

MINUTES OF THE EAST JORDAN CITY COMMISSION REGULAR MEETING HELD TUESDAY, JANUARY 20, 2004 AT 7:30 P.M. IN CITY HALL

Present: Mayor Postma
Commissioners Symonds, McNitt, Bennett, Timmons, Vollbach and Klooster

Absent: None

Mayor Postma called the meeting to order at 7:30 p.m. and led the pledge of allegiance.

ITEM #3 Conflicts of Interest

No conflicts of interest were voiced.

CONSENT AGENDA

Motion offered by Symonds, supported by Vollbach, to approve minutes of the regular Commission meeting dated December 16, 2003, as submitted.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Symonds, supported by Vollbach, to acknowledge receipt of the Paid Bill List dated December 30, 2003, totaling \$480,511.55.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Symonds, supported by Vollbach, to acknowledge receipt of the Paid Bill List dated January 15, 2004, totaling \$270,218.09.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Symonds, supported by Vollbach, to acknowledge receipt of Funds on Hand report, December 2003.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Symonds, supported by Vollbach, to acknowledge receipt of Zoning Activity report, December 2003.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

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Motion offered by Symonds, supported by Vollbach, to acknowledge receipt of the Fire Department Monthly report, November 2003.

MOTION CARRIED ALL AYES
BYE ROLL CALL VOTE

Motion offered by Symonds, supported by Vollbach, to acknowledge receipt of the following Boards and Commission meeting minutes:

- A. DDA, December 1, 2003
- B. Board of Review, December 9, 2003
- C. Housing Commission, December 9, 2003

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Symonds, supported by Vollbach, to approve Traffic Control Order #101/2003, as submitted. (copy attached and made a part of the original minutes)

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Symonds, supported by Vollbach, to approve the following Elm Pointe rental requests:

- A. Jean Peterson, July 4, 2004
- B. Miriam Smith, June 12, 2004
- C. Helen Sturgell, August 21, 2004
- D. Toni Jeffery, August 14, 2004
- E. Mike Dionne, July 31, 2004

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

REGULAR AGENDA

ITEM #13 Resolution #101/2004, Resolution to Allow Written Protests to Property Assessments

The following resolution was offered for adoption by Klooster, supported by Symonds:

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RESOLUTION # 101/2004
RESOLUTION TO ALLOW WRITTEN PROTESTS TO
PROPERTY ASSESSMENTS

RESOLVED, in order to ensure that all taxpayers have an equal opportunity to be heard by the Board of Review, pursuant to MCL 211.30 (5) of the General Property Tax Law, the City of East Jordan City Commission hereby determines that any East Jordan taxpayer may protest their annual tax assessment by letter.

RESOLVED FURTHER, notices of assessment change and all advertisements of Board of Review meetings are to include a statement that the taxpayers may protest by letter.

AYES: Mayor Postma, Commissioners Symonds, McNitt, Bennett, Timmons, Vollbach and Klooster

NAYS: None

ABSENT: None

RESOLUTION DECLARED ADOPTED JANUARY 20, 2004.

ITEM #14 Resolution #102/2004, Delegation Resolution 2004 General Obligation Capital Improvement Bonds (Limited Tax)

RESOLUTION #102/2004
DELEGATION RESOLUTION

City of East Jordan
County of Charlevoix
State of Michigan

2004 General Obligation Capital Improvement Bonds (Limited Tax)

Minutes of a regular meeting of the City Commission of the City of East Jordan, County of Charlevoix, State of Michigan, held on the 20th day of January, 2004, at 7:30 o'clock p.m., prevailing Eastern Time.

