

**CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF MARCH 16, 2009**

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

Present: Councilmembers: Clark, Ferris, Naeyaert, Tornholm, Waltz
Absent: Councilmember Bruno
Also present: Martin Colburn, City Administrator
Eric Smith, Finance Director
Rolland Olney, Public Works Director
David Haywood, Zoning & Development Director
Dennis McGinty, City Attorney
Deborah Cwierniewicz, Deputy City Clerk

APPROVAL OF MINUTES: March 2, 2009

The Minutes of March 2, 2009 were approved as submitted.

APPROVAL OF BILLS

MOTION by Naeyaert, second by Waltz,
to approve the payment of bills in the amount of \$160,978.54 as submitted.

MOTION APPROVED UNANIMOUSLY

PEOPLE FROM THE FLOOR

Olney stated that he is a member of the Board of Directors for the Michigan Rural Water Association (MRWA). On behalf of MRWA, he presented Mayor Leon Clark with the 2009 Michigan Rural Water's Mayor of the Year award. The plaque was presented in recognition of Mayor Clark being an instrumental elected official with the construction of the mandated water treatment plant, the first of its kind in Michigan; in addition, he recently attended the National Water Association Water Rally in Washington D.C. to lobby support for national and Michigan rural water, and for spending three days to visit lawmakers in Washington D.C., expressing the importance of rural water.

Colburn presented Public Works Director Rolland Olney with the 2009 Michigan Rural Water's Man of the Year award. The plaque was presented in recognition of Mr. Olney's career in the water and wastewater industry, providing drinking and sanitary water for rural areas, his years of dedication to the Michigan Rural Water Association, and service to his country through the Marine Corps.

PUBLIC HEARING

**Special Assessment Roll for the Sidewalk Improvements
Special Assessment Resolution No. 5, Project No. 2009-01**

Colburn informed Council regarding the re-calculation of the bid cost for the 2009 sidewalk improvements and the Franklin Farms Drive extension project slated for this year. He recommended that Council defer the sidewalk improvements to keep within the appropriations for street and sidewalk construction.

MOTION by Naeyaert, second by Waltz,
to defer 2009 sidewalk improvements indeterminately.
MOTION APPROVED UNANIMOUSLY

Michigan Department of Natural Resources Trust Fund Grant Application
Resolution No. 2009-12 – A Resolution to Approve Matching Funds for the Mason Linear Trail
Grant Application

Clark opened and closed the public hearing at 7:38 p.m. as there were no public comments.

MOTION by Naeyaert, second by Waltz,
to consider Resolution No. 2009-12 as read.
MOTION APPROVED UNANIMOUSLY

Resolution No. 2009-12 was introduced by Waltz and seconded by Naeyaert.

CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2009-12
A RESOLUTION TO APPROVE MATCHING FUNDS
FOR THE MASON LINEAR TRAIL GRANT APPLICATION
March 16, 2009

WHEREAS, the City of Mason has prepared a grant application for submittal to the Michigan Natural Resources Trust Fund for the construction of a linear trail connecting the Hayhoe Riverwalk Trail with Maple Grove Park, Bond Park, Laylin Park, Rayner Park and the Mason High School, and

WHEREAS, the proposed project described in the grant application is an action item listed in Section VIII of the Mason Five-Year Recreation Plan 2008 - 2013, and

WHEREAS, the estimated project cost, including matching obligations, is as follows:

City of Mason match	\$306,000
State Funds (MI Natural Resource Trust Funds)	\$720,000
Total Project Cost	\$1,026,000

WHEREAS, a public hearing was held on March 16, 2009, in the Mason City Hall Council Chambers to provide an opportunity for citizens to express opinions, ask questions, and discuss all aspects of the grant application, and

NOW THEREFORE BE IT RESOLVED, the City Council commits to expending \$306,000, in the fiscal year 2010 – 2011, as local matching funds to the Michigan Natural Resources Trust Fund grant for the construction of the Mason Linear Trail.

RESOLUTION APPROVED UNANIMOUSLY

REGULAR BUSINESS

Resolution No. 2009-09 – Use of Public Right-of-Way for Outdoor Seating, Sales and Service Policy

Haywood gave a brief synopsis of the proposed policy for the use of public right-of-way for outdoor seating, sales, and service. A brief discussion ensued.

MOTION by Naeyaert, second by Waltz,
to consider Resolution No. 2009-09 as read.
MOTION APPROVED UNANIMOUSLY

Resolution No. 2009-09 was introduced by Naeyaert and seconded by Waltz.

