

**MINUTES OF THE EAST JORDAN CITY COMMISSION REGULAR MEETING
HELD TUESDAY, MAY 15, 2007 AT 7:37 P.M. IN CITY HALL**

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

Absent: None

Mayor Postma called the meeting to order at 7:37 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 Klooster, second by Vollbach, to approve the minutes of the
Regular Commission Meeting dated May 1, 2007, as submitted.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Klooster, second by Vollbach, to acknowledge receipt of the
Paid Bill List dated May 10, 2007, totaling \$281,548.37.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Klooster, second by Vollbach, to acknowledge receipt of the
Funds on Hand Report, April 2007.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Klooster, second by Vollbach, to acknowledge receipt of the
Monthly Zoning Activity Report, April 2007.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

Motion offered by Klooster, second by Vollbach, to acknowledge receipt of the
Police Department Monthly Public Safety Report, April 2007.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

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Motion offered by Klooster, second by Vollbach, to acknowledge receipt of the following minutes:

- A. Jordan Valley District Library, February 28, 2007
- B. Jordan Valley District Library, March 1, 2007
- C. Jordan Valley District Library, March 28, 2007
- D. DDA, April 2, 2007
- E. Housing Commission, April 10, 2007

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

REGULAR AGENDA

ITEM #11 Jordan Valley Freedom Festival

Motion offered by Vollbach, second by McNitt, to approve the Jordan Valley Freedom Festival requests and to allow amendments to requests as approved by various Department Heads.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

ITEM #12 Lady Biker Day Civic Center Request

Motion offered by McNitt, second by Symonds, to approve the Lady Biker Day request for use of the Civic Center and to waive the rental fee.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

ITEM #13 East Jordan Rotary Club Request

Motion offered by Symonds, second by McNitt, to approve the Rotary Club and Lions Club request for use of the Tourist Park building and to waive the rental fee.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

ITEM #14 First Presbyterian Church Elm Pointe Request

Motion offered by McNitt, second by Vollbach, to approve the First Presbyterian Church request for use of Elm Pointe and to waive the rental fee.

MOTION CARRIED ALL AYES

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BY ROLL CALL VOTE

ITEM #15 Resolution 114-2007, Cable Franchise Agreement

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

RESOLUTION #114/2007
CABLE FRANCHISE AGREEMENT

WHEREAS, Public Act 480 of 2006 (the "Act") requires video service providers to obtain a franchise from a municipality by means of a Uniform Video Service Local Franchise Agreement ("Uniform Franchise"); and

WHEREAS, the Michigan Public Service Commission ("MPSC") on January 30, 2007 issued an Order that provided a Uniform Franchise form; and

WHEREAS, the Act provides the City of East Jordan (the "Municipality") fifteen (15) business days from the date of application for a Uniform Franchise is filed with the Municipality to respond as to the completeness of the Uniform Franchise; and

WHEREAS, the Act provides the Municipality thirty (30) days from the submission date of a complete application for a Uniform Franchise in which to act to approve the Uniform Franchise; and

WHEREAS, the Municipality has determined that it must designate an official to whom it delegates the authority to respond to, complete, sign, and approve Uniform Franchise applications in order to meet the deadlines under the Act, including establishing the video service provider franchise fees and fees to support public, educational, and governmental access facilities and services provided for in Uniform Franchises, and taking all actions related thereto; and

WHEREAS, the Municipality desires to provide such official with guidance on such fees; and

WHEREAS, the Municipality does not intend that by approving a Uniform Franchise that it shall be waiving rights, nor does it understand that the Act of the MPSC Order so requires.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the City of East Jordan designates and delegates the City Manager and special counsel full authority to respond to, complete and approve Uniform Franchise applications, and take all actions related thereto; and

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BE IT FURTHER RESOLVED that the foregoing authority includes the authority to determine within the statutory deadlines whether the Uniform Franchise as submitted is complete, and having the authority to sign it indicating approval of the Municipality; and

BE IT FURTHER RESOLVED that a fee of 5% of gross revenues from video service providers is hereby established as the annual video service provider franchise fee, with the City Manager having the authority to modify such fee, if appropriate; and

BE IT FURTHER RESOLVED that no approvals, deemed approvals under the Act or signature of the City Manager on a Uniform Franchise shall be construed or understood to be a waiver by the Municipality of its police powers; rights it may possess under the Act, Michigan law, the Michigan Constitution, or federal law; or right to challenge or modify a Uniform Franchise if the Act in whole or in part is amended by the legislature or overturned by the courts.

