



**CITY OF YPSILANTI
REGULAR COUNCIL MEETING
CITY COUNCIL CHAMBERS – ONE SOUTH HURON ST.
YPSILANTI, MI 48197
TUESDAY, JANUARY 10, 2017
7:00 p.m.**

I. CALL TO ORDER –

The meeting was called to order at 7:04 p.m.

II. ROLL CALL –

Council Member Bashert	Present	Council Member Robb	Present
Mayor Pro-Tem Brown	Present	Council Member Vogt	Present
Council Member Murdock	Present	Mayor Edmonds	Present
Council Member Richardson	Present		

III. INVOCATION –

Mayor Edmonds asked all to stand for a moment of silence.

IV. PLEDGE OF ALLEGIANCE –

"I pledge allegiance to the flag, of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all."

V. AGENDA APPROVAL –

VI. PRESENTATIONS –

— Audit Presentation - Alan Panter, CPA Principal, Abraham & Gaffney, PC.

Finance Director Marilou Uy introduced Alan Panter, CPA Principal, Abraham & Gaffney.

Alan Panter provide a presentation regarding the City audit.

Council Member Robb stated in the past two years the Fire and Police Pension has gone from 70.5% funded to 58.3% funded. He asked if the City were to fund the Fires and Police millage at 80% how that would affect the summer tax bill. He also asked what the annual rate of return would need to be to keep the liability zero. Ms. Uy responded can provide that answer at a later date. Mr. Panter replied under the new financial standard the actuarial is required to examine the rate to see if it sustainable, meaning rates must be obtainable. Mr. Panter stated the calculated rate would be 7.5%.

Council Member Murdock stated the Police and Fire Pension investment for this year have lost money. Mr. Panter replied in the affirmative. Mr. Murdock assumed it caused a reduction in the City's percentage. Mr. Murdock stated the number of retirees included in that pension have increased from 114 to 121 and the number of active employees decreased from 47 to 41. He said it is problematic that the amount of retirees receiving their pension is increasing while those paying into the pension is decreasing. He said this is not a sustainable model and this is something the City should be focusing on in the near future. Mr. Murdock asked if Other Postemployment Benefit (OPEB) is mostly healthcare.

Mr. Panter responded in the affirmative. Mr. Murdock asked if that included all employees. Ms. Uy added is broken down by general employees and Police and Fire. Mr. Murdock stated the Police and Fire is paid for by millage. Ms. Uy responded in the affirmative. Mr. Murdock asked if the City is accumulating money to pay for future benefits. Ms. Uy responded there is a fund balance remaining in the Police and Fire Pension fund.

Council Member Robb asked what percentage of retiree healthcare is funded. Ms. Uy responded 23.1%. Mr. Robb stated the governor just signed a law requiring municipalities to be 60% funded, and asked what will that mean to the City. Mayor Edmonds asked if there is a timetable for that law to take effect. Mr. Robb responded he is uncertain of the date. Ms. Edmonds asked for the Attorney's Office to review the matter. Mr. Panter stated there are many communities in this state that will have difficulties getting to that threshold. Council Member Murdock added there was also an initiative in the State Legislature, that failed, that would have required states to be funded 80%. Mr. Panter responded that will be very difficult to enforce.

VII. INTRODUCTIONS –

Mayor Edmonds introduced the following; Interim City Manager Frances McMullan, City Attorney John Barr, Interim City Clerk Andrew Hellenga, Economic Development Director Beth Ernat, Finance Director Marilou Uy, and Public Services Director Stan Kirton.

VIII. AUDIENCE PARTICIPATION –

1. Margaret Harner, 218 N. Adams, stated she is a representative of the Ypsilanti First Congregational Church and a founder of the Washtenaw Interfaith Coalition for Immigrant Rights (WICIR). She applauded Council's interest in embracing the immigrant community in these troubling times. She said there is a large immigrant community in Ypsilanti and they are very much a part of this community. She said they are hard workers with wonderful families whose children are friends with our children. She said immigrants add a depth to this community through cultural and other contributions. She stated many of the families are torn apart when the parents are deported while their children stay in this country. She asked Council to think very seriously about that population when moving forward with a "don't ask" ordinance.
2. Joseph Golder, 1002 Washtenaw Rd, stated he has been a resident in Ypsilanti for 45 years and the proposed immigration ordinance and the immigrant population in this community are important to him and applaud the work the City is doing. What troubles him is some time ago he addressed the HRC about the illegal taking of his property and gave the HRC Chair documents that clearly show shady behavior by the City and Eastern Michigan University. A short time after he submitted a written complaint to the HRC and personally give it to Clerk's Office. He said his was never given a response if the HRC received the written complaint and is upset by the lack of action by the HRC regarding the civil rights violation against him. Crimes were committed and elected officials turned their backs and clearly demonstrated which side they were on. They did not do their due diligence to hold those responsible accountable. The ethics displayed by the County, City, and EMU in regards to the taking of his property, tampering of public records, and grant fraud is deplorable. A misused Michigan Institution Road Fund Grant used in 1999 with no public hearings, or impact studies destroyed the value of his property. He said he has been lied to, bullied, and intimidated for the past five years. During the last Master Plan process his property was given a Core Neighborhood designation. He spoke with then City Planner Teresa Gillotti and asked if a special use permit was needed, and he was informed it wasn't. After that discussion the possibility of a special use permit was added to appease residents on Fairview, allowing property owners to do things not previously allowed

under that designation. If someone is able to apply for a special use permit why was the zoning even changed, which has dissuaded potential buyers of his property.

