

CITY OF MASON

201 West Ash St.
Mason, MI 48854-0370

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CITY COUNCIL MEETING - COUNCIL CHAMBER Monday, December 15, 2008

7:30 p.m.

Agenda

1. Call to Order
2. Roll Call
3. Pledge of Allegiance and Invocation
4. Approval of Minutes Regular Council Meeting: December 1, 2008
5. Approval of Bills
6. People from the Floor
7. Public Hearing
 - A. Special Assessment Roll for the Sidewalk Improvements
8. Regular Business
 - A. Special Assessment Resolution No. 3, Project No. 2009-01
 - B. Special Assessment Resolution No. 4, Project No. 2009-01
 - C. First Reading – Ordinance No. 174 – An Ordinance to Conditionally Rezone the Property Located at 514 West Ash Street from R2F Two Family Residential to C-2 General Commercial with the Condition that the Uses on the Property be Limited to Employee Parking
 - D. Resolution No. 2008-53 – Mayoral Appointments to City Boards and Commissions
 - E. Resolution No. 2006-54 – City Council Appointments to City Boards and Commissions
 - F. Resolution No. 2008-55 – City Administrator Performance Evaluation for 2008 Calendar Year
 - G. Resolution No. 2008-56 – City Administrator Employment Contract Amendment No. 7
 - H. Executive Session – Collective Bargaining Agreement
 - I. Resolution No. 2008-57 – FOP Supervisory Division Agreement
9. Unfinished Business
10. New Business
11. Correspondence
 - Thank you – Dick Ferris, Cemetery Board Chair
 - Monthly Revenue and Expenditure Report
12. Liaison Reports
13. Administrator's Report
 - Revenue Sharing
14. People from the Floor
15. Adjournment

**CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF DECEMBER 1, 2008**

Clark called the meeting to order at 7:31 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan. Wattz 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
Dennis McGinty, City Attorney
Deborah Cwierniewicz, Deputy City Clerk

APPROVAL OF MINUTES - REGULAR COUNCIL MEETING: November 17, 2008

The Minutes of November 17, 2008, were approved as submitted.

APPROVAL OF BILLS

MOTION by Whipple, second by Naeyaert,
to approve the payment of bills in the amount of \$193,783.32 as submitted.
MOTION APPROVED UNANIMOUSLY

PEOPLE FROM THE FLOOR

None.

REGULAR BUSINESS

Presentation – PRIME Award to City Finance Director/Treasurer Kathy Revels

Kathy Revels, Finance Director/Treasurer, was presented the Michigan Municipal Treasurer's Association (MMTA) 2008 PRIME Award by MMTA PRIME Award Committee member Bruce Malinczak. Also present were Blinda Baker, MMTA PRIME Award Committee member, Janice Thelen, and Karen Tebeau, MMTA Board representatives.

Presentation – Safety Record of Christman Company

At the November 17, 2008, meeting, Council considered the Qualifications – Based Selection (QBS) process for retaining professional services for the construction of a new City Hall/Police Station. Staff recommended Council authorize negotiating a contract with Christman Company. After much discussion, Council deferred action and requested staff to invite a safety representative to address the safety issues that have occurred under the leadership of the Christman Company.

Pete Kramer, Vice President of Christman Company, Jay Smith, Senior Vice President of Corporate Safety, and Don Staley, Corporation Safety Manager, addressed specific safety violations and citations from MIOSHA to the satisfaction of the Council.

Motion – Provide Staff Authorization to Negotiate for Professional Services for the City Hall/Police Station

Action was deferred at the November 17, 2008, meeting regarding authorization to negotiate professional services for the City Hall/Police Station; the following motion is on the floor for consideration:

MOTION by Whipple, second by Naeyaert, to authorize staff to negotiate a contract for professional services to design and construct a City Hall/Police Station with Christman Company, and bring the contract to City Council for approval. If a contract is not negotiated with Christman Company, staff is to follow in order of rankings of the QBS process further negotiations with a qualified company.