ROLL CALL VOTE:

AYES: SYMONDS, TIMMONS, VOLLBACH, KLOOSTER AND POSTMA

NAYS: MCNITT AND BENNETT

ABSENT: NONE

RESOLUTION DECLARED ADOPTED MAY 15, 2007.

ITEM #16 Resolution 115-2007, Resolution Declaring Intent to Issue Capital Improvement Bonds and Authorize Reimbursement (Boat Launch Project)

RESOLUTION #115-2007
CITY OF EAST JORDAN
County of Charlevoix, Michigan

RESOLUTION DECLARING INTENT TO ISSUE
CAPITAL IMPROVEMENT BONDS AND
AUTHORIZE REIMBURSEMENT
(BOAT LAUNCH PROJECT)

Minutes of a regular meeting of the City Commission of the City of East Jordan, County of Charlevoix, Michigan, held in the Commission Chambers in the City Hall on the 15th day of May, 2007, at 7:30 o'clock p.m., Eastern Daylight Time.

**MINUTES OF THE EAST JORDAN CITY COMMISSION REGULAR MEETING
HELD TUESDAY, MAY 15, 2007 AT 7:37 P.M. IN CITY HALL**

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

ABSENT: None

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

WHEREAS, the City Commission of the City of East Jordan, County of Charlevoix, Michigan ("the City") intends to authorize the issuance and sale of one or more series of bonds to pay all or part of the cost of acquiring property to be used to expand and improve the City's existing boat launch facilities including demolition, related site improvements, appurtenances and attachments thereto (the "Improvements"); and

WHEREAS, the total amount of bonds to be so issued to finance the acquisition and construction of the Improvements shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000); and

WHEREAS, a notice of intent to issue bonds must be published before the issuance of the aforesaid bonds in order to comply with the requirements of Section 517 of Act 34, Public Acts of Michigan, 2001, as amended; and

WHEREAS, the Commission desires to make certain declarations for the purpose of complying with the reimbursement rules of Treas. Reg. §1.150-2 pursuant to the Internal Revenue Code of 1986, as amended.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is hereby authorized and directed to publish a notice of intent to issue bonds in *The Citizen Journal*, a newspaper of general circulation in the City.

2. Said notice of intent shall be published once as a **one-quarter page display advertisement** in substantially the form attached hereto as Appendix A.

3. The City Commission does hereby determine that the foregoing form of Notice of Intent to Issue Bonds and the manner of publication directed is the method best calculated to give notice to the taxpayers and electors of the City's intent to issue the bonds, the purpose of the bonds, the security for the bonds, and the right of referendum relating thereto, and the newspaper named for publication is hereby determined to reach the largest number of persons to whom the notice is directed.

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4. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

- (a) As of the date hereof, the City reasonably expects to reimburse the City for the expenditures described in (b) below with proceeds of debt to be incurred by the City.
- (b) The expenditures described in this paragraph (b) are for the costs of acquiring, constructing and installing the Improvements which were or will be paid subsequent to sixty (60) days prior to the date hereof.
- (c) The maximum principal amount of debt expected to be issued for the Improvements, including issuance costs, is \$250,000.
- (d) A reimbursement allocation of the expenditures described in (b) above with the proceeds of the borrowing described herein will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Improvements is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the debt to be issued for the Improvements to reimburse the City for a capital expenditure made pursuant to this resolution.
- (e) The expenditures described in (b) above are "capital expenditures" as defined in Treas. Reg. § 1.150-1(b), which are any costs of a type which are properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of placed in service under Treas. Reg. § 1.150-2(c)) under general Federal income tax principles (as determined at the time the expenditure is paid).
- (f) No proceeds of the borrowing paid to the City in reimbursement pursuant to this resolution will be used in a manner described in Treas. Reg. § 1.150-2(h) with respect to abusive uses of such proceeds, including, but not limited to, using funds corresponding to the proceeds of the borrowing in a manner that results in the creation of replacement proceeds (within Treas. Reg. § 1.148-1) within one year of the reimbursement allocation described in (d) above.