PRESENT: Mayor Postma, Commissioners Symonds, McNitt, Bennett, Timmons, Vollbach and Klooster

ABSENT: None

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The following preamble and resolution were offered by Member McNitt and supported by Member Symonds:

WHEREAS, pursuant to Act 34, Public Acts of Michigan, 2001, and a resolution dated December 16, 2003, the City Commission of the City of East Jordan, County of Charlevoix, State of Michigan (the "Issuer") shall offer for competitive sale its \$320,000 2004 General Obligation Capital Improvement Bonds (Limited Tax) (the "Bonds"); and

WHEREAS, Wednesday, January 21, 2004, at 3:00 o'clock p.m., prevailing Eastern Time, is set as the date and time for opening bids for the purchase of the Bonds; and

WHEREAS, an Official Notice of Sale (the "Notice of Sale"), as attached hereto as Exhibit A, was published in *The Bond Buyer*, New York, New York, on January 14, 2004.; and

WHEREAS, the Issuer through this resolution intends to authorize the City Administrator to award the sale of the Bonds in a manner consistent with terms of this Resolution.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The City Administrator is hereby authorized to sell the Bonds without further approval by resolution of the Issuer and is authorized to award sale of the Bonds to the bidder whose bid produces the lowest true interest cost computed in compliance with the terms of the Notice of Sale, which bid shall comply with the requirements for bids specified in the Notice of Sale, as published, and shall be within the limitations contained in this Resolution and the requirements of law.

The purchase price for the Bonds shall not be less than 98.5% of the par amount of the Bonds. The net interest rate of the Bonds shall not be greater than 6.0% per annum. In making such determinations the City Administrator is authorized to rely upon data and computer runs provided by the Municipal Advisory Council and the Issuer's financial advisor.

2. The Issuer hereby covenants that, to the extent permitted by law, it shall take all actions within its control necessary to maintain the exclusion of the interest on the Bonds from adjusted gross income for general federal income tax purposes under the Internal Revenue Code of 1986, as amended, including, but not limited to, actions relating to the rebate of arbitrage earnings, if applicable, and the expenditure and investment of Bond proceeds and moneys deemed to be Bond proceeds.

3. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same hereby are rescinded.

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HALL**

AYES: Klooster, Vollbach, Timmons, Bennett, McNitt, Symonds and
Postma

NAYS: None

RESOLUTION DECLARED ADOPTED.

EXHIBIT A

OFFICIAL NOTICE OF SALE

\$320,000

CITY OF EAST JORDAN
COUNTY OF CHARLEVOIX, STATE OF MICHIGAN
2004 GENERAL OBLIGATION
CAPITAL IMPROVEMENT BONDS (LIMITED TAX)

SEALED BIDS for purchase of the above bonds will be received by the undersigned at the Offices of the City Clerk located at 201 Main Street, East Jordan, Michigan 49727 on Wednesday, the 21st day of January, 2004 until 3:00 p.m., Eastern Standard Time at which time and place said bids will be publicly opened and read.

SEALED BIDS will also be received on the same date and until the same time at the offices of the Municipal Advisory Council of Michigan, 1445 First National Building, 600 Woodward Ave., Detroit, Michigan 48226, when, simultaneously, the bids will be opened and read.

FAXED BIDS: Signed bids may be submitted by fax to the City at fax number (231) 536-3383, Attention: City Clerk or to the Municipal Advisory Council of Michigan at (313) 963-0943; provided that faxed bids must arrive before the time of sale and the bidder bears all risks of transmission failure and the GOOD FAITH DEPOSIT MUST BE MADE AND RECEIVED as described in the section contained "GOOD FAITH" below.

ELECTRONIC BIDS: Electronic bids will also be received on the same date and until the same time by Bidcomp/Parity as agent of the undersigned. Further information about Bidcomp/Parity, including any fee charged, may be obtained from Bidcomp/Parity, Anthony Leyden or Client Services, 40 West 23rd Street, New York, New York 10010, (212) 404-8102. NO ELECTRONIC BID WILL BE ACCEPTED UNLESS THE BIDDER HAS SUBMITTED A FINANCIAL SURETY BOND OR A CERTIFIED OR CASHIERS CHECK IN THE AMOUNT DESCRIBED IN THE SECTION CAPTIONED "GOOD FAITH" BELOW. IF ANY PROVISIONS OF THIS NOTICE OF SALE SHALL CONFLICT WITH INFORMATION PROVIDED BY BIDCOMP/PARITY, AS THE APPROVED PROVIDER OF ELECTRONIC BIDDING

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SERVICES, THIS NOTICE OF SALE SHALL CONTROL.