MOTION APPROVED UNANIMOUSLY

Second Reading and Adoption – Ordinance No. 170 - An Ordinance to Amend Chapter 86, Vegetation, to Update the Official Street Tree Species List for the City

MOTION by Whipple, second by Bruno, to consider Ordinance No. 170 read for the second time and adopted.

MOTION APPROVED UNANIMOUSLY

**CITY OF MASON
ORDINANCE NO. 170**

AN ORDINANCE TO AMEND THE FOLLOWING SECTIONS OF DIVISION 3, TREES ON PUBLIC PROPERTY, OF CHAPTER 86, VEGETATION, OF THE MASON CITY CODE; SECTION 86-75 – AMEND SECTION TO PROHIBIT THE KEEPING OF TREES INFESTED WITH THE EMERALD ASH BORER; SECTION 86-131 – AMEND SECTION TO UPDATE THE LIST OF OFFICIAL STREET TREE SPECIES FOR THE CITY; SECTION 86-132 – AMEND SECTION TO ELIMINATE THE SEPARATION STANDARD FOR SMALL TREES; SECTION 86-133 – AMEND SECTION TO ELIMINATE THE SMALL TREE CATEGORY FROM THE LIST OF STANDARD DISTANCES THAT TREES MAY BE PLANTED FROM CURB AND SIDEWALK.

THE CITY OF MASON ORDAINS:

Sections 86-75, 86-131, 86-132, and 86-133 of Division 3, Trees on Public Property, of Chapter 86, Vegetation, of the Mason City Code are hereby amended to read as follows:

Sec. 86-75. Keeping of trees with diseases or infestations prohibited.

No person shall keep or maintain any part of any elm tree infected with the Dutch Elm disease or any part of any ash tree infected with the Emerald Ash Borer within the City.

Sec. 86-131. Street tree species to be planted.

The following list constitutes the official street tree species for the city. No species other than those included in this list may be planted as street trees without written permission of the tree commission.

Medium Trees	Large Trees
Crimson King Maple	Sweet Gum
Red Maple and Selections	Greenspire Linden
Hedge Maple	Thornless Locust Species
Callery Pear	Sugar Maple
Zelkova	Red Oak
Hop Hornbeam	White Oak
Shingle Oak	London Plane Tree
Black Gum	Pin Oak
Amur Cork Tree	Katsura Tree
Thornless Hawthorn	
Cockspur Hawthorn	
Japanese Pagoda Tree	
Ginko	

Sec. 86-132. Spacing.

The spacing of street trees will be in accordance with the two species size classes listed in section 86-131; and no trees may be planted closer together than the following: Medium trees, 40 feet; large trees 50 feet; except in special plantings designed or approved by a landscape architect.

Sec. 86-133. Distance from curb and sidewalk.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the two species size classes listed in section 86-131. No trees may be planted closer to any curb or sidewalk than the following: Medium trees, three feet; and large trees, four feet.

ORDINANCE APPROVED UNANIMOUSLY

Resolution No. 2008-52 – Rules of Order for the City Council and for City Boards and Commissions

MOTION by Whipple, second by Bruno,
to consider Resolution No. 2008-52 as being read.

RESOLUTION APPROVED UNANIMOUSLY

Resolution No. 2008-52 was introduced by Whipple and seconded by Waltz. Whipple commented briefly regarding the interpretation of the Rules of Order for the City Council, boards and commissions relating to Section 4(c). Discussion ensued regarding interpretation of the word “waive” in that section. Attorney McGinty was asked whether it is the discretion of the Chair to eliminate or extend the limits on time and quantity for speaking. McGinty stated that his recollection of Council’s practice has been to reduce or extend the time of which people may speak. The criterion for reducing the time limit has been applied in instances when people state repetitive comments of prior comments, or to allow everyone a chance to speak. However, the Chair may not eliminate a person’s opportunity to speak. Discussion ensued.

MOTION by Bruno, second by Whipple,
to amend the Rules of Order, Section 4(c) by changing “four (4) minutes” to “three (3) minutes”.