3. Dominic Shoopman, 772 N. Wagner Rd., spoke in favor of the proposed Human Rights Ordinance. It is something that even at the best of times it is worth aggressively pursuing and aggressively defending. However, we do not live in the best of times and many people in our community live in profound danger, and what is proposed would do a lot to mitigate that danger. He encouraged Council to vote in favor for the passage of this ordinance.
4. Lucia Heinold, 1224 Wines, Ann Arbor, stated she is hear as an ally of WICIR. Overtime other groups are emerging the desperate need for the help these proposed ordinances would provide. She said she is happy that Ypsilanti is joining in the work of these groups. She said everyone is a person and should be treated with dignity and respect. She thanked Council Member Murdock for introducing this legislation and urged its passage.
5. Mary Seelhorst, 310 E. Cross, expressed her support for the passage of the Non-Discrimination Ordinance.
6. Lily Ellis, 760 Jenness St., stated she is very excited the Non-Discrimination Ordinance is adding gender identity and immigration status and is looking forward to the Don't Ask Ordinance to be proposed in a couple of weeks.
7. Ruth Cassidy, 2969 W. Clark #303, expressed support for adding immigration status to the Non-Discrimination Ordinance.
8. Katy Clark, 709 Dwight St., stated the Non-Discrimination Ordinance is very important to her, and she both supports adding immigration status and gender expression to the ordinance.
9. John Thiels, 943 Sheridan #2, thanked Council for introducing this amendment and said he moved here because he felt Ypsilanti embodied certain values that are important to him. Both immigration status and gender identity involve individuals that are subject to violence. He would like to live in a city where people are free to be themselves.
10. Sarah Shergren, 114 N. Hamilton, supported the passage of the Non-Discrimination Ordinance amendments. She has lived in Ypsilanti for 26 years and it is a City for everyone.
11. Maria Gavara, 2127 Golfside Rd, stated she recently moved to Ypsilanti because it is a progressive community. She stated she is undocumented and moved here when she was nine years old, and the passage of this ordinance would be very valuable to this community. She wants to live in a place where she feels safe, respected, and live in a community that appreciates what she can offer.

IX. REMARKS BY THE MAYOR –

- Stated the City has been working on two different ordinances; the first is adding gender identity and immigration status to the Non-Discrimination Ordinance and the second, the Non-solicitation of Immigration Status Ordinance will be heard during the January 24th meeting.

X. ORDINANCE – FIRST READING –

Ordinance No. 1279

1. An Ordinance amending Article III Discrimination of Chapter 58 Human Relations, being Section 58-91 through Section 58-99 of the Ypsilanti City Code.

A. Resolution No. 2017-002, determination

IT IS RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI that:

The certain ordinance entitled "An ordinance to amend the Discrimination Ordinance of the City of Ypsilanti" Article III Discrimination of Chapter 58 Human Relations, being Section 58-91 through Section 58-99 of the Ypsilanti City Code be adopted on first reading.

OFFERED BY: Council Member Murdock

SECONDED BY: Mayor Pro-Tem Brown

B. Open public hearing

1. Sam Jones-Darling, C104 Cornell Courts, stated he serves as one of the Human Relations Commissioners, and he never imagined that during the first year of his term he would have a chance to bring a Non-Discrimination Ordinance before City Council for approval. He said this was the kind of work that drew his interest in politics. This Ordinance adds gender identity and immigration status which will protect people in public accommodation, employment, and other such as housing. If Ypsilanti passes this Ordinance it will be one of the most progressive and forward thinking communities in the Country.
2. Hannah Bihlmeyer, 115 N. Adams St. #2, stated transgender people are murdered at higher rates and extremely difficult times with unaccepting family members. The transgender community has the highest suicide rate among all demographics. She said it is extremely important to put this ordinance into motion and ensure that those people are protected. She applauded Council Member Murdock for bringing this ordinance forward. This is a crucial time in American History and she will do all that she can to protect all members of her community.
3. Monica Morgan, 2210 Woodview Rd., stated she is a lifelong resident of this county and has been working with immigrants for around twenty years. Immigrants, over the last few years, have become terrorized because of the fear they have because of their immigration status. The immigration population is also highly susceptible to violence and criminal acts against them. Because of immigration status this population is unlikely to press charges for fear they might be deported as a result. Children are fearful that their parents might be deported. She thanked Council for considering this ordinance.
4. Quinn Philips, 414 Emmet #4, stated she is here support the passage of the Non-Discrimination Ordinance regarding immigration status and was happy to

find out it also includes gender identity. She understands what it is like to be discriminated against for gender identity in this community, and has been denied housing based on gender identity within the last for years. Supported increasing gender neutral bathrooms in the public sphere specifically in the library.

5. Margret Harner, 218 N. Adams, said the Human Rights Ordinance is very dear to her, and when it was passed twenty years ago. In 2008 there was a massive immigration raid and as a result WICIR was created. Working with people that are discriminated because of the way they look, sound, or dress she understands the work needs to continue making this community as inclusive as possible.
6. John Thiels, 943 Sheridan #2, stated there are compelling reasons in adding immigration status and gender identity to the Non-Discrimination Ordinance. There is a very strong symbolic reason for the approval of this amendment and will make a big difference in making people feel welcome. He said often the economic impact of the immigration is described as a negative, however, if individuals are discriminated against and leave a community that has more of a negative impact.
7. Dennis Endorsey, 1909 Crestland Dr, Ann Arbor, encouraged Council to approve the ordinance amendment.

