

**CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF SEPTEMBER 2, 2008**

Clark called the meeting to order at 7:30 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan. Mulvany led the Pledge of Allegiance and offered the invocation.

Present: Councilmembers: Bruno, Clark, Mulvany, Naeyaert, Preadmore, Waltz, *Whipple
Also present: Martin Colburn, City Administrator
Kathy Revels, Finance Director/Treasurer
Rolly Olney, Public Works Director
Dennis McGinty, City Attorney
Deborah Cwierniewicz, Deputy City Clerk

APPROVAL OF MINUTES - REGULAR COUNCIL MEETING: August 18, 2008

The Minutes of August 18, 2008, were approved as submitted.

APPROVAL OF BILLS

MOTION by Naeyaert, second by Preadmore
to approve the payment of bills in the amount of \$203,903.99 as submitted.
MOTION APPROVED UNANIMOUSLY

PEOPLE FROM THE FLOOR

None.

MOTION by Bruno, second by Mulvany,
to amend the agenda by moving regular business items 7(E) and (F) to items
7(A) and (B), and items 7(A) and (B) to items 7(F) and (G), and adjusting the
remaining regular business items accordingly.
MOTION APPROVED UNANIMOUSLY

REGULAR BUSINESS

Resolution No. 2008-34 – A Resolution Recognizing Browne Cavander American Legion, Post #148 and Jean R. Anderson, Veterans of Foreign Wars, Post #7309 as a “Duly Authorized Military Organization”

Bob Raab, Sr., Commander of Browne Cavandar, American Legion, Post #148, addressed the Council regarding the request of Browne Cavandar, American Legion, Post #148, and Jean R. Anderson, Veterans of Foreign Wars, Post #7309, to be recognized as a “Duly Authorized Military Organization” by the City of Mason. In accordance with Mason Code, organizations so recognized are exempt when acting in the discharge of their duties. Both organizations perform military services and funerals. Resolution No. 2008-34 was introduced by Preadmore and seconded by Mulvany.

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2008-34
A RESOLUTION RECOGNIZING
BROWNE CAVANDER AMERICAN LEGION, POST #148 AND
JEAN R. ANDERSON, VETERANS OF FOREIGN WARS, POST #7309
AS A “DULY AUTHORIZED MILITARY ORGANIZATION”
SEPTEMBER 2, 2008**

WHEREAS, Section 42-136 of the Mason Code regulates the use of weapons in the City of Mason; and

WHEREAS, The Code exempts members of any duly authorized military organization when acting in the discharge of their duties; and

WHEREAS, Browne Cavander American Legion, Post #148 and Jean R. Anderson, Veterans of Foreign Wars, Post #7309 has submitted a formal request to be recognized as duly authorized military organizations in the City of Mason for the purposes of this Code.

NOW THEREFORE BE IT RESOLVED, that Mason City Council does hereby recognize Browne Cavander American Legion, Post #148 and Jean R. Anderson, Veterans of Foreign Wars, Post #7309 as a "Duly Authorized Military Organization".
RESOLUTION APPROVED UNANIMOUSLY

*Whipple arrived at 7:39 p.m.

MOTION – Amendment to 2008 Annual Street Program

Colburn stated that costs for the construction of the water treatment plant had been reduced significantly last October, partially by reducing the amount of asphalt to be used for paving from Temple Street to the Water Treatment Plant. However, the contractor applied an extra layer of asphalt, and then notified the City that they had done so in the city's best interest as well as protecting the interest of their investment. Colburn recommended using the monies that recently became available due to Council's determination not to upgrade the Jefferson and Ash Streets traffic signal being installed by Michigan Department of Transportation (MDOT), making approximately \$85,000.00 available from this year's street millage.

Olney informed Council regarding expenditures, deductions, and current costs for the water treatment plant. He reiterated that he and Mr. Colburn discussed using the funds budgeted for the water treatment plant for the water treatment plant area, the parking lot, and drive entrance, and using street monies for the roadway leading to the plant. Discussion ensued.