Yes (1) Bruno

No (6) Clark, Mulvany, Naeyaert, Preadmore, Waltz, Whipple

RESOLUTION FAILED

**CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2008-52
December 1, 2008
RULES OF ORDER**

**for the
CITY COUNCIL and for CITY BOARDS and COMMISSIONS**

WHEREAS, the process of government in the City of Mason includes the activity of a City Council as well as numerous Boards and Commissions appointed by the City Council, each of which can play a significant role in the conduct of the affairs of the City; and

WHEREAS, the citizens of the City of Mason are best served by a City Council as well as City Boards and Commissions that function smoothly with a firm basis for resolving questions of procedure that may arise; and

WHEREAS, the City Council and City Boards and Commissions must each conduct business with the greatest measure of protection for the people and City of Mason, as well as for the Council and each Board and Commission as a body, and

WHEREAS, the City Council and City Boards and Commissions must each conduct business with the greatest measure of protection and consideration of the rights of individual members and the rights of individual citizens, and

WHEREAS, the application of parliamentary law is the best method yet devised to enable the City Council and City Boards and Commissions to arrive at the general will on the maximum number of questions of

varying complexity in a minimum amount of time and under the most diverse set of conditions, ranging from total harmony to impassioned division of opinion, with due regard for the opinion of each member and for the right of every citizen to address the Council, a Board or a Commission; and

WHEREAS, Rules of Order are the written rules of parliamentary law and are critical to ensure the most effective and efficient operation of any deliberative body; and

WHEREAS, the citizens of the City of Mason will be best served when the meetings of all public bodies are conducted according to similar procedures.

NOW, THEREFORE, BE IT RESOLVED, that these Rules of Order shall be the parliamentary law of the City Council and all City Boards and Commissions of the City of Mason, and shall nullify and replace Resolution 2001-22 dated April 16, 2001 and any other previously approved Rules of Order; and

THEREFORE, BE IT FURTHER RESOLVED, that these Rules of Order shall be consistently applied and actively enforced at all times in relation to the orderly transaction of business in meetings, and in relation to the duties of officers in the conduct of meetings, of the City Council, as well as all City Boards and Commissions.

YES (4) Bruno, Mulvany, Preadmore, Whipple

NO (3) Clark, Naeyaert, Waltz

RESOLUTION APPROVED

RULES OF ORDER FOR CITY COUNCIL, BOARDS, COMMISSIONS

City Council Resolution 2008-52

City of Mason, Michigan

- 1) ORDER OF BUSINESS
 - a) City Council: At each regular meeting of the City Council the business to be considered shall be taken up, when applicable, for consideration and disposition in the following order:
 - (1) Call to Order
 - (2) Roll Call
 - (3) Pledge of Allegiance and Invocation
 - (4) Approval of Minutes
 - (5) Approval of Bills
 - (6) Unfinished Business (meeting of Mayor and Mayor Pro Tem election)
 - (7) Adjourn Sine Die (meeting of Mayor and Mayor Pro Tem election)
 - (8) Election of Mayor and Mayor Pro Tem
 - (9) People from the Floor
 - (10) Public Hearings
 - (11) Regular Business
 - (12) Unfinished Business
 - (13) New Business
 - (14) Correspondence
 - (15) Liaison Report
 - (16) Administrator Report
 - (17) People from the Floor
 - (18) Adjournment
 - b) City Boards and Commissions: At each regular meeting of a City Board or Commission the business to be considered shall be taken up, when applicable, for consideration and disposition in the following order:
 - (1) Call to Order
 - (2) Roll Call
 - (3) Approval of Minutes
 - (4) Unfinished Business (meeting of Chair and Vice Chair election)
 - (5) Election of Chair and Vice Chair
 - (6) People from the Floor
 - (7) Public Hearings
 - (8) Regular Business
 - (9) Unfinished Business
 - (10) New Business
 - (11) Correspondence
 - (12) Liaison Report

- (13) Administrator Report
- (14) People from the Floor
- (15) Adjournment

2) AGENDA

Any item of business to be considered shall be appropriately filed with the clerk/secretary by noon on the Wednesday preceding the subject meeting. Agenda requests by members of the body and the City Administrator shall be automatically granted by the clerk/secretary if filed in a timely manner. The clerk/secretary shall send a complete agenda to each member by close of business on the last business day of the week preceding the subject meeting. Each item on the agenda shall include sufficient explanation to indicate intent. Any question introduced at a meeting that does not appear on the agenda may be deferred for inclusion on the agenda of a subsequent meeting upon the request of any one member of the body, except that said question may be acted upon at once if so requested by a majority vote of the members present.

