

**MINUTES OF THE EAST JORDAN CITY COMMISSION REGULAR MEETING HELD
TUESDAY, JANUARY 16, 2007 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 Inquiry of Conflicts of Interest

No conflicts of interest were voiced.

CONSENT AGENDA

Motion offered by Symonds, second by McNitt, to approve the minutes of the Regular Commission meeting dated December 19, 2006, as submitted.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Symonds, second by McNitt, to acknowledge receipt of the Paid Bill List dated December 28, 2006, totaling \$275,559.42.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Symonds, second by McNitt, to acknowledge receipt of the Paid Bill List dated January 11, 2007, totaling \$748,599.10.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Symonds, second by McNitt, to acknowledge receipt of the Funds on Hand Report, December 2006.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Symonds, second by McNitt, to acknowledge receipt of the Zoning Activity Report, December 2006.

MOTION CARRIED ALL AYES
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Motion offered by Symonds, second by McNitt, to acknowledge receipt of the Annual Zoning Activity Report, 2006.

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MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Symonds, second by McNitt, to acknowledge receipt of the following minutes:

- A. Bid Opening, December 14, 2006 RE: 102 Water Street Demolition
- B. Appointments Committee, December 19, 2006
- C. Housing Commission, December 12, 2006

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Symonds, second by McNitt, to approve the following Elm Pointe rental requests:

- A. Helen Shaw, August 11, 2007
- B. Katie Bobowski, June 16, 2007
- C. Jean Peterson, July 4, 2007

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

REGULAR AGENDA

ITEM #12 Douglas Wohlberg, FY 2005/2006 Audit Presentation

Douglas Wohlberg, CPA presented the City's Financial Statements for Fiscal Year Ending June 30, 2006 to the City Commission. Each Commissioner was given an Independent Auditor's Report for the City and DDA.

ITEM #13 East Jordan Lions Club, Firewood and Ice Agreement Review

Motion offered by Symonds, second by Klooster, to renew the agreement with the Lions Club allowing firewood and ice sales in the Tourist Park for the 2007 camping season.

MOTION CARRIED
BY ROLL CALL VOTE

AYES-SYMONDS, BENNETT, TIMMONS, VOLLBACH, KLOOSTER AND POSTMA
NAYS-MCNITT

Commissioner McNitt stated that he felt the City should accept bids for the sale of firewood.

ITEM #14 Portside Historical Society, Elm Pointe rental request

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Motion offered by McNitt, second by Symonds, to approve the Portside Historical Society's request for use of Elm Pointe for the annual Portside Arts Fair and to waive the rental fee.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

ITEM #15 Resolution 101-2007, Performance Resolution for Governmental Bodies

The following resolution was offered for adoption by Symonds, second by Vollbach:

RESOLUTION 101-2007
MICHIGAN DEPARTMENT OF TRANSPORTATION
PERFORMANCE RESOLUTION FOR GOVERNMENTAL BODIES

RESOLVED WHEREAS, the City of East Jordan hereinafter referred to as the "GOVERNMENTAL BODY," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utility or other facilities, or to conduct other activities, on, over and under state trunkline right of way at various locations within and adjacent to its corporate limits;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT the GOVERNMENTAL BODY agrees that:

1. It will fulfill all permit requirements and will indemnify, save harmless, represent and defend the State of Michigan, Michigan Department of Transportation Commission, and the DEPARTMENT and all officers, agents, employees and those contracting governmental bodies performing permit activities for the DEPARTMENT according to a maintenance contract:
 - a. from any and all claims and losses occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials or supplies to the GOVERNMENTAL BODY in connection with the presence of the GOVERNMENTAL BODY's facilities and/or its installation, construction, operation or maintenance activities which are being performed under the terms of the PERMIT on, over and/or under the state trunkline right of ways; and
 - b. from any and all claims of every kind for injuries to, or death of, any and all persons, and for loss of or damage to property, and environmental damage or degradation, and from attorney's fees and related costs arising out of, under or by reason of the presence of the GOVERNMENTAL BODY's facilities and/or its installation, construction, operation or maintenance activities which are being performed under the terms of the

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PERMIT on, over and/or under the state trunkline right of way, except claims resulting from the sole negligence or willful acts or omissions of said DEPARTMENT performing permit activities.