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

Appendix A

**NOTICE TO ELECTORS OF THE CITY OF EAST JORDAN
OF INTENT TO ISSUE BONDS SECURED BY THE TAXING POWER OF
THE CITY AND OF RIGHT OF REFERENDUM THEREON**

PLEASE TAKE NOTICE that the City Commission of the City of East Jordan intends to authorize the issuance and sale of general obligation capital improvement bonds pursuant to Act 34, Public Acts of Michigan, 2001, as amended, in the principal amount of not to exceed Two Hundred Fifty Thousand Dollars (\$250,000), for the purpose of paying all or part of the cost of acquiring property to be used to expand and improve the City's existing boat launch facilities including demolition, related site improvements, appurtenances and attachments thereto.

BOND DETAILS

The bonds will mature in annual installments not to exceed fifteen (15) in number, with interest rates to be determined at a public or negotiated sale but in no event to exceed the maximum permitted by law on the unpaid balance from time to time remaining outstanding on said bonds.

SOURCE OF PAYMENT OF BONDS

THE PRINCIPAL OF AND INTEREST ON SAID BONDS shall be payable from the general funds of the City lawfully available for such purposes including property taxes levied within applicable charter, statutory and constitutional limitations.

RIGHT OF REFERENDUM

THE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS UNLESS A PETITION REQUESTING SUCH A VOTE SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS OF THE CITY IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER PUBLICATION OF THIS NOTICE. IF SUCH PETITION IS FILED, THE BONDS MAY NOT BE ISSUED WITHOUT AN APPROVING VOTE OF A MAJORITY OF THE QUALIFIED ELECTORS OF THE CITY VOTING THEREON.

THIS NOTICE is given pursuant to the requirements of Section 517, Act 34, Public Acts of Michigan, 2001, as amended.

Lori Campbell

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City Clerk
City of East Jordan

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

NAYS: None

RESOLUTION DECLARED ADOPTED.

ITEM #17 Resolution 116-2007, Resolution to Authorize and Establish a Fire-EMS Building Construction Fund

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

RESOLUTION 116/2007
A RESOLUTION TO AUTHORIZE AND ESTABLISH A FIRE-EMS BUILDING
CONSTRUCTION FUND

WHEREAS, the City of East Jordan desires to record the operations of the Fire-EMS Building Construction Fund beginning in fiscal year 2006/2007, and

WHEREAS, the Fire-EMS Building Construction Fund is a Capital Project Fund and is used to record the construction costs of the capital improvements, and

THEREFORE BE IT RESOLVED, that the City Administrator and City Treasurer are hereby directed to account for and record the operations of this fund.

BE IT RESOLVED FURTHER, that the Fiscal Year 2006/2007 Budget be amended to account for this new fund.

Roll Call Vote:

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

Nays: None

Absent: None

Resolution declared adopted May 15, 2007.

ITEM #18 Community Development Plan and Authorizing Resolution

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Motion offered by Bennett, second by McNitt, to adopt the Community Development Plan.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

The following resolution was offered for adoption by Klooster, second by Bennett:

Resolution 117-2007
Community Development Block Grant Program
Authorizing Resolution

WHEREAS the City of East Jordan has been invited to submit an application for a \$586,302 Community Development Block Grant (CDBG) administrated by the Michigan State Historic Preservation Office (MSHDA), and

WHEREAS the City will use the CDBG funds to extend water and sewer services to, and build a public parking lot at, the site of a potential new hotel site in the City, and

WHEREAS it is in City's best interest to make the aforementioned improvements, and

WHEREAS this project is consistent with the local community development plan as described in the application, and

WHEREAS at least 51% of the new jobs created will benefit low and moderate income persons, and

WHEREAS local funds and any other funds to be invested in the project will not be incurred prior to a formal grant award, completion of the environmental review procedures, and formal written authorization to incur costs is received from the state, and

WHEREAS a local government official needs to be authorized to submit the Michigan CDBG application,

NOW THEREFORE BE IT RESOLVED that David White, City Administrator, is hereby authorized to sign the CDBG application and grant agreement documents.

ROLL CALL

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

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NAYS: None

ABSTAIN: None

ABSENT: None

Resolution declared adopted May 15, 2007.