BOND DETAILS: The bonds will be registered bonds of the denomination of \$5,000 or multiples thereof not exceeding for each maturity the maximum principal amount of that maturity, originally dated as of January 1, 2004, numbered in order of registration, and will bear interest from their date payable on June 1, 2004, and semiannually thereafter.

The bonds will mature on the 1st day of June in each of the years, as follows:

<u>Year</u>	<u>Amount (\$)</u>
2007	45,000
2008	45,000
2009	45,000
2010	45,000
2011	45,000
2012	45,000
2013	50,000

NO PRIOR REDEMPTION OF BONDS: Bonds of this issue are not subject to redemption prior to maturity.

INTEREST RATE AND BIDDING DETAILS: The bonds shall bear interest at rate or rates not exceeding 6% per annum, to be fixed by the bids therefor, expressed in multiples of 1/8 or 1/20 of 1%, or both. The interest on any one bond shall be at one rate only and all bonds maturing in any one year must carry the same interest rate. THE INTEREST BORNE BY BONDS MATURING IN ANY ONE YEAR SHALL NOT BE LESS THAN THE INTEREST RATE BORNE BY BONDS MATURING IN THE PRECEDING YEAR. The difference between the highest and lowest interest rates bid shall not exceed two percent (2%) per annum. No proposal for the purchase of less than all of the bonds or at a price less than 98.5% of their par value will be considered.

BOOK-ENTRY ONLY: The bonds may be issued in book-entry only form as one fully registered bond per maturity and will be registered in the name of Cede & Co., as bondholder and nominee for The Depository Trust Company ("DTC"), New York, New York. DTC will act as securities depository for the bonds. Purchase of the bonds will be made in book-entry-only form, in the denomination of \$5,000 or any multiple thereof. Purchasers will not receive certificates representing their interest in bonds purchased. It will be the responsibility of the purchaser to obtain DTC eligibility. Failure of the purchaser to obtain DTC eligibility shall not constitute cause for a failure or refusal by the purchaser to accept delivery of and pay for the bonds.

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TRANSFER AGENT AND REGISTRATION: Principal and interest shall be payable at the corporate trust office of the Michigan bank or trust company selected by the City Administrator at the time of the award of the bonds, or such other transfer agent as the City may hereafter designate by notice mailed to the registered owner of record not less than 60 days prior to an interest payment date. Interest shall be paid by check mailed to the registered owner of record as shown on the registration books of the City as of the 15th day prior to an interest payment date. The bonds will be transferred only upon the registration books of the City kept by the transfer agent.

PURPOSE AND SECURITY: The bonds are authorized for the purpose of paying all or part of the cost of acquiring, constructing and installing certain capital improvements in the City. The bonds will be a first budget obligation of the City, payable as a first budget obligation from the general funds of the City including the collection of ad valorem taxes on all taxable property in the City subject to applicable constitutional, charter and statutory tax rate limitations. The rights or remedies of bondholders may be affected by bankruptcy insolvency, fraudulent conveyance or other laws affecting creditors' rights generally now existing or hereafter enacted and by the application of general principles of equity including those relating to equitable subordination.