City of Mason
City Council Resolution 2009-09
USE OF RIGHT-OF-WAY FOR OUTDOOR SEATING, SALES AND SERVICE POLICY
March 16, 2009

WHEREAS, on August 4, 2008, the City Council adopted Ordinance No. 166 to permit use of the public right-of-way for outdoor food and drink service in the commercial zoning districts, and

WHEREAS, Section 94-173(j)(2) of Ordinance No. 166 establishes the minimum standards for the use of the public right-of-way for outdoor food and drink service and requires a license issued by City Council to conduct such use, and

WHEREAS, it is desirable to establish policy guidelines for the issuance of licenses for the use of the public right-of-way for outdoor food and drink service.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby establishes the following policy for issuing licenses for the use of the public right-of-way for outdoor food and drink service:

The goal of this policy is to encourage and support retail business while retaining or improving the character of the public spaces downtown. Plazas, sidewalks, and other pedestrian spaces have a solid tradition of enhancing downtown commercial areas. Programmed use of outdoor space by businesses is one way to encourage positive activity throughout the day and evening. The downtown is a lively and animated place for people to come together; and through the controlled use of public space for food and drink service, this policy is intended to enhance and support the vitality of the business community and enhance the quality of life for residents by providing more activities and elements of interest in the downtown.

PROPOSALS FOR THE USE OF RIGHT-OF-WAY

Businesses adjoining any plaza, public sidewalk or other right-of-way may propose to the City Council the use of a certain designated portion of the right of way adjacent to their businesses according to the guidelines below. City Council will judge these proposals in light of the public safety, welfare and general public benefit and whether the proposal meets or exceeds the following guidelines:

1. A PROPOSAL APPLICATION FORM is available for your convenience, but a proposal may be submitted without the form as long as it includes the following elements. The proposal must include a written description of the type and extent of the business activity proposed. The written request must include the following information: the number of square feet of right of way to be used, dates and hours of operation, and if the space is to be used for outdoor seating the proposal must include the total number of square feet of the patio/outdoor seating space, and the number of tables and seats proposed.
2. Use of the right-of-way for outdoor food and drink service shall not occur before March 15, nor after November 15 of the same year. Businesses should submit applications at least two weeks in advance of a City Council meeting to be placed on the agenda. Applicants submitting less than two weeks prior to a Council meeting will not be guaranteed to be on the next City Council agenda and in such cases applications may be held until the following Council meeting.
3. A business may seek to use that space directly adjacent to their business or may gain the written approval of a neighboring business and property owner in order to use additional space. In all cases, the spaces proposed for business use must be designed in such a way as to allow for logical pedestrian circulation patterns into neighboring businesses and to improve the overall attractiveness of the outdoor space. The remaining public walkway shall not be reduced to less than four feet wide.
4. The proposal must be accompanied by a drawing using hand drawing tools or other method showing the layout of the space to be used. All elements shown on the plan, including, but not limited to buildings and structures, tables, in the drawing shall be fully dimensioned. It must

show the businesses adjacent to the space in question, the doorways, trees, trash receptacles, signs, utility poles, parking meters and other public and private amenities that are within twenty feet of the space to be used. If a fence is to be used to enclose the space a drawing of the fence showing the height, material, design and method of fastening must also be included. Fencing is required around areas where alcohol is to be served.

5. All of the above information must be included on the drawing for the application to be considered complete. Applicants will be required to resubmit the drawing if it is not complete, which will delay the review of the right-of-way application.

OPERATING REQUIREMENTS

1. Each business must clean the area of all trash, litter and food at the time of the service and not allow food or trash to enter other areas of the public right-of-way. The area must be thoroughly cleaned at the time the outdoor space closes each evening.
2. A business which is licensed to use the public right-of-way must arrange the outdoor sales and service area presentably for the public at the time business opens each day. A restaurant should not leave tables and chairs stacked on the public right-of-way during hours that the restaurant is open.
3. Each business using the public right of way must provide sufficient trash receptacles for their patrons in order to prevent the accumulation of trash and litter in the public space. The use of public trash receptacles to satisfy this requirement is prohibited.
4. A restaurant must restrict the number of patrons to the number of chairs provided in the allotted space and must require patrons to wear shirts and shoes.
5. No amplified music will be allowed on the public space without prior special permission from City Council.
6. The use of the right-of-way can be temporarily revoked as necessary for community events which may require use of the space, therefore the fences, seating and other amenities should be reasonably portable.
7. No alcoholic beverages shall be sold or consumed in licensed area unless the area is also licensed by the Liquor Control Commission for outdoor service.
8. Restaurants that sell alcohol must close their outdoor eating space at or before 12:00 a.m. (midnight) in order to be consistent with other outdoor food and drink service areas on private property.
9. For restaurants that serve alcohol outside, the total occupancy of the restaurant, including the outdoor seating area, shall not exceed the maximum permitted occupancy for the interior of the premises in order to be consistent with other outdoor food and drink service areas on private property.
10. Unless specifically written in the approved permit conditions to remain, all tables, chairs, fencing and other furniture and amenities placed within the public right-of-way under this permit shall be removed from the right-of-way at the time the outdoor space closes each evening.