MOTION by Bruno, second by Naeyaert,
to amend the 2008 Annual Street Program to allow \$52,000.00 to be used for the public roadway leading to the new water treatment plant.

Discussion continued regarding the change order from April 2007; however, it was unclear whether there was a change order presented in October. Discussion followed regarding the appropriate fund to use for paving the entranceway.

MOTION by Whipple, second by Naeyaert,
to amend the main motion to spend the \$52,000.00 for the driveway out of the Water & Sewer Fund.

Further discussion was held regarding the cost and payment for the entranceway to the new water treatment plant. Colburn provided the October 2007 change order to Council, stipulating line item number three which reads, "provide two inch thick asphalt, delete asphalt wearing course, quantity is one, reduction of one, and reduction of \$45,000.00".

VOTE ON THE AMENDMENT:
Yes (6) Clark, Mulvany, Naeyaert, Preadmore, Waltz, Whipple
No (1) Bruno
MOTION APPROVED

MOTION by Whipple, second by Waltz,
to amend the main motion to reduce the amount to \$45,000.00.

Discussion ensued regarding deferring the business for further study and discussion regarding the depth of asphalt that is currently in place.

MOTION by Whipple, second by Bruno,
to defer the matter of the amending the 2008 Annual Street Program to
the September 15, 2008, regular meeting.

MOTION APPROVED UNANIMOUSLY

Ordinance No. 167 – An Ordinance to Amend the Use District Map, as Adopted Pursuant to Section 94-62 of the Mason Code, to Rezone 2.58 Acres Located on West Ash Street West of Highway US 127 From AG Single Family Agricultural to RS-3 Single Family Residential – First Reading

MOTION by Preadmore second by Naeyaert,
To consider Ordinance No. 167 read for the second time and adopted
ORDINANCE APPROVED UNANIMOUSLY

**CITY OF MASON
ORDINANCE NO. 167**

AN ORDINANCE TO AMEND THE USE DISTRICT MAP, AS ADOPTED PURSUANT TO SECTION 94-62 OF THE MASON CODE, TO REZONE 2.58 ACRES LOCATED ON WEST ASH STREET WEST OF HIGHWAY US 127 FROM AG SINGLE FAMILY AGRICULTURAL TO RS-3 SINGLE FAMILY RESIDENTIAL.

THE CITY OF MASON ORDAINS: The zoning map of the City of Mason adopted by Section 94-62 of Chapter 94 of the Mason City Code, being the zoning code of the City of Mason, is hereby amended as follows:

That property legally described as:

A parcel of land in the Northwest 1 / 4 of Section 8, T2N, R1W, Vevay Township, Ingham County, Michigan, the surveyed boundary of said parcel described as: Commencing at the Northwest corner of said Section 8; thence S89°59'53" E along the North line of said Section 8 a distance of 663.43 feet to the East line extended of Snyder's Addition to the City of Mason, as recorded in Liber 12 of Plats, Page 47, Ingham County Records; thence S00°16'00" W along said East line and extended East line 442.48 feet to the Westerly limited access right of way line of Highway U.S. 127 and the point of beginning of this description; thence S16°01'26" E along said Westerly line 914.61 feet to the North line of Hunting Meadows Subdivision as recorded in Liber 47 of Plats, Pages 26-28, Ingham County Records; thence N89°59'28" W along said North line 256.56 feet to the East line of said Snyder's Addition; thence N00°16'00" E along said East line 879.04 feet to the point of beginning; said parcel containing 2.58 acres more or less; said parcel subject to all easements and restrictions if any.

THE CITY OF MASON FURTHER ORDAINS: That the City Engineer is hereby directed to make the necessary corrections to the zoning district map evidencing this zoning change, including this ordinance number and the date of adoption thereof; and

THE CITY OF MASON FURTHER ORDAINS: That the attached map evidencing this change shall be marked and designated as Ordinance No. 167, and that the City Clerk shall enter on the Official Zoning Map this ordinance number and the date of adoption thereof, and shall maintain a file containing a copy of this ordinance and map thereto attached.