GOOD FAITH: A certified or cashier's check drawn upon an incorporated bank or trust company or a Financial Surety Bond, in the amount of \$6,400, and payable to the order of the Treasurer of the City is required for each bid as a guaranty of good faith on the part of the bidder, to be forfeited as a portion of the City's damages if such bid be accepted and the bidder fails to take up and pay for the bonds. If a check is used, it must accompany each bid. If a Financial Surety Bond is used, it must be from an insurance company licensed to issue such a bond in the State of Michigan and such Bond must be submitted to the City's financial consultant prior to the opening of the bids. The Financial Surety Bond must identify each bidder whose good faith deposit is guaranteed by such Financial Surety Bond. If the bonds are awarded to a bidder utilizing a Financial Surety Bond, then that purchaser (the "Purchaser") is required to submit its good faith deposit to the City in the form of a cashier's check (or wire transfer such amount as instructed by the City or its financial consultant) not later than Noon, prevailing Eastern Time, on the next business day following the award. If such good faith deposit is not received by that time, the Financial Surety Bond may be drawn upon by the City to satisfy the good faith deposit requirement. The good faith deposit will be applied to the purchase price of the bonds. In the event the purchaser fails to honor its accepted bid, the good faith deposit will be retained by the City. No interest shall be allowed on the good faith check and checks of the unsuccessful bidders will be returned to each bidder's representative or by overnight delivery. The good faith check of the successful bidder will be cashed and payment for the balance of the purchase price of the bonds shall be made at the closing.

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AWARD OF BONDS: The bonds will be awarded to the bidder whose bid produces the lowest true interest cost determined in the following manner: the lowest true interest cost will be the single interest rate (compounded on June 1, 2004 and semi-annually thereafter) necessary to discount the debt service payments from their respective payment date to February 3, 2004, in an amount equal to the price bid, excluding accrued interest.

TAX MATTERS: In the opinion of bond counsel, assuming compliance with certain covenants, interest on the bonds is excluded from gross income for federal income tax purposes as described in the opinion, and the bonds and interest thereon are exempt from all taxation in the State of Michigan except inheritance and estate taxes and taxes on gains realized from the sale, payment or other disposition thereof. The successful bidder will be required to furnish, prior to the delivery of the bonds, a certificate in a form acceptable to bond counsel as to the "issue price" of the bonds within the meaning of Section 1273 of the Internal Revenue Code of 1986.

"QUALIFIED TAX EXEMPT OBLIGATIONS": The City has designated the bonds as "qualified tax exempt obligations" for purposes of deduction of interest by financial institutions.

LEGAL OPINION: Bids shall be conditioned upon the approving opinion of Miller, Canfield, Paddock and Stone, P.L.C., attorneys of Detroit, Michigan, a copy of which opinion will be furnished without expense to the purchaser of the bonds at the delivery thereof. The fees of Miller, Canfield, Paddock and Stone, P.L.C. for services rendered in connection with such approving opinion are expected to be paid from bond proceeds. Except to the extent necessary to issue its approving opinion as to validity of the above bonds, Miller, Canfield, Paddock and Stone, P.L.C. has not been requested to examine or review and has not examined or reviewed any financial documents, statements or materials that have been or may be furnished in connection with the authorization, issuance or marketing of the bonds, and accordingly will not express any opinion with respect to the accuracy or completeness of any such financial documents, statements or materials. In submitting a bid for the bonds, the bidder agrees to the representation of the City by Miller, Canfield, Paddock and Stone, P.L.C., as bond counsel.

DELIVERY OF BONDS: The City will furnish bonds ready for execution at its expense. Bonds will be delivered without expense to the purchaser at New York, New York, or such other place to be agreed upon. The usual closing documents, including a certificate that no litigation is pending affecting the issuance of the bonds, will be delivered at the time of delivery of the bonds. If the bonds are not tendered for delivery by twelve o'clock noon, prevailing Eastern Time, on the 45th day following the date of sale, or the first business day thereafter if said 45th day is not a business day, the successful bidder may on that day, or any time thereafter until delivery of the bonds, withdraw its

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proposal by serving notice of cancellation, in writing, on the undersigned in which event the City shall promptly return the good faith deposit. Payment for the bonds shall be made in Federal Reserve Funds. Accrued interest to the date of delivery of the bonds shall be paid by the purchaser at the time of delivery.