3) MINUTES

Meeting minutes requiring approval shall be distributed to each member with the Agenda for the next regular meeting. There shall not be a reading of the minutes at the meeting. Minutes shall be considered approved unless a substantial correction, as determined by the Chair, is suggested by the Chair or a member. If a substantial correction is suggested, said correction shall be agreed to by a two-thirds vote of the members present. Corrections not determined to be substantial shall be considered made by consensus unless any member challenges such determination, in which case said correction shall be treated as a substantial correction. Minutes shall then be considered approved without a vote after all suggested corrections are voted upon, or agreed to by consensus, as required.

4) PUBLIC COMMENT

- a) It is the intent of these Rules to encourage public comment and participation by interested persons that is constructive, informative, and factual in a manner conducive to the conduct of an organized, efficient and professional meeting. Public comment by a person who is not a member of the body shall be allowed only during the People from the Floor and Public Hearing agenda items, or when permitted by the meeting Chair.
- b) The first People from the Floor agenda item is intended for public comment only on matters not included as agenda items for that meeting. A person who wants to speak to an agenda item may so inform the Chair of their desire to address the body on that item either during the first People from the Floor agenda item or by requesting recognition from the Chair by a raised hand prior to the body taking up a motion on the particular agenda item of interest.
- c) All public comment shall be appropriate to the agenda item under consideration. Each person shall be allowed to speak for a minimum of four (4) minutes and the Chair may limit the number of times each person is allowed to speak, but to no fewer than two (2) times. The limits on time and quantity for speaking may be extended at the discretion of the Chair.
- d) Any person in attendance at a meeting shall comply with the direction of the Chair as to the appropriateness of their actions or comments. The Chair shall retain discretion to disallow or stop a person from speaking or to temporarily recess the meeting at any time to maintain the order of the meeting.
- e) Any person that speaks before the body shall state for the record their name, residence address and group affiliation, if any.

5) CONDUCT OF BUSINESS

- a) Parliamentarian: The meeting Chair shall serve as Parliamentarian unless that duty is assigned and accepted by another member. The application and enforcement of these rules is the responsibility of the Chair.
- b) Reading of Resolutions and Ordinances: The text of any Resolution or Ordinance being considered shall be read into the record except when an appropriate motion to consider said Resolution or Ordinance as being read is approved by a majority vote of the members present. The reading of a Resolution or Ordinance shall occur before introduction for consideration.
- c) Reconsideration: A motion to reconsider enables a majority to bring back for further consideration a motion that has been voted on previously. The motion to reconsider can be made only by a member voting on the prevailing side and is in order only until the adjournment of the next regular meeting following the meeting during which the motion to be reconsidered was acted upon.
- d) Appeal to Chair: Any decision of the Chair in applying or interpreting these Rules of Order may be appealed by a motion made at the time of the ruling being appealed and before any debate or business has intervened. The Chair shall be allowed to speak first to an appeal with each member allowed to speak once. The Chair may speak one last time after all members have been given an opportunity to speak. The question before the body on an appeal of the Chair