C. Resolution No. 2017-003, close public hearing

IT IS RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI that:

The Public Hearing for an ordinance entitled "An ordinance to amend the Discrimination Ordinance of the City of Ypsilanti" Article III Discrimination of Chapter 58 Human Relations, being Section 58-91 through Section 58-99 of the Ypsilanti City Code be officially closed.

OFFERED BY: Council Member Murdock

SECONDED BY: Mayor Pro-Tem Brown

Mayor Edmonds thanked all for their comments and overwhelming support. She has been working on an ordinance regarding gender neutral bathrooms for new construction. However, there is a barrier with the state plumbing code and the City is trying to navigate around that issue.

Council Member Vogt stated he has long supported these kind of measures because they are based on self-evident truths. There is no way to oppose these measures without running into the base principle of treat others the way you wish to be treated. Fear mongering and the trivial nuisances cannot justify the harm caused to those who would be effected by this ordinance. He supports all of these changes.

Council Member Bashert stated she was the Co-Chair of the champagne that originally pushed for the passage of this ordinance twenty years ago. She was struck by several differences between what happened then and what happened tonight. Twenty years ago people who did not believe in equality felt free to express their views in an open forum. She said the HRC at the time did not approve the ordinance and Council unanimously decided to move forward with the ordinance. She stated she was pleased to see how adaptable and strong the ordinance is even today. She said she supports the proposed ordinance and will vote to approve it.

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Mayor Pro-Tem Brown stated she is both excited and pleased with the amendments because she supports all people. It is important for Council as a body to approve this amendment for the community, and show that everyone is important in Ypsilanti.

Council Member Vogt stated there are certain immigrants that are deemed "illegal" and somehow in violation of the law. However, that attitude is fundamentally flawed because it fails to understand the reason for immigration law, which identifies people wanted as citizens and screen out those who are not appropriate to become citizens. Strict enforcement of the means do not always reach the ends that are appropriate.

Council Member Murdock stated the statements made by both the public and Council perfectly explain why these changes are necessary. He thanked the Human Relations Commission for their work on this ordinance, and specifically former HRC Commissioner Martha Valadez who introduced the issue while on the Commission. He said many have thanked him for his work on this ordinance, but it is not about him it is about the public. There are a lot of uncertainty in the Country after the last election, and Ypsilanti needs to say that is not this Community.

Mayor Edmonds asked City Attorney Barr to share consequences involved in violations of this ordinance. Mr. Barr responded the ordinance provides a provision that if it is violated a complaint can be filed resulting in an investigation. Depending on the findings the complaint would be forwarded to the appropriate authorities for settlement, or arbitration. Ms. Edmonds stated the ordinance reads that a violation could result in a \$500 fine plus costs of the action. Mr. Barr responded in the affirmative.

On a roll call, the vote to approve Resolution No. 2017-002 was as follows:

Mayor Pro-Tem Brown	Yes	Council Member Robb	Yes
Council Member Murdock	Yes	Mayor Edmonds	Yes
Council Member Richardson	Yes	Council Member Vogt	Yes
Council Member Bashert	Yes		

VOTE:

YES: 7 NO: 0 ABSENT: 0 VOTE: Carried

Ordinance No. 1280

2. An Ordinance amending Ypsilanti City Code by adding a new Division 5 Sustainability Commission, to Chapter 2 Administration, Article IV Boards and Commissions.
 - A. Resolution No. 2017-004, determination

IT IS RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI that:

The Attached Ordinance entitled Sustainability Commission Ordinance be adopted on first reading.

OFFERED BY: Council Member Bashert

SECONDED BY: Mayor Pro-Tem Brown

B. Open public hearing

1. Cicely Anderson, 306 Elm St., stated she was in attendance for the Immigration Ordinance and was unaware about the Sustainability Commission. However, she is excited to learn more about the Commission and because of the environmental concerns created by global warming this is important work.

C. Resolution No. 2017-005, close public hearing

IT IS RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI that:

The Public Hearing for an Ordinance entitled Sustainability Commission be officially closed.

OFFERED BY: Council Member Bashert
SECONDED BY: Mayor Pro-Tem Brown

Mayor Edmonds stated Council approved a resolution creating a Sustainability Commission, however, creating a commission must be done through a creation of an ordinance. The Commission includes nine regular members, with staggered three year terms and two non-voting youth members serving one year terms. This Commission will allow three non-residents that possess skills helpful to the success of the Commission.

Council Member Robb stated Section E of the ordinance states the Commission shall create a sustainability plan. He reminded Council the City has already spent \$50,000 to develop a climate action plan, and to charge the Sustainability Commission with this task is out of its scope.

Council Member Bashert asked if there would be any overlap in duties with the Parks and Recreation Commission. Mayor Edmonds responded both Commission could be concerned with similar issues. Ms. Bashert stated if the Sustainability Commission recommended the installation of solar panels in a park they would work with the Parks and Recreation Commission. Ms. Edmonds responded the Parks and Recreation Commission does not have any decision making ability, it only makes recommendations to Council.