CUSIP NUMBERS: It is anticipated that CUSIP identification numbers will be printed on the bonds, but neither the failure to print such numbers on any bonds nor any error with respect thereto shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and pay for the bonds in accordance with terms of the purchase contract. All expenses in relation to the printing of CUSIP numbers on the bonds shall be paid for by the City; provided, however, that the CUSIP Service Bureau charge for the assignment of such numbers shall be the responsibility of and shall be paid for by the purchaser. **The winning bidder may specify as part of the bid that CUSIP numbers not be printed on the bonds.**

MICHIGAN PROPERTY TAX REFORM: The Michigan Department of Treasury approved revisions to the State's personal property tax tables which became effective in the year 2000 and which may reduce overall personal property tax revenues in some jurisdictions. The State Tax Tribunal informally indicated that it might allow the new multipliers to be applied retroactively in pending personal property tax appeals. In anticipation of the new multipliers, many personal property taxpayers filed appeals of their existing tax assessments. The financial impact of the change in multipliers and any appeals, if successful, on the City's operating revenues and revenues available for debt service is unknown. The ultimate nature, extent and impact of the legislation or administrative action and of other tax and revenue measures which are still under consideration cannot currently be predicted. No assurance can be given that any future legislation or administrative action, if enacted or implemented, will not adversely affect the market price or marketability of the Bonds, or otherwise prevent bondholders from realizing the full current benefit of an investment therein. Purchasers of the Bonds offered herein should be alert to the potential effect of such measures upon the Bonds, the security therefor, and the operations of the City.

NO OFFICIAL STATEMENT: The City will not provide an official statement with respect to the bonds.

NO CONTINUING DISCLOSURE: The City will not provide a continuing disclosure undertaking with respect to the issue of these bonds.

FINANCIAL CONSULTANT: Further information relating to the bonds may be obtained from Stauder, Barch & Associates, Inc., Public Financial Consultants, financial advisors to the City, 3989 Research Park Drive, Ann Arbor, Michigan 48108. Telephone: (734) 668-6688, Facsimile: (734) 668-6723.

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THE RIGHT IS RESERVED TO REJECT ANY OR ALL BIDS.

ENVELOPES containing the bids should be plainly marked "Proposal for 2004 General Obligation Capital Improvement Bonds (Limited Tax)."

Lori Campbell
City Clerk
City of East Jordan

ITEM #15 Chamber of Commerce, Civic Center Request

Motion offered by Symonds, supported by Vollbach, to approve the rental request from the Chamber of Commerce for use of the Civic Center and to waive the rental fee for February 28, 2004.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

ITEM #16 Camp EJ Invoice

Motion offered by Symonds, supported by McNitt, to authorize payment of the invoice in the amount of \$6,135.52 to East Jordan Public Schools for one-half of the cost for Camp EJ for 2001 and 2002 using the Parks and Recreation Contract Services line item to support the payment.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

ITEM #17 Portside Art Fair, Elm Pointe request

Motion offered by Symonds, supported by Vollbach, to approve the Portside Art Fair request for use of Elm Pointe from August 6, 2004 to August 8, 2004 and to waive the rental fee.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

ITEM #18 DDA Update

Mayor Postma informed Commission that the DDA has changed their monthly meeting day to the third Monday of the month at 5:30 p.m.

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Postma presented Commission with a request from the DDA Board asking to waive the bid process and allow a purchase of street furniture and litter receptacles in the amount of \$12,342.00.

Motion offered by McNitt, supported by Klooster, to waive the bid process for the DDA to purchase street furniture and litter receptacles.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Symonds, supported by Vollbach, to authorize the purchase of street furniture and litter receptacles in the amount of \$12,342.00.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

ITEM #19 Administrator's Report

ADMINISTRATOR'S REPORT
JANUARY 20, 2004

1. I am sorry to report Mr. Lawrence (Larry) Ingalls, owner of the Loveday and EJ Shoppe buildings died of cancer last week. Mr. Ingalls restored both the Loveday building and the E.J. Shoppe buildings to help with our downtown renovation though not from East Jordan our community held a special place in his heart.
2. I am happy to report that a Napa Auto Parts store will be opening in the former Sherman's Appliance building. I am sure you will want to also welcome this new business to our community.
3. I have been in contact with Capital Consultants regarding the park lineage plan update they are working on. They are planning to present their recommendations to the Commission at the February 3rd meeting.
4. I have received a request from an attorney for the Schroeder family regarding an easement to their property on Barker, Ontario and McKenzie Streets. I have referred their request to the City Attorney for review and comment. I am sure the City Attorney will have more on this request, and share with the Commission.
5. Finally, I would publicly wish to congratulate Mary Faculak for her many years of dedicated service to our community. As Executive Director for the East Jordan Chamber of Commerce, she has been involved with many of the important projects that have changed and benefited our community

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and will for many years to come. I hope you will wish her well as I do with her new endeavors but she will be sorely missed on "Team EJ".

