

**CITY OF MASON  
REGULAR CITY COUNCIL MEETING  
MINUTES OF JULY