On a roll call, the vote to approve Resolution No. 2017-004 was as follows:

Mayor Pro-Tem Brown	Yes	Council Member Robb	No
Council Member Murdock	Yes	Mayor Edmonds	Yes
Council Member Richardson	Yes	Council Member Vogt	Yes
Council Member Bashert	Yes		

VOTE:

YES: 6 NO: 1 (Robb) ABSENT: 0 VOTE: Carried

XI. CONSENT AGENDA – Resolution No.2017 - 006

- Resolution No. 2017 - 007, approving the minutes of December 6, 2016.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT the minutes of December 6, 2016 be approved.

- Resolution No. 2017 - 008, approving nominations to Boards and Commissions.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

THAT, the following individuals be appointed to the City of Ypsilanti Boards and Commissions as indicated below:

<u>NAME</u>	<u>BOARD</u>	<u>TERM EXPIRATION</u>
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3. Resolution No. 2017 - 009, approving Contract with Orchard, Hiltz & McCliment, Inc. for Construction Engineering Services for the Signal Upgrade Project at Michigan Avenue and Prospect Road Intersection.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, City Council has approved the contract MDOT to make safety improvements at the intersection of Prospect Road and Michigan Avenue; and

WHEREAS, it is necessary to secure construction engineering services to expedite this project for the 2017 construction season; and

WHEREAS, Orchard, Hiltz and McCliment has provided an exemplary level of service to the City of Ypsilanti on numerous projects, and possesses a depth of experience with the infrastructure in the project area; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council approves the construction engineering services proposal with Orchard, Hiltz & McCliment, Inc., 34000 Plymouth Road, Livonia, MI at a not to exceed cost of \$40,000.00; and

THAT the City Manager and City Clerk are authorized to sign this contract, subject to review and approval by the City Attorney; and

OFFERED BY: Mayor Pro-Tem Brown
SECONDED BY: Council Member Vogt

On a roll call, the vote to approve Resolution No. 2017-006 was as follows:

Mayor Pro-Tem Brown	Yes	Council Member Robb	Yes
Council Member Murdock	Abstain	Mayor Edmonds	Yes
Council Member Richardson	Yes	Council Member Vogt	Yes
Council Member Bashert	Yes		

VOTE:

YES: 6 NO: 0 ABSENT: 1 (Murdock) VOTE: Carried

XII. RESOLUTIONS/MOTIONS/DISCUSSIONS –

1. Resolution No. 2017 -010, approving the change order of the Marsh Plating contract, increasing the amount by \$25,730 to a total of \$196,730.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, The City of Ypsilanti entered into an agreement with Marsh Plating on June 7, 2016, and the agreement requires City compensation for said construction project for the closure the at-grade railroad crossing at Grove Road; and

WHEREAS, the City is responsible to the construction costs associated with said road construction project per agreement; and

WHEREAS, additional work was necessary to complete the project in the amount of \$25,730.

NOW THEREFORE BE IT RESOLVED THAT the Ypsilanti City Council authorizes the City Manager to pay the Change Order in the amount of \$25,730 to Marsh Plating.

OFFERED BY: Council Member Robb
SECONDED BY: Council Member Richardson

Marcus McNamara, OHM Engineering, stated the based on the contract March Plating would hire the contractor. There were additional items of work other than outlined but were necessary for the completion of the project. The most significant was related to the storm sewer connection. He said the initial costs quoted were higher, but through negotiations the amount was reduced. The contract the City held with Erie Construction came in at \$10,000 under budget, which does not cover the entire difference but does keep it closer to budget.

Council Member Robb stated the resolution states this money has already been spent. Interim City Manager McMullan stated she has not authorized payment. Mr. Robb responded the work has already been completed, and the City has already said it would pay for the work. Ms. McMullan responded in the affirmative. Mr. Robb stated staff did not request Council approval before the work was completed and circumvented the Charter. Now the City is forced to pay these funds. Mr. McNamara responded Marsh Plating did not request the City pay the additional amounts before work was complete. Marsh Plating was aware that per the agreement any costs occurred beyond the \$171,000 would be at their risk. Mr. McNamara added there was no agreement by OHM, or City staff that Marsh Plating would be entitled to these funds without following proper procedures.

Council Member Vogt asked what the initial amount was asked for work completed. Mr. McNamara responded \$3,000 more than what is being requested.

Council Member Murdock asked if all the work for the closures has been completed. Mr. McNamara responded in the affirmative. Mr. Murdock said Council was told that after this project was complete the City would have \$50,000 remaining for the train depot, now that was reduced to \$25,000. Council Member Robb asked if there were other change orders approved. Mr. McNamara responded he would provide a total tally of all costs. Mr. Murdock asked who would be responsible for the graffiti on the concrete barriers. Mr. Robb stated he believes the barriers would be the responsibility of the City. DPS Director Stan Kirton asked if that would be an ordinance issue. Mr. McNamara stated the barriers are on the rail right-of-way. Mr. Murdock stated railroad properties have always had a graffiti problem. Mr. McNamara responded Marsh Plating might be willing to help rectify that problem. Mayor Edmonds asked what legal recourse the City has to push the railroad to fix these issues. City Attorney Barr responded railroads are subject to City Ordinances. Mr. Murdock asked how successful the City has been in having the railroads address graffiti on their properties. Mr. Barr responded he has not yet had a case, but will look into the issue.