LICENSE REQUIREMENTS

Upon City Council approval of a business's proposal "for use of the public right-of-way", the City Clerk may issue a license agreement which specifies the dates of the outdoor dining season, the area for which the use is defined, the applicability of building codes and other law, and such other terms required by City Council. This license will require proof of insurance which indemnifies the City. It will also require payment of a license fee. The license fee is \$25.00 for the entire outdoor seating

season (March 15-November 15) regardless of the date the license is obtained. There shall be no pro-ration of the license fee. The issuance of a license agreement shall create no vested rights on the recipient or any third party, and any such license shall be revocable at any time by the City Council at will and without notice whenever the City Council determines, in its sole discretion, that continued use of the right-of-way is not appropriate. If a license is revoked for cause, the license fee will be forfeited. Upon revocation for the convenience of the City, the prepaid license fee will be returned pro rata.

A temporary right-of-way application may be approved at the discretion of the Zoning Administrator.

RESOLUTION APPROVED UNANIMOUSLY

Resolution No. 2009-10 – Designate Authorizing Signatories

MOTION by Naeyaert, second by Waltz,
to consider Resolution No. 2009-10 as read.
MOTION APPROVED UNANIMOUSLY

Resolution No. 2009-10 was introduced by Naeyaert and seconded by Waltz.

**CITY OF MASON
CITY COUNCIL RESOLUTION 2009-10
DESIGNATE AUTHORIZING SIGNATORIES
March 16, 2009**

BE IT HEREBY RESOLVED, that Mason State Bank and Dart National Bank, as designated depositories of the City of Mason, be, and it is hereby requested, authorized, and directed to honor checks, drafts, or other orders for the payment of money drawn in the City's name, including those payable to the individual order of any persons whose names appear thereon as signers thereof, when bearing or purporting to bear the facsimile signatures of the two following names: Martin A. Colburn, City Administrator; Eric E. Smith, Finance Director/Treasurer, and the above banks shall be entitled to honor and charge the City of Mason for such checks, drafts, or other orders, regardless of by whom or by what means the actual or purported facsimile signatures thereon may have been affixed thereto, if such signature resembles the facsimile specimens duly certified to or filed with the above banks by the Clerk of the City of Mason.

RESOLUTION APPROVED UNANIMOUSLY

Resolution No. 2009-11 – Advisability and Necessity to Vacate Streets

MOTION by Naeyaert, second by Ferris,
to consider Resolution No. 2009-11 as read.
MOTION APPROVED UNANIMOUSLY

Resolution No. 2009-11 was introduced by Naeyaert and seconded by Waltz.

**City of Mason
City Council Resolution No. 2009-11
A Resolution Determining the Necessity and Advisability
of Vacating Portions of West Oak Street and Park Street and all of Alley 15
March 16, 2009**

WHEREAS, it is deemed advisable and necessary for the health, welfare, comfort, and safety of the people of the City of Mason to discontinue and vacate the following platted public streets and alley:

A portion of West Oak Street and Park Street and all of Alley 15, as described in the Consolidated Plat of the Village (now City) of Mason dated December 25th 1866, which streets and alley are

more particularly described as follows:

That portion of Oak Street, 66 feet wide, between Block 15 and Parcel A, lying west of the west line of Park Street (formerly A Street) and east of the east line of the Norfolk Southern Railroad (formerly Jackson Lansing Saginaw Railroad) in the Consolidated Plat of the Village (now City) of Mason, as recorded in Liber 37 of Deeds, Pages 234 and 235, Ingham County Records, Michigan.

That portion of the southerly extension of Park Street, 66 feet wide, (formerly A Street) between the south line of Oak Street and the north line of Elm Street, also known as Parcel F and part of Parcel E in the Consolidated Plat of the Village (now City) of Mason, as recorded in Liber 37 of Deeds, Pages 234 and 235, Ingham County Records, Michigan.