- c. from any and all claims made by any and all persons, firms or corporations furnishing or supplying materials, supplies, work or services on, over and/or under the State trunkline right of way pursuant to an agreement with the State of Michigan, the DEPARTMENT and/or the Michigan Transportation Commission, as a result of the GOVERNMENTAL BODY's failure to move or otherwise relocate its facilities in a timely manner after being requested to do so by the DEPARTMENT.
2. Any work performed for the GOVERNMENTAL BODY by a contractor or subcontractor will be solely as a contractor for the GOVERNMENTAL BODY and not as a contractor or agent of the DEPARTMENT. Any claims by any contractor or subcontractor will be the sole responsibility of the GOVERNMENTAL BODY. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the GOVERNMENTAL BODY, or their subcontractors or any other person not a party to the PERMIT without its specific prior written consent and notwithstanding the issuance of the PERMIT.
3. The GOVERNMENTAL BODY shall take no wrongful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officer, agents and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.
4. It will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State trunkline right of way resulting from the installation construction, operation and/or maintenance of the GOVERNMENTAL BODY's facilities according to a PERMIT issued by the DEPARTMENT.
5. With respect to any activities authorized by PERMIT, when the COMPANY requires insurance on its own or its contractor's it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT and all officers, agents and employees thereof and those governmental bodies performing permit activities for the

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DEPARTMENT and all officers, agents and employees thereof, pursuant to a maintenance contract.

- 6. The incorporation by the DEPARTMENT of this indemnification resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.
- 7. This indemnification resolution shall continue in force from this date until cancelled by the GOVERNMENTAL BODY or the DEPARTMENT with no less than thirty (30) days prior written notice to the other party. It will not be cancelled or otherwise terminated by the GOVERNMENTAL BODY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED, that the following position(s) are authorized to apply to the Michigan Department of Transportation for the necessary permit to work within state trunkline right of way on behalf of the GOVERNMENTAL BODY.

Name	And/or	Title
Bill Breakey	or	Public Works Superintendent
Larry Chew	or	Crew Leader
David M. White		City Administrator

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

NAYS: None

ABSENT: None

Resolution declared adopted January 16, 2007.

ITEM #16 Resolution 102-2007, Resolution Accepting the Terms of the Agreement as Received from the Michigan Department of Natural Resources

RESOLUTION 102-2007

Upon motion made by Commissioner McNitt, seconded by Commissioner Symonds, the following Resolution was adopted:

“RESOLVED, that the City of East Jordan, Michigan, accepts the terms of the Agreement as received from the Michigan Department of Natural Resources and that the City agrees, but not by way of limitation, as follows:

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1. To appropriate the sum of Eight Thousand Sixty-nine dollars and Twenty-five cents (\$8,069.25) to match the Eight Thousand Sixty-nine dollars and Twenty-five cents (\$8,069.25) State grant authorized by the Department.
2. To maintain satisfactory financial accounts, documents, and records, and to make them available to the Department for auditing at reasonable times.
3. To construct the facilities and provide the funds, services, and materials as may be necessary to satisfy the terms of the Agreement.
4. To insure that all premises, buildings, and equipment related procedures comply with all applicable State and Federal regulations.
5. To establish and appoint the City Administrator to regulate the use of the facilities constructed under this Agreement to assure the use thereof by the public on equal and reasonable terms.
6. To enforce all State statutes and local ordinances pertaining to marine safety and to enforce statutes of the State of Michigan within the confines of the City pertaining to the licensing of watercraft. Watercraft not fully complying with the laws of the State of Michigan relative to licensing shall not be permitted to use the facility until full compliance with those laws has been made.
7. To comply with all terms of the Agreement, including all terms not specifically set forth in the foregoing portions of this Resolution.”

The following aye votes were recorded:

Mayor Postma, Commissioners Symonds, McNitt, Bennett, Timmons, Vollbach and Klooster.

The following nay votes were recorded:

None

Resolution declared adopted January 16, 2007.

Motion offered by Symonds, second by McNitt, to accept the Michigan Department of Natural Resources grant in the amount of \$8,069.25 and to authorize the City Administrator to sign the agreement.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

ITEM #17 DDA Update

Mayor Postma informed the Commission that the DDA held the election of officers for 2007.