On a roll call, the vote to approve Resolution No. 2017-010 was as follows:

Mayor Pro-Tem Brown	Yes	Council Member Robb	No
Council Member Murdock	Yes	Mayor Edmonds	Yes
Council Member Richardson	Yes	Council Member Vogt	Yes
Council Member Bashert	Yes		

VOTE:

YES: 6 NO: 1 (Robb) ABSENT: 0 VOTE: Carried

- Resolution No. 2017 -011, approving a Medical Marijuana Dispensary and Grow Facility License Denial and Revocation appeal fee.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

WHEREAS, in February of 2011 City Council approved the Ordinance 1145 allowing City Licensed Medical Marijuana Dispensaries and Grow Facilities to operate in the City; and

WHEREAS, Section 7-10 of Ordinance 1145 provides the appeal process for applicants and licensee to appeal a denial or revocation of a Medical Marijuana Dispensary or Grow Facility License; and

WHEREAS, an appeal, with fee, is to be submitted to the Clerk’s Office within 30 days of license denial or revocation; and

WHEREAS, currently the Fee Schedule does not include a fee for the appeal of license denial or revocation; and

WHEREAS, staff recommends a fee be set at \$1,100 for an appeal of a Medical Marijuana Dispensary or Grow Facility License denial or revocation

NOW, THEREFORE, BE IT RESOLVED THAT the City Council approves a fee of \$1,100 for an appeal of a Medical Marijuana Dispensary or Grow Facility License denial or revocation and may the Fee Schedule reflect that change.

OFFERED BY: Council Member Vogt

SECONDED BY: Council Member Bashert

Interim City Clerk Andrew Hellenga stated the current ordinance provides for an appeal process and states the City may charge a fee for an appeal. However, neither the ordinance nor the fee schedule have a fee listed. The Attorney’s Office suggested based this would be a similar process to license renewal the same fee of \$1,100 should be set.

Council Member Robb stated there was no supporting documentation as to why the City should charge \$1,100 for an appeal. Staff is asking Council to approve something without providing any information to why that amount is appropriate. He said he will not support the resolution for this reason.

Council Member Murdock asked if this would be post facto. Mr. Barr responded currently an appeal has not been filed. Mr. Murdock stated a license has been denied. Mr. Barr stated all this resolution would do is set a fee to file an appeal. Mr. Murdock stated his concern is that the City has already denied a renewal and now the City is going to pass a fee for

appeal. Council Member Richardson asked if there is a pending appeal. Mr. Barr responded no. Council Member Robb stated a renewal is going to be denied. Mayor Edmonds suggested this resolution be put into effect in 30 days. Mr. Murdock agreed to that possibility. Mr. Barr asked if it could be agreed the resolution take effect in 60 days. Mr. Robb stated Council could wait until July during the approval of the fee schedule to make this change. Mr. Murdock asked if this will be the only dispensary that will be denied. Economic Development Director Beth Ernat responded only one license was recommended for denial, however, three facilities were given conditional licenses.

Ms. McMullan stated in past renewals facilities with minor issues were issued licenses, but in this circumstance the violations were more substantial.

Council Member Robb restated the cleanest way to do this is to wait until the approval of the fee schedule, and add this to that approval. He agreed with Council Member Murdock that approving this now looks suspicious. Council Member Richardson suggested this resolution take effect in 60 days.

Council Member Richardson moved, seconded by Council Member Bashert for the fee of an appeal to take effect on March 11, 2017.

On a roll call, the vote to amend Resolution No. 2017-011 was as follows:

Mayor Pro-Tem Brown	Yes	Council Member Robb	No
Council Member Murdock	Yes	Mayor Edmonds	Yes
Council Member Richardson	Yes	Council Member Vogt	Yes
Council Member Bashert	Yes		

VOTE:

YES: 6 NO: 1 (Robb) ABSENT: 0 VOTE: Carried

On a roll call, the vote to approve Resolution No. 2017-011 as amended was as follows:

Mayor Pro-Tem Brown	Yes	Council Member Robb	No
Council Member Murdock	Yes	Mayor Edmonds	Yes
Council Member Richardson	Yes	Council Member Vogt	Yes
Council Member Bashert	Yes		

VOTE:

YES: 6 NO: 1 (Robb) ABSENT: 0 VOTE: Carried

3. Resolution No. 2017 -012, approving the City Manager Contract with Darwin McClary.

IT IS RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI that:

Mr. Darwin D. P. McClary is hereby hired as City Manager of the City of Ypsilanti and that the attached employment contract and its terms and conditions are hereby approved and the Mayor and City Clerk are authorized to sign said contract for and on behalf of the city, subject to satisfactory completion of all pre-employment conditions and approval by the City Attorney.

OFFERED BY: Council Member Richardson
 SECONDED BY: Mayor Pro-Tem Brown

Mr. Barr stated he has spoken with Mr. McClary and the main issues with the contract are the salary, resignation notice, severance pay, executive leave, housing incentive, moving expenses, and retirement. Council now must decide how it wishes to proceed with the contract.

Mayor Edmonds stated she has had correspondence with Ms. Grinzing from Michigan Municipal League who informed her that Mr. McClary's requests for contracts are in line with the current market, if not below. Ms. Edmonds asked for clarification on Mr. McClary's vehicle request. Mr. Barr responded at the beginning of negotiations the City offered Mr. McClary the use of a City vehicle, which was not acceptable. The perspective manager has environmental concerns and requested a \$600 a month stipend for costs of his own vehicle, however, the City was able to negotiate down to \$450 a month. Ms. Edmonds added that is an average benefit across the state.

Council Member Vogt asked for a review of the "Live Ypsi" terms for housing. Mr. Barr responded the terms of the program are the entity would loan the amount for five years. The loan would be forgivable at 20% per year. Mr. Vogt asked what the areas of the City are eligible for a \$5,000 and \$10,000 loans. Mr. Barr responded the College Heights area is eligible for \$5,000 and most of the remainder of the City is eligible for \$10,000.

