring wells and extraction wells within residential areas can disrupt the neighborhood and create a potential public nuisance;
RESOLVED, That the City Council declares for the reasons stated above that the people of the City have a primary interest in the location, design, construction, use, maintenance, abandonment and destruction of monitoring wells and extraction wells; and
RESOLVED, That City Council on behalf of the people of the City of Ann Arbor support the introduction of an ordinance related to wells used for monitoring, injection and extraction within the boundaries of the City of Ann Arbor at its next regular meeting.
Council Member Woods moved, seconded by Council Member Easthope that the resolution be adopted. On a voice vote, the Mayor declared the motion carried.

R-76-3-03 APPROVED

RESOLUTION ELIMINATING SECOND BOARD OF REVIEW OF THE CITY OF ANN ARBOR AND RECONSTITUTING THE RENAMING THE BOARD OF REVIEW

Whereas, The City Assessor requested and the Mayor, through the appointment process, in March 1990 appointed a second Board of Review to address the appeals received from local residents and businesses;
Whereas, The passage of Proposal A establishing limits on taxable values has reduced the numbers of appeals received from local residents and businesses and it is anticipated that the numbers of appeals will continue at this reduced level;

Whereas, The expiration in January 2003 of the terms of Garrett Evans and Warren McLean have reduced the membership of the Board of Review to four members with unexpired terms;
Whereas, Section 9.10(b) of the Ann Arbor City Charter requires that the Board of Review be composed of three members selected on the basis of their knowledge of the subject of taxation and property values with each member to be appointed by the Mayor, with the approval of Council, for a term of three years said terms to be stagger so that one member is appointed each year;

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Whereas, Michigan law (M.C.L.A. 211.28) does not allow for the designation of alternate members to a Board of Review;
Whereas, The Interim City Assessor has recommended the elimination of the second Board of Review since the Board no longer serves a purpose and the termination of the remaining Board member, Jean Willing's, term of service with acknowledgement of her dedicated service to the City; and
Whereas, The Interim City Assessor has recommended in accordance with the requirements of Section 9.10 (b) of the City Charter that Board of Review effective March 2003 consist of three members with staggered terms as follows:

Timothy Williams Existing term to expire January 2005
Robert White Existing term to expire January 2004
Doris Preston Existing term to terminate effective January 2003 and Recommended for reappointment to expire January 2006;

RESOLVED, That City Council eliminate its second Board of Review for the reasons stated above and reconstitutes the Board of Review as recommended by the Interim City Assessor; and
RESOLVED, That City Council formally thanks former Board of Review members Garrett Evans, Warren McLean and Jean Willing for their years of dedicated service to the City of Ann Arbor, its citizens and local businesses.

Council Member Higgins moved, seconded by Council Member Carlberg that the resolution be adopted. On a voice vote, the Mayor declared the motion carried.

REPORTS FROM COUNCIL COMMITTEES

None.

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COUNCIL PROPOSED BUSINESS

COUNCIL MEMBER JOHNSON

Council Member Johnson said that the expense of having a car towed off of private property is extensive and can range up to \$156.00. He said in other municipalities the cost is significantly less and asked if the cost of the towing fee on private property could be regulated.

COMMUNICATIONS FROM THE MAYOR

ANNOUNCEMENTS

___Mayor Hieftje asked that Roger W. Fraser, City Administrator, explain what actions are being taken to ensure the safety of patrons within the nightclubs throughout the area.

APPOINTMENTS APPROVED

Mayor Hieftje recommended the following appointments at the February 18, 2003 regular session of Council:

CDBG Executive Committee

Kim Groome (to fill a vacant position)

1417 Pear Street

Ann Arbor, MI 48105

Term: Expires June 30, 2005

Heidi Cowing Herrell (to fill the position of Thomas Miree)

2896 Sharon Drive

Ann Arbor, MI 48108

Term: Expires June 30, 2005

Historic District Committee

Mark Hildebrandt (Re-appointment)

1930 Cambridge Road

Ann Arbor, MI 48104

Term: March 3, 2003 - February 17, 2006

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Market Commission

Christine Schopieray (Re-appointment)

719 Daniel Street

Ann Arbor, MI 48103

Term: March 3, 2003 - January 21, 2006

Park Advisory Commission

Phillip D'Anieri (Re-appointment)

1131 Birk Ave.

Ann Arbor, MI 48103

Term: February 18, 2003 - January 18, 2006

Council Member Higgins moved, seconded by Council Member Reid that Council concur with the recommendations of the Mayor.