THE CITY OF MASON FURTHER ORDAINS: That the proposed RS-3 Single Family Residential zoning district complies with the standards of approval listed in Section 94-396; and

THE CITY OF MASON FURTHER ORDAINS: That the site is adequately served with the necessary public facilities, including public water and sanitary sewer; and

THE CITY OF MASON FURTHER ORDAINS: That a public hearing was noticed and held at the Planning Commission's regular meeting of August 12, 2008, with testimony given and public comments solicited in accordance with Section 94-101 of the Mason Code; and

THE CITY OF MASON FURTHER ORDAINS: That this ordinance shall become effective seven days after publication of notice its adoption; and

THE CITY OF MASON FURTHER ORDAINS: That notice of adoption of this ordinance shall be published within fifteen days after its adoption.

The foregoing Ordinance was moved for adoption by Council Member Mulvany and seconded by Council Member Preadmore with a vote thereon being: YES (7) NO (0), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the 2nd day of September, 2008.

Ordinance No. 167 declared adopted this 2nd day of September, 2008.

Ordinance No. 168 – An Ordinance To Amend Sections 78-5, 78-6 And 78-7 Of Chapter 78 - Traffic And Vehicles – Of The Code Of The City Of Mason To Readopt By Reference The Uniform Traffic Code As a Traffic Code Of The City Of Mason, And To Amend Section 42-2 Of Chapter 42 – Offenses And Miscellaneous Provisions - Of The Code Of The City Of Mason To Define The Term “Obstruct” – First Reading

MOTION by Preadmore second by Naeyaert,

To consider Ordinance No. 168 read for the second time and adopted.

ORDINANCE APPROVED UNANIMOUSLY

**CITY OF MASON
ORDINANCE NO. 168**

AN ORDINANCE TO AMEND SECTIONS 78-5, 78-6 and 78-7 OF CHAPTER 78 - TRAFFIC AND VEHICLES - OF THE CODE OF THE CITY OF MASON TO READOPT BY REFERENCE THE UNIFORM TRAFFIC CODE AS A TRAFFIC CODE OF THE CITY OF MASON, AND TO AMEND SECTION 42-2 OF CHAPTER 42 - OFFENSES AND MISCELLANEOUS PROVISIONS - OF THE CODE OF THE CITY OF MASON TO DEFINE THE TERM “OBSTRUCT.”

THE CITY OF MASON ORDAINS:

Section 78-5 of Chapter 78 - Traffic and Vehicles - of the Code of the City of Mason is hereby amended to read as follows:

Sec. 78-5. Uniform Traffic Code for Cities, Townships and Villages adopted.

(a) The Uniform Traffic Code for Cities, Townships and Village as promulgated by the director of the Michigan Department of State Police made effective October 30, 2002 is adopted by reference pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(b) Reference in the Uniform Traffic Code for Cities, Townships and Villages to “governmental unit” shall mean the City of Mason.

The Uniform Traffic Code as adopted pursuant to Section 78-5.

Section 78-6 of Chapter 78 - Traffic and Vehicles - of the Code of the City of Mason is hereby amended to read as follows:

Sec. 78-6. Amendments to Uniform Traffic Code for Cities, Townships and Villages.

The following additional sections and subsections of the Uniform Traffic Code for Cities, Townships and Villages are added as set forth in this section.

Section 28.1159. Through Streets. The following streets and every portion thereof are hereby designated as “through streets.” It is the duty of the traffic engineer to place and maintain a stop sign on each and every street which intersects such through streets, or which intersects a portion of such through streets:

- (A) Ash Street, from the east city limit to Cedar Street.
 - (B) Cedar Street, from the north city limit to its southernmost terminus.
 - (C) Columbia Street, from the east city limit to the west city limit.
 - (D) Jefferson Street, from the north city limit to the south city limit.
 - (E) Okemos Street, from the north city limit to Columbia Street.
- Section 28.1160. Truck Routes; Restrictions; Exceptions; Definition; and Penalty.*

- (A) No person shall drive, move, or cause or permit to be driven or moved any truck upon any street or highway of this city except such streets or highways as may be designated as truck routes.