Council Member Robb stated the proposed contract makes it more difficult to terminate the employee the longer he is employed. The "Live Ypsi" initiative provides for either a \$5,000 or \$10,000 loan but included in those amounts is moving expenses, and this contract provides both moving expenses and the loan. He added he is not particularly sold on incentivizing employees to live in the City, what is important is the City Manager knows the community. He said the contract does not spell out the detail of the program and he assumes the City will be funding this program, not EMU and the County. He said the contract is for four years and the program is for five years, and asked what happens to this program if the employee is terminated after three years. He would prefer that this be tied to the four years of the contract, or put language in the contract. He said providing the employee with 40 executive leave days would essentially provide them with all their sick days up front. Essentially the City is offering this person 31 days of vacation, which equates to six weeks. He stated these days also would not carry over, which guarantees that employee will take all allotted days. Also, he would prefer that rather than providing an employee with their vacation time at their hire anniversary it would be done on the beginning of the New Year. He said he is uncomfortable with the defined contribution plan because the MERS plan is fully funded, and is what every other non-union employee receives. The \$9,000 a year the candidate is asking for could be used for another City resource. He would like to add an exclusive employment clause requiring the Manager to request permission from Council before accepting a second job. He asked why this contract did not include an arbitration clause and a bar of action clause. He stated he would prefer to not provide the employee with a car allowance.

Mr. Barr responded he believes Mr. McClary would not object to a bar of action and arbitration clause being added to the contract. The candidate has already stated he would agree reducing the severance from six months to four months. He said Mr. McClary was very adamant that he would not accept anything below \$100,000 for a salary and the automobile allowance. Council Member Robb stated he would like clarification of the "Live Ypsi" program for housing. Mr. Barr stated this stipulation of the contract came late in the negotiation. He envisioned if the money was loaned to Mr. McClary for housing it he were to stay at the home for five years, if he still worked for the City of not, the loan would be forgiven. However, the program could be modified. Council Member Murdock stated this program is offered to employees of the university, and if that employee is no longer employed after three years. Council Member Bashert stated this contract is using the "Live Ypsi" program as a model, and essentially the City can structure it however it pleases. Mr. Barr said first Council needs to decide if it is willing to pay the candidate \$100,000 a year, if not there is no sense in discussing any other parameter of the contract.

Council Member Murdock stated if the stipend for the vehicle would not place all the liability on the candidate, if that vehicle were used for City business the liability would fall to the City. Mr. Barr responded the City's insurance will cover Mr. McClary when he is on City business, and if the City pays a vehicle allowance the candidate's insurance would also need to list the City. Mr. Barr reiterated if Council is not willing to pay a salary of \$100,000 the City will need to determine another plan. Council Member Richardson asked what the offered pay scale was. Mayor Edmonds responded

\$80,000 to \$100,000. Ms. Richardson offered a salary \$90,000. Ms. Edmonds responded it is her understanding that Mr. McClary will not accept anything below \$100,000.

Council Member Richardson agreed with the issues raised by Council Member Robb.

Mayor Pro-Tem Brown stated she is not in favor of an automobile allowance.

Council Member Bashert stated this feels like a "Cadillac" contract and we feel like a "Kia" town, but we are trying to hire a person in a certain market. She believes that when MML tells the City it is at the bottom range for this position. She is pleased to see Mr. McClary was willing to decrease the severance pay. The 40 days of executive leave makes her uncomfortable and would prefer the days be given after 90 days in the position. She said the "Live Ypsi" program needs to be cleaned up, and more detail included in the contract. She said the City could provide a match into his retirement.

Mayor Edmonds stated the market is different for when the City hired its past two City Managers, and the last City Manager was being paid \$97,000 when he left his position. Council Member Robb interjected the former City Manager pay included a housing allowance. Ms. Edmonds asked the amount of the housing allowance. Mr. Robb responded \$3,000. Ms. Edmonds replied the amount is still not far off the base. Council Member Robb stated the discussions should revolve around the facts regarding Ypsilanti.

Mr. Barr stated it seems Council is not yet ready to approve the contract as is. He has taken notes on Council's comments and asked what would be a package Council could be comfortable spending. Council Member Vogt responded he is happy with the amount being discussed, he is more interested in the terms of the contract. Mr. Vogt stated he does not believe this is a "Cadillac Plan", he believes the contract is below market based on what the expert has stated. Mr. Vogt said he has negotiated contracts and does not believe the contract is out of line. Mr. Barr asked Council would have an objection to a total contract amount of \$130,000. Mayor Edmonds replied she would need to add up all contract items, and is more interested in terms and "deal breakers" from Council. Council Member Bashert stated she does not have a deal breaker, however, she would like to see a 90 day clause added to the executive leave time, the severance pay reduced to 120 days, and to clean up the housing aspect. Mr. Barr asked if 40 days of executive leave time is acceptable. Council Member Robb asked if Council is comfortable with offering six weeks of vacation in the contract. Ms. Edmonds responded after speaking to Ms. Grininger she was informed 32 days is standard for executive leave, and through reference checks the City was informed that the candidate does not use inappropriately. Mr. Robb stated the candidate is a member of ICMA and signs that organizations code of ethics. Mr. Robb added the employee handbook allows for three personal days and six sick days a year, and if twenty days is standard for vacation that would allow for 29 executive leave days a year. Mr. Barr responded he would be happy to do that, but this contract does not provide for rollover of unused days. Mr. Robb replied that will guarantee this person will use all days allotted to him, and added he is fine with the concept of executive leave as long as it is reduced to 29 days. Ms. Edmonds stated she would support delaying providing the executive until after 90 days of employment. Council Member Richardson agreed that the contract should not provide 40 executive leave days, and said she would offer 30 days, and should have like to decrease the severance pay to 90 days.