ITEM #19 Administrative Policy #123A, Investment Policy

Motion offered by Symonds, second by McNitt, to adopt Administrative Policy #123A, Investment Policy.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

ITEM #20 Water Ordinance Revisions

Attorney Beatty asked that this item be removed from the agenda.

ITEM #21 DDA Update

Administrator White informed the Commission that the DDA would be forming a Budget Committee.

ITEM #22 Administrator's Report

ADMINISTRATOR'S REPORT
MAY 15, 2007

1. We are still waiting for word from both the Corp of Engineers and the State of Michigan regarding our final permit and grant funding. Tom has been in contact with both the Corps and State and everything is in process we just need to be patient. I have not pushed the State on our grant funding since we do not have the federal permit to dredge. I will keep the Commission up to date as we continue to pursue this critical project for the City.
2. The State Street work is progressing paving of the road is scheduled for the week of May 14th. Currently the project is on schedule and progressing normally.
3. As we continue to gear up for the summer season, items come up everyday. I will provide the Commission with an update on the 15th of the various projects.

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Administrator White presented the Commission with an Early Retirement Incentive Package drafted by the City's Labor Attorney. He stated that the items included in the incentive package are those that were discussed by the Commission during the budget process.

White asked that the Commission adopt a motion authorizing the City Administrator to present the retirement offer to eligible employees and to appoint the City Administrator as the Plan Administrator.

Commissioner McNitt questioned the 45 day period.

White stated the 45 days would begin the day the employee is presented with the offer.

Commissioner Bennett questioned the age requirement.

White stated 58 years old was the age to receive a benefit from the cost effective measure of paying the health insurance premiums until age 65.

Motion offered by Symonds, second by Vollbach, to adopt the Voluntary Resignation Incentive Plan as presented.

MOTION CARRIED ALL YES
BY ROLL CALL VOTE

ITEM #23 Mayor's Report

Mayor Postma informed the Commission that the Governor has chosen the Main Street Center to receive a Governor's Historic Preservation Award for 2007.

Administrator White stated that on Thursday, May 24, 2007 Floyd and Nancy Wright, Mary Faculak, Mr. Presley, Mayor Postma and he would be accepting the award at the Capitol Building in Lansing.

Postma informed the Commission of requests from the Jordan River Arts Council and the Charlevoix County Commission on Aging for longer term lease agreements. They are requesting this extension as they are proposing capital improvements to the current buildings.

Attorney Beatty cautioned the Commission on agreeing to an open-ended agreement or a lease longer than 10 years.

Consensus of the Commission was to refer the issue to staff for further information.

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Postma informed the Commission of a request from a developer for Payment In Lieu of Taxes for the property on M66 currently owned by the Jordan Valley District Library for a MiSHDA housing development project.

Administrator White briefly described a PILOT program and stated he needed to know if the Commission had interest in pursuing this issue.

Consensus of the Commission was to refer the issue to staff for further information.

ITEM #24 Attorney's Report

Attorney Beatty informed the Commission that the City is currently negotiating collective bargaining agreements for the DPW and Police Department. He requested a closed session to update the Commission.

ITEM #25 Commissioners

Commissioner Bennett wished the 2007 graduates the best of luck.

Commissioner Timmons asked when the paving would be complete on State Street.

Administrator White stated the paving should be done on Wednesday or Thursday.

Commissioner Vollbach questioned the construction on Jordan Street.

White stated that last year Jim Petrie received variance and site plan approval for construction of a commercial building.

Commissioner Klooster questioned the lack of no parking signs on M32.

White stated the MDOT controls the signing on M32 and they have placed a few signs.

ITEM #26 Speaker Requests

No speaker request slips were received.

Motion offered by McNitt, second by Symonds, to enter into closed session to discuss collective bargaining agreement negotiations.

MOTION CARRIED ALL AYES
BY ROLL CALL VOTE

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Commission entered into closed executive session at 8:37 p.m.

Commission reconvened open session at 9:02 p.m.

Mayor Postma reported that DPW and Police union contract negotiations were discussed with no action taken.

Mayor Postma adjourned the meeting at 9:03 p.m.

Respectfully,

Mark Postma
Mayor

Lori M. Campbell, CMC
City Clerk