Chairperson-Tom Teske

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Vice Chairperson-Mark Penzien
Secretary-Shelly Stallard
Treasurer-Sharon Jackson

ITEM #18 Administrator's Report

Aaron Nordman, Performance Engineering, updated the Commission on the status of the sewer force main extension on M66 north of the city. He presented drawings and noted that he would like the intergovernmental agreement finalized by the end of the month. He also presented a memo with requests from the property owners investing in the sewer extension. (copy attached and made a part of these original minutes)

Commission discussed the requests and asked that the City Administrator and Attorney work with Performance Engineers to complete the necessary documents.

Motion offered by Bennett, second by Vollbach, to refer the M66 sewer force main extension proposal to City staff and authorize the City Administrator to sign the permit application as long as the signature does not bind the City to the agreement and the project.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

ADMINISTRATOR'S REPORT
JANUARY 16, 2007

1. Bids were received for the demolition of the old 4 Corner Market. The bids received called for the foundation and floor slab to be removed. Removal of the foundations and floor slab is to be done when the boat launch is completed. All of the bidders were contacted and asked to submit revised bids not including the foundations and floor slab; the low bid stayed the same. Last week Hilltop Excavating presented to me a new price for the demolition as they received a better dumpster fee. This new figure would make Hilltop the low bid by \$170. I am requesting that the City Commission reject all bids and the project be rebid without the foundation and slab removal. I feel to be fair to all the bidders that a reject and rebid is the only fair solution. Should the Commission have any questions I would be happy to answer them.
2. At the last Commission meeting the Commission was asked by a resident if a sewer line could be run to 509 Division Street. The Commission asked that I meet with the property owner to review their request. A sewer line can be extended 150 feet to service 509 Division as well as a buildable lot across the street. The DPW Superintendent has estimated a total project cost of \$14,700 not to exceed. Butch is very confident that the job can be brought in for less. The Sewer Fund has funds available to do this small job and will receive a tap fee for 509 and a second if a home is built on the lot across the

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street. Should the Commission agree to do this project. A motion would be needed to approve DPW to do the work and to appropriate funds from the sewer fund fund balance.

3. The Downtown development project continues to move forward. Test bores are to be drilled and a PSI test to be done so the foundation can be engineered. The notice of intent for grant funding has been started once again. The developer continues to work on financing but does now have control of the property. I will keep the Commission up to date as we continue to move forward.

Motion offered by Symonds, second by Vollbach, to reject all the bids received for the demolition of 102 Water Street and to rebid the project.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Bennett, second by Klooster, to approve the construction of a sewer extension on Division Street by the Department of Public Works and to authorize the cost for construction from the Sewer Fund fund balance.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Administrator White presented the Commission with a request from the hotel developer asking the City to fund \$17,500 for the relocation of a power pole on the project site. White noted that Consumers Energy requires payment prior to the relocation and the City would be reimbursed for the cost when the MEDC grant is received.

Motion offered by McNitt, second by Vollbach, to authorize payment to Consumers Energy to relocate a power pole at the hotel site according to requirements for reimbursement from the MEDC grant.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

ITEM #19 Mayor's Report

Mayor Postma informed the Commission that the City was not selected as an Entrepreneurial Community. He noted the City would still be allowed to send two people to the Entrepreneurial Community training.

ITEM #20 Attorney's Report

No items to report.

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ITEM #21 Commissioners

Commissioner McNitt asked Treasurer Moreau if the funding would be available for the \$17,500 cost to relocate the power pole.

Treasurer Moreau stated that she would have to research the budget to determine the funding.

Commissioner Bennett stated that the dock is still in at the boat launch and with now ice forming on the lake he wanted the dock removed so it is not damaged.

Commissioner Klooster thanked Firefighter Tom Breakey and EMS Director Jay Peck for spending time with a young man from Gaylord and taking him on a tour of their respective facilities and vehicles.

ITEM #22 Speaker Requests

No speaker request slips were received.

Mayor Postma adjourned the meeting at 8:50 p.m.

Respectfully,

Mark Postma
Mayor

Lori M. Campbell, CMC
City Clerk