Administrator White presented the Commission with a proposal to rent a mobile home trailer and garage for the ambulance department to relocate the EMS office and provide temporary living quarters for the on-call paramedic.

Commissioner Symonds stated he would be abstaining from the discussion and voting on this proposal due to his real estate agent relationship to the land owners.

Motion offered by Vollbach, supported by Klooster, to authorize the City Administrator to enter into a rental agreement not to exceed \$500 per month upon review of the lease agreement by the City Attorney.

MOTION CARRIED BY ROLL CALL VOTE
AYES: MCNITT, BENNETT, TIMMONS, VOLLBACH, KLOOSTER AND POSTMA
ABSTAIN: SYMONDS

ITEM #20 Mayor's Report

No items to report.

ITEM #21 Attorney's Report

No items to report.

ITEM #22 Commissioners

Commissioner Symonds informed Commission of the Appointments Committee meeting held January 20, 2004 at 7:15 p.m. to fill vacancies and renew terms on the various Boards and Commissions of the city. He informed the Commission of the Committees recommendations.

Motion offered by Klooster, supported by Vollbach, to accept the recommendation from the Appointments Committee and approve the following appointments and reappointments to the various Boards and Commissions of the city.

Reappointments as follows:

ELM POINTE COMMISSION (3 Year Term)

Toni Jeffery
Cheryl Hofweber

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HOUSING COMMISSION (5 Year Term)
Billie Murphy

PLANNING COMMISSION (3 Year Term)
Marie Yettaw
Bill Dunson
Jim LaBeau

DDA BOARD (4 Year Term)
Mark Penzien

BROWNFIELD REDEVELOPMENT (3 Year Term)
Barb Worgess

BOARD OF APPEALS (3 Year Term)
Bonnie Thomas
Jackie Cutler, alternate member

Appointments as follows:

DDA BOARD 2 vacancies (4 year term)
Sarah Hodges (fill vacancy term expires 12/2004)
Richard Hodgson

JORDAN VALLEY DISTRICT LIBRARY BOARD 2 vacancies (4 year term)
Diane Boyer (fill vacancy term expires 7/2006)
Alina Craig (fill vacancy term expires 7/2004)

BOARD OF REVIEW 1 vacancy (2 year term)
Susan Rock (fill vacancy term expires 12/2004)

BOARD OF APPEALS 1 vacancy (3 year term)
Mike Burr

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Commissioner McNitt questioned whether a letter received from the Schroeder's attorney is an issue for the Commission to address.

Attorney Beatty informed Commission that he has spoken with Attorney Banner and he again stated he felt this was a private matter between property owners.

Commissioner Klooster informed Commission of the successful Sno-Blast festival.

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ITEM #23 Speaker Requests

Speaker Request #1-Gary Walker

Gary Walker addressed with Commission his concerns regarding the District Library Boards recent decisions and the article published in the newspaper stating support for the relocation of the District Library.

He reviewed several studies and surveys stating that not one study or survey showed community support on the relocation of the library to the proposed location. He also noted the studies and surveys did not state that the current location is in need of enlargement.

Speaker Request #2-Chris Curtin

Chris Curtin addressed the Commission regarding the decisions of the District Library Board members. She stated the space needs study showed the that the Library was in need of 17,000 square feet and that the current location did not allow for this type of expansion.

Other members of the Library Board addressed the Commission with their concerns and views.

Mayor Postma adjourned the meeting at 8:49 p.m.

Respectfully,

Mark Postma, Mayor

Lori M. Campbell, City Clerk