Council Member Vogt stated he does not see an issue with the contract and sees it as in line with the current market. Mr. Vogt urged Council to kill the negotiations by small demands. Council Member Robb responded he could agree to \$100,000 a year for salary if other of his issues are met.

Mr. Barr stated if Council wants to hire this person the City will need to match what is common in the industry. He said he understands what the wishes of Council are, and he will return to negotiations with Mr. McClary.

Council Member Murdock stated if it is not that important for the City Manager to live in the City the housing allowance can be removed from the contract. Mr. Murdock added the candidate applied for this position because he wanted to be a part of Ypsilanti. Council Member Richardson stated part of the candidate wanting to work here is that his spouse is originally from Ypsilanti.

Council Member Robb stated the candidate has asked to hold positions outside of his City Manager duties, and asked that before accepting outside position the candidate is required to have Council approval. Mayor Edmonds agreed. Mr. Robb asked if Council can agree that executive leave days be based on the calendar year. Mayor Edmonds agreed.

Mayor Edmonds stated she has not heard objections to reduce the contract length to four years, in general the salary amount is agreeable, the time for notice of resignation seems to be agreeable, the candidate has agreed to four months for severance, there is still discussion regarding executive leave, and there is general consensus for housing. Council Member Murdock stated if it is not important to Council that the City Manager live in Ypsilanti the housing allowance can be removed from the contract. Ms. Edmonds responded the candidate came in requesting a housing allowance. Mr. Murdock asked if he would request a housing allowance if he were to live outside the City. Ms. Edmonds responded in the affirmative. Council Member Robb asked how important it is to Council that the City Manager live in the City. Council Member Bashert responded she thinks it is important for the City Manager to live in the City. Mr. Robb asked why. Ms. Bashert responded because then the City Manager would share the strengths and weaknesses of the City. Mr. Robb replied he feels that is demeaning to employees that live outside the City. Ms. Bashert stated she would not ask that of every other employee but sees it as important for the City Manager.

Council Member Robb stated the "Live Ypsi" program lists the amount can be used for a down payment, moving costs, or renovations to the home. He said the contract provides for moving costs plus this incentive. He said if this there are modifications to the program they should only change timeframe. Mayor Edmonds stated the candidate could use the moving expenses to move somewhere in the Township which would be more advantageous. Council Member Murdock responded he would not want to provide moving expenses if the candidates move was not to the City. Council Member Bashert stated the problem using the "Live Ypsi" program language is it is being stretched to the point that it no longer makes sense. She said it should be changed to fit the City. Mr. Barr stated the new version of the housing program will be included in detail.

Council Member Richardson asked how many leave days were provided to the previous City Manager. Mr. Barr responded fifteen vacation days, twelve sick days, and five personal days. Mayor Edmonds suggested negotiating down to 32 days allowing to roll days to the following year. Council Member Richardson replied to remove the rollover. Ms. Edmonds responded that would make it a much lower benefit. Ms. Richardson replied 32 days is more than the 29 offered to other employees. Council Member Vogt stated this is a higher quality City Manager. Council Member Robb responded this conversation is regarding a contract. Mr. Vogt replied it is a contract for a specific individual.

Council Member Murdock stated he would be okay with a \$100,000 in salary if the severance was reduced to 90 days. Mayor Edmonds responded the candidate might walk if the four months is not provided. Council Member Bashert added she is not comfortable with reducing the severance to 90 days. Council Member Richardson stated if the candidate wishes to be here he will be here. Mr. Murdock responded it amazes him that severances like these exist when most of the people he knows aren't even given notice when their employment is terminated. Ms. Edmonds replied Ms. Grininger informed her the industry is moving to six months for severance, and this is a reasonable request. Ms. Bashert stated asking the candidate to decrease his severance again to 90 days is not respectful. Mr. Barr asked Council who would accept a four month severance.

Mayor Edmonds asked what the recommended timeline would be. Mr. Barr responded the next Council meeting is in two weeks he could bring the renegotiated contract then, but would like to caucus with Council. Council Member Murdock suggested Council Member Robb and Mayor Edmonds work with the Attorney's Office.

Council Member Richardson asked what Council would like to do in terms of the car allowance. Council Member Vogt asked what the City Manager would drive in a month for business, and estimated 800 miles per month. Mr. Barr responded roughly 12,000 miles per year. Ms. Richardson asked why the City Manager could not use a City car for City business. Mr. Vogt responded if the candidate would use a City car the cost would be greater because of the wear and tear to the car. Mr. Vogt added Council should not create too many obstacles in the way of him agreeing to the contract. Ms. Richardson suggested if the City provides \$450 a month for a car allowance the salary should be decreased to \$95,000. Mayor Edmonds replied the City might save money by providing an allowance, opposed to the

candidate using the City car. Council Member Robb replied the only way the City would save money is if the City Manager would be driving the car 45 miles per day.