- shall be "Shall the decision of the Chair be sustained?". A majority or tie vote shall sustain the decision of the Chair.
- e) **Abstain from Voting:** No member of the City Council shall vote on any question in which the member has a financial interest, other than the common public interest, or on any question concerning the conduct of the member, but, on all other questions, each member who is present shall vote unless excused by unanimous consent of the remaining members present.
 - f) **Considering a Motion:** A motion that does not receive a second shall not be considered to be in order.
- 6) **CHAIR AND VICE-CHAIR**
 - a) **Election:** The Chair (Mayor) and Vice-Chair (Mayor Pro Tem) shall be elected pursuant to the applicable provisions of the City Charter or of a City Ordinance if such provisions exist. Absent Charter or Ordinance requirements, election shall be by majority vote of the members present during the first regular meeting of each calendar year.
 - b) **Absence:** In the absence or disability of the Chair and the Vice-Chair, the members present shall select by majority vote a member to be designated as Acting Chair to perform the duties of the Chair as necessary.
 - 7) **RULES OF ORDER**

The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the City Council and all City Boards and Commissions in all applicable cases in which Robert's Rules are consistent with these Rules of Order, the City Charter, City Ordinance, and State Statute.
 - 8) **SUSPEND RULES**

A request to waive the Rules of Order shall be granted only by unanimous vote of the members present.

Discussion – Creation of Administrative Services Director Position

During the work session of November 10, 2008, Council was informed regarding Administrator Colburn's proposed reorganization of administrative staffing for departments at Mason City Hall including Administrative Services Director, Bookkeeper, and City Clerk positions.

Colburn stated that the position of Administrative Services Director is the concept developed and he placed on a timeline due to expanding requirements of administrative tasks and programs. With the growth of the city, additional requests and requirements are placed on city staff through additional activities and reporting requirements, and the demands on administrative staff have continued to expand.

To quantify the need of this position, Colburn asked Finance Director/Treasurer Revels to walk Council through a worker's compensation event in detail; he followed by adding his involvement with the event. Colburn stated that several recent policies have been added and additional reporting requirements result from new legislation.

The job description for the new position will include Project Management (City Hall/Police Station), keeping personnel and city policies up to date, Risk Management, Update job descriptions, manage personnel and medical files, accident report tracking, training, safety committee and working with the City Administrator on analysis of issues.

NEW BUSINESS

Report – Investigatory Powers of the City Council

At the November 17, 2008, meeting, Councilmembers Preadmore and Whipple were excused to respond to a Mason Fire Department call. At that time, Attorney McGinty was giving a report on the investigatory powers of the City Council. Attorney McGinty was asked to repeat his report at this meeting.

McGinty stated that the City Council may undertake an investigation of any of the affairs or conduct of

City government as it chooses. There are no promulgated rules; it can be done through City Council or by a committee. McGinty stated that he thinks the request for an investigation should be submitted in writing, and that the City Administrator should provide information that he has acquired. Ultimately, it is the decision of the Body whether to hold, or not to hold, an investigation. Discussion ensued regarding the complaint documents.

At this time, Councilmember Whipple asked to approach the podium. Mr. Whipple submitted the investigation request in writing to the City Administrator/Clerk.

UNFINISHED BUSINESS

Discussion was held regarding interpretation of Mason Code, Section 94-193 (6)(b). The letter of notice for the Franklin Farms Hearing of Appeal stated that oral arguments would be granted to individuals who have been granted standing to appeal by the City Council and who requested oral arguments in their letter of appeal. McGinty stated that he and Mr. Haywood discussed the interpretation. McGinty stated that he supported Mr. Haywood's interpretation of Section 94-193 (6)(b). A brief discussion ensued.

CORRESPONDENCE

Distributed.

LIAISON REPORTS

Waltz informed Council regarding current Historic District Commission business.

ADMINISTRATOR'S REPORT

Colburn informed the Council regarding current city business.

PEOPLE FROM THE FLOOR

Barb Tornholm, Councilmember Elect, suggested keeping the time limit for public comment consistent.

Elaine Ferris, Councilmember Elect, invited Council to the Library Open House, December 2, 2008.

EXECUTIVE SESSION

MOTION by Preadmore, second by Whipple,
to adjourn to executive session to consider the City Administrator's evaluation.

ROLL CALL VOTE:

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

No (0)

MOTION APPROVED UNANIMOUSLY

The meeting adjourned to executive session at 9:37 p.m.

Martin A. Colburn, City Clerk

Leon Clark, Mayor