All of the Alley, 33 feet wide, within Block 15, Consolidated Plat of the Village (now City) of Mason, as recorded in Liber 37 of Deeds, Pages 234 and 235, Ingham County Records, Michigan, said alley is between the west right of way line of Park Street (formerly A Street) and the east line of the Norfolk Southern Railroad (formerly Jackson Lansing Saginaw Railroad); and,

WHEREAS, the City of Mason deems it advisable to reserve an easement in the above-described premises for public utility purposes and other public purposes within the right-of-way to be vacated, including an easement for installation of cable for cable television and telecommunications networks.

NOW, THEREFORE, BE IT RESOLVED, that the City Council deems it advisable and necessary for the health, welfare, comfort, and safety of the people of the City of Mason, to discontinue, vacate, and abolish said premises, described above, subject to the reservation of an easement in the City of Mason for public utility purposes and other public purposes including the right to maintain and continue any and all existing public or quasi-public utility easements thereover or thereunder, and the right of ingress and egress thereto for any purposes whatsoever.

FURTHER, BE IT RESOLVED, that this Council will meet at 7:30 p.m. on April 20, 2009, in the Council chambers at 201 West Ash Street, Mason, Michigan for the purposes of hearing objections thereof.

FURTHER, BE IT RESOLVED, that the City Clerk is directed to give notice of such hearing by notice in the Ingham County Community News at least once each week for not less than four (4) consecutive weeks, preceding such hearing.

RESOLUTION APPROVED UNANIMOUSLY

MOTION – Bid – Waste Water Piping Improvements

Olney stated that twelve bids were received and opened March 3, 2009, for piping improvements at the wastewater treatment plant. This project includes establishing a non-potable water source and improvements to the valve system which moves sludge. The non-potable water source allows the use of non-treated water, reducing the use and cost of treated water for the waste water system. The valve and piping system will move sludge to the large holding tank using a valve and metered system rather than estimation. Staff recommended awarding the project to Rothenberger Construction Company due to past experience with the low bidder.

MOTION by Naeyaert, second by Waltz,
to award the bid for piping improvements at the Mason Waste Water Treatment Plant
to Rothenberger Construction Company in the amount of \$206,278.79.

MOTION APPROVED UNANIMOUSLY

Report – Request for Investigation of the Mason Police Department

Clark reported regarding the progress of the request by Russ Whipple for an investigation of the Mason Police Department. At the March 2, 2009, meeting, Mr. Whipple asked Council to initiate an investigation into an anonymous letter he received that he feels is threatening to him and his family. Council directed the City Administrator to initiate an investigation into the matter. Since there is a current law suit filed by Mr. Whipple against four MPD officers, Colburn requested assistance from the Meridian Charter Township Police Department who agreed to manage the investigation.

Discussion – Water Tower Logo

Discussion ensued regarding paint colors and the design for the south water tower and logo. It was the consensus of Council to use navy blue and white in the “golf tee” paint design for the water tower.

MOTION by Naeyaert, second by Waltz,
to assign the design of the water tower logo to the Planning Commission.
MOTION APPROVED UNANIMOUSLY

MOTION by Naeyaert, second by Waltz,
to add Item No. 7(G) Discussion – Scott Preadmore – Resignation.
MOTION APPROVED UNANIMOUSLY

Resignation – Scott Preadmore

The written resignation of Scott Preadmore dated March 15, 2009, was received by Colburn. A brief discussion was held regarding the process for filling a Council vacancy.

MOTION by Naeyaert, second by Waltz,
to accept applications from interested parties for consideration at the April 6, 2009,
regular meeting to fill the open Council seat vacated March 15, 2009.
MOTION APPROVED UNANIMOUSLY

UNFINISHED BUSINESS

A brief discussion ensued regarding the date and time of the upcoming budget meeting.

NEW BUSINESS

Councilmember Ferris informed Council regarding March Reading Month. Council welcomed newly appointed Finance Director, Eric Smith.

CORRESPONDENCE

Distributed.

LIAISON REPORTS

Discussion was held regarding filling the the ex-officio appointment to the Traffic Commission vacated by Mr. Preadmore’s resignation. Naeyaert informed Council regarding current Planning Commission business. Clark informed Council regarding current DDA business.

ADMINISTRATOR'S REPORT

Colburn informed the Council regarding current city business.

PEOPLE FROM THE FLOOR

None.

ADJOURNMENT

The meeting adjourned at 8:56 p.m.

Martin A. Colburn, City Clerk

Leon Clark, Mayor