Mr. Barr stated it was his understanding Council wants to hire this candidate, but from what he is hearing it does not seem that is the case. Council Member Bashert responded she wants to hire him, and does not see anything from this contract that would change her mind. Mr. Vogt agreed. Ms. Bashert added the candidate that Council considered the second choice price would have been just as high if not higher. Ms. Bashert asked to be a part of the communication team.

Mayor Edmonds stated the majority of Council does not seem that far apart on contract negotiations. Mr. Barr responded he would be in contact with the candidate to begin renegotiations. Ms. Edmonds suggested a special meeting to finalize and approve the contract. Council Member Robb suggested January 17th at 7:00 p.m.

Council Member Vogt moved, seconded by Council Member Bashert to postponed Resolution No. 2017-012 until January 17th at 7:00 p.m.

On a voice vote, the motion carried, and Resolution No. 2017-012 was postponed.

XIII. LIASON REPORTS –

- A. SEMCOG Update - None
- B. Washtenaw Area Transportation Study - None
- C. Urban County – Meeting tomorrow, January 11th.
- D. Freight House – Council Member Murdock stated the Freight House is receiving a temporary certificate of occupancy.
- E. Parks and Recreation - None
- F. Ypsilanti Downtown Development Authority - None
- G. Eastern Washtenaw Safety Alliance - None
- H. Police-Community Relations/Black Lives Matter Joint Task Force – Mayor Pro-Tem Brown stated a recommendation will be coming to Council.
- I. Friends of Rutherford Pool - None

XIV. COUNCIL PROPOSED BUSINESS –

Murdock

- Asked for an update on the Bell St. testing.

Council Member Richardson responded residents are not willing to proceed with testing because of the no suit clause in the agreement. Mayor Edmonds responded she was informed by staff there is a need for clarity, and the “no suit clause” was for the installation of testing materials.

- Asked for an update of the elevators in Towne Center.

Mayor Edmonds responded the elevators are still down, but a repair company has been there daily to rectify the situation, to date they have been unsuccessful. Other governmental entities have become involved to assist in rectifying the problem. Council Member Murdock stated the major issue is the parts for the elevators are not easily available. He said it seems the company that currently owns the Towne Center is trying to sell and is not interested in installing new elevators. Council Member Robb stated the City cannot install new elevators and bill the Towne Center, and he is not quite sure what litigation would do to solving the problem. Mayor Edmonds responded the installation of new elevators would be twelve to eighteen month process. Mr. Murdock asked if there was litigation what would be the outcome. Mr. Barr responded the building could be shut down and the residents would be displaced.

Council Member Richardson stated through her conversation with Congresswoman Dingell MSHDA would not pay for relocation. Ms. Edmonds responded HUD and MSHDA should force the current owners to pay for relocation with amount placed in escrow. Mr. Robb asked if MSHDA and HUD be the point for any possible litigation. Mr. Barr asked if Council would like him to look into possible litigation. Council Member Bashert responded in the affirmative. Mr. Robb stated the Congresswoman would have greater authority to get HUD and MSHDA to litigate.

- Stated he noticed several communities have begun requiring polyethylene for any board ups that way the structure would not appear boarded up, and was wondering if that would be possible.

Bashert

- Asked for clarification on how Council Liaisons are picked.
- Asked if there is a way to check into if there are any other fees missing from the Fee Schedule.

Mayor Edmonds responded each summer the fee schedule is reviewed. Council Member Bashert asked if a fee was not set would it show up in the Fee Schedule. Mr. Barr responded it has been an ongoing issue, and originally there was not a Fee Schedule and all fees were imbedded in the Code of Ordinances.

- Asked for an update on vehicles parking on lawns on Mansfield.

Interim City Manager McMullan responded the Code Enforcement Officer informed her the violators have been ticketed. However, much of the time the issue occurs on the weekend and in that case the police should be contacted. Council Member Robb stated he had a similar issue occurring on Cross and to stop the problem the police will need to write tickets.

Brown

- Asked for an update on staff being rude to residents on "Ypsi Connect".

Vogt

- Asked for an update about snow removal on Leforge north of the park and on Anna and Hewitt.

Robb

- Stated he would like to talk about processes during goal session. A lot of issues the City has are management related and he wants to understand what can be done to assist. He explained he would like work task instructions on how to complete job tasks.

XIV. COMMUNICATIONS FROM THE MAYOR –

- Asked what other useful Council Liaison could be added to the list.

Council Member Richardson stated if a Council Member attends another meeting is it necessary to have it as a Liaison Report. Council Member Robb stated that information can be shared during Council Proposed Business. Council Member Vogt stated he is currently sitting on the DTE Streetlight Coalition. Council Member Murdock stated there is not currently a liaison on CoPAC. Mayor Edmonds asked Council to email her their preference on Liaison Reports.

— Asked Council their preference on dates for Goal Setting.

Ms. McMullan responded the preference was for Tuesday, January 31st.

XV. COMMUNICATIONS FROM THE CITY MANAGER –

XVI. AUDIENCE PARTICIPATION –

XVII. REMARKS FROM THE MAYOR –

XVIII. ADJOURNMENT -

Resolution No. 2017 - 013, adjourning the City Council meeting.

RESOLVED BY THE COUNCIL OF THE CITY OF YPSILANTI:

That the City Council Meeting be adjourned, on call, by the Mayor or two (2) members of Council.

OFFERED BY: Council Member Vogt

SECONDED BY: Mayor Pro-Tem Brown

On a voice vote, the motion carried, and the meeting adjourned at 11:06 p.m.