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

Council Member Carlberg moved, seconded by Council Member Groome that Council approve the following appointment:

CDBG Executive Committee

Mary A. Sansbury (Filling a Vacancy left by Stephen Sheldon)

719 Sunset Road

Ann Arbor, MI 48103

Term: March 17, 2003 - June 30, 2005

On roll call, the vote was as follows:

Yeas, Council Members Carlberg, Herrell,, Teall, Higgins, Easthope, Woods, Groome, Johnson, Lowenstein, Reid, Mayor Hieftje, 11;

Nays, 0.

The Mayor declared the motion carried.

NOMINATION PLACED ON TABLE

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

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Commission on Disability Issues

Carol Jane Schauer

2152 Hemlock Drive

Ann Arbor, MI 48108

Term: March 17, 2003 - April 2, 2006

COMMUNICATIONS FROM THE CITY ADMINISTRATOR

REPORTS SUBMITTED

City Administrator Roger Fraser submitted the following reports for information of Council (Reports on File in the City Clerk's Office):

1. Section 8 Renewal of Expiring FFY03 December Voucher Increments - Housing Commission
2. FY/2003/04 CDBG, HOME and General Fund Request for Proposal - Community Development
3. City Department Activities, Fiscal Year 2002/2003 - Second Quarter - Quarterly Report - Administrative Services

___Mr. Fraser said that the fire inspectors have been out to various nightclubs looking at capacity issues and making sure that there is appropriate access to various places within the clubs. He said that crowds have not been excessive and emergency exits were sufficient. He said that the agenda is to keep reviewing these kinds of concerns as events arise in the area.

___Mr. Fraser asked if March 24, 2003 could be set-aside for a Budget Review Meeting with staff where presentations regarding the budget can be made.

___A Working Session is scheduled for March 10, 2003 to discuss the Armen Cleaners Update; Retirement System - Actuarial Valuation; and Master Planning and Downtown Maximum Height. Mr. Fraser will not be able to attend this meeting.

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COMMUNICATIONS FROM THE CITY ATTORNEY

REPORT ON COMPLETED ANNEXATION

Interim City Attorney Jerold Lax submitted a report on the following completed annexation (Report on file in the City Clerk's Office):

1. Dawson annexation, 0.54 acre, located at 2640 Geddes Avenue from Ann Arbor Township - City File No. 9342Y21.1 and .2.

COMMUNICATIONS FROM COUNCIL

COUNCIL MEMBER EASTHOPE

Council Member Easthope stated that there have been several articles pertaining to how the City conducts business. An article in the Ann Arbor News dated March 2, 2003, associates the milage rates within Ann Arbor to high taxes wherein the city's milage rate portion is relatively insignificant to other portions. Mr. Easthope encouraged people to read the article.

COUNCIL MEMBER HIGGINS

Council Member Higgins asked that resolution in support of the introduction of an ordinance relating to wells used for monitoring, and the resolution eliminating the Second Board of Review of the City of Ann Arbor and reconstituting the remaining Board of Review be forwarded to all of Council electronically.

CLERK'S REPORT OF COMMUNICATIONS, PETITIONS AND REFERRALS

The following communication was referred as indicated and placed on file in the City Clerk's Office:

1. Communication from the Airport Advisory Committee regarding the Annual Report of Fiscal Year 2002/2003

The following minutes were received for file in the City Clerk's office:

1. Zoning Board of Appeals - August 28, 2002

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2. Community Development Block Grant Executive Committee -

December 9, 2002 and January 13, 2003

3. Downtown Development Authority Board - November 6, 2002 and January 8, 2003

4. Ann Arbor Transportation Authority Board - January 22, 2003

5. Taxicab Board - October 31, 2002 and December 5, 2002

6. Airport Advisory Committee - December 18, 2002

Council Member Herrell moved, seconded by Council Member Lowenstein that the Clerk's Report be accepted.

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

PUBLIC COMMENTARY - GENERAL

THOMAS PARTRIDGE - STOP THE WAR: THE CLASS WAR ON AMERICA'S MOST VULNERABLE PEOPLE

Thomas Partridge, 100 S. 4th Avenue #1010, addressed Council regarding the class war on America's most vulnerable people.

ADJOURNMENT

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

On a voice vote, the Mayor declared the motion carried and the meeting adjourned at 9:33 p.m.

Kathleen M. Root

Clerk of the Council

Anissa R. King

Recording Secretary