- (B) Truck routes are hereby designated to be Kipp Road from Eden Road to U.S. 127, U.S. 127, M-36 Highway, West Columbia Street from M-36 Highway to the west city limit, Howell Road from Okemos Road to the west city limit, and such other routes as may hereafter be designated pursuant to section 28.1153 of the Mason Uniform Traffic Code.
- (C) The prohibitions of this section shall not apply to persons who shall drive or move trucks to and from locations within the city for local delivery or transport of goods or services.
- (D) A truck, for purposes of this section, shall be any vehicle which is defined as a "truck" under Section 75 of the Michigan Vehicle Code (MCL 257.75) and having three or more axles.
- (E) A person who violates this section is guilty of a misdemeanor. This prohibition shall not be enforced until notice thereof is given by posting of appropriate official signs.

Section 28.1825. Parking on Lawn Extension Between Sidewalk and Curb. No person shall drive upon, park, or stand any vehicle between the curb or curblin and the lot line nearest the street, such area being commonly known as the lawn extensions, whether or not any sidewalk or curb is actually in place on such street. A person who violates this section is responsible for a civil infraction.

Section 28.1826. Parking Fully Within Space. When a space is marked for parking, every vehicle shall be parked wholly within the marked space, except that a vehicle which is too large to be parked within a single designated space shall be permitted to occupy two adjoining marked spaces. A person who violates this section is responsible for a civil infraction.

Section 28.1827. Overtime Parking. Where signs are erected limiting the maximum period of time for parking in any parking zone, no person shall stop or park a vehicle in such zone for a period of time longer than the posted time. A person who violates this section is responsible for a civil infraction.

Section 28.1828. Overnight Parking; Trucks; Definitions; Violation as Civil Infraction.

- (A) Parking is prohibited on all of the streets in the City of Mason between the hours of 2:00 a.m. and 6:00 a.m. during the winter months beginning November 1 through May 1. All parking may be prohibited on certain streets between the hours of 2:00 a.m. and 6:00 a.m. all of the year by traffic control orders issued pursuant to section 28.1153 of this code.
- (B) The parking of trucks is prohibited on all of the streets in the City of Mason between the hours of 2:00 a.m. and 6:00 a.m. all of the year.
- (C) The parking of trucks is prohibited on residential streets in the City of Mason between the hours of 10:00 p.m. and 6:00 a.m. all of the year.
- (D) A truck for purposes of this section shall be any vehicle defined as a truck under Section 257.75 of the Michigan Vehicle Code (MCL 257.75) and having a combined weight of vehicle, cargo, and occupants exceeding five tons.
- (E) A residential street is defined for purposes of this section as any highway or street where within any 600 feet along such street or highway there are buildings or uses for residential purposes which occupy at least 300 feet of frontage collectively on both sides of the street.
- (F) A violation of this section shall be a civil infraction.

Section 78-7 of Chapter 78 - Traffic and Vehicles - of the Code of the City of Mason is hereby amended to read as follows:

Sec. 78-7. Skateboards.

(a) *Use limited.* No person shall use a skateboard in the following places:

- (1) On any roadway within the city, except while crossing a highway or street on a crosswalk, and then only in the manner specified by Section 28.1204 of the Uniform Traffic Code for Cities, Townships and Villages, as adopted and amended by the city.
- (2) On any of the lands leased or owned by the public, including public easements and rights-of-way, or on the private property of another, within that area of the city bounded by the Michigan Central Railroad right-of-way, Oak Street, Barnes Street, and the alley located between Maple Street and Sycamore Street, including an extension of the lateral line of the alley west to the Michigan Central Railroad right-of-way on Monday through Saturday

from the hours of 8:00 a.m. to 8:00 p.m. and at such other times as declared by the chief of police.

(3) On any of the lands dedicated to the use of the Maple Grove Cemetery.

(b) *Manner of use.* No person shall use a skateboard:

- 1) Upon a sidewalk, walkway or other surface or facility used or intended for pedestrians without yielding at all times the right-of-way to pedestrians.
- 2) Upon a public or private parking lot or facility open to the public without yielding the right-of-way at all times to pedestrians and vehicles and so as to not interfere with the parking of vehicles.
- 3) In a reckless or careless manner, or in any manner likely to result in injury or damage to the person or property of another.
- 4) At a speed greater than a walking speed when crossing within a crosswalk or crossing a roadway where no crosswalk is provided.
- 5) By placing portable ramps or similar devices or structures upon public property.

(c) *Posting of signs.* The department of public works shall erect appropriate signs which designate where skateboards are prohibited by this section.

(d) *Penalty.* Any person who violates any provision of this section shall be responsible for a civil infraction and subject to a civil fine of not more than \$100.00. A police officer witnessing a violation of this section may stop the person, detain the person temporarily for purposes of making a record and prepare and subscribe a complaint for a civil infraction in the manner provided by Section 28.1110a of the Uniform Traffic Code for Cities, Townships and Villages, as adopted and amended by the city.

Section 42-2 of Chapter 42 - Offenses and Miscellaneous Provisions of the Code of the City of Mason is hereby amended to read as follows:

Sec. 42-2. Resistance and obstruction of city officials prohibited.

(a) No person shall willfully obstruct, resist or oppose the performance of duties by someone the person knows or reasonably should have known to be a city police or any other authorized official of the city,

(b) As used in this section, "obstruct" includes the use or threatened use of physical interference or force or knowing failure to comply with a lawful command.

THE CITY OF MASON FURTHER ORDAINS: That this ordinance shall be published within fifteen days after its adoption; and

THE CITY OF MASON FURTHER ORDAINS: That this ordinance shall become effective twenty days after its adoption and publication.

The foregoing Ordinance was moved for adoption by Council Member Preadmore and supported by Council Member Mulvany, with a vote thereon being: YES (7) NO (0), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the 2nd day of September, 2008.

MOTION – MML Annual Meeting – Designation of Voting Delegate

MOTION by Whipple, second by Bruno,
to appoint Mayor Clark as the principal official representative and Mayor Pro Tem Naeyaert to serve as the alternate to attend the annual MML Convention
MOTION APPROVED UNANIMOUSLY

Executive Session - Collective Bargaining Agreement

MOTION by Preadmore, second by Whipple,
to adjourn to Executive Session to consider negotiations with the Fraternal Order of Police (FOP).

ROLL CALL VOTE:

Yes (7) Bruno, Clark, Mulvany, Naeyaert, Preadmore, Waltz, Whipple

No (0)

MOTION APPROVED UNANIMOUSLY

The meeting adjourned to Executive Session at 8:24 p.m. and reconvened at 8:35 p.m.

Resolution No. 2008-35 – FOP Non-Supervisory Division Agreement

Resolution No. 2008-35 was introduced by Mulvany and seconded by Preadmore.

**CITY OF MASON
CITY COUNCIL RESOLUTION 2008-35
FOP NON-SUPERVISORY DIVISION AGREEMENT
SEPTEMBER 2, 2008**

BE IT HEREBY RESOLVED by the City Council of the City of Mason that it does hereby ratify an Agreement between the City of Mason and Mason City Employees, Capitol City Lodge #141, Fraternal Order of Police Labor Program, Inc., Mason Police Department Non-Supervisory Division, dated July 1, 2007 – June 30, 2010; and

RESOLVED FURTHER, the Mayor and City Administrator are hereby authorized to execute said Agreement on behalf of the City Council.

RESOLUTION APPROVED UNANIMOUSLY

UNFINISHED BUSINESS

None.

NEW BUSINESS

None.

CORRESPONDENCE

Distributed.

LIAISON REPORTS

Mulvany informed Council regarding current Historic District Commission business.

ADMINISTRATOR'S REPORT

Colburn informed the Council regarding current city business.

PEOPLE FROM THE FLOOR

None.

ADJOURNMENT

The meeting adjourned at 8:45 p.m.

Martin A. Colburn, City Clerk

Leon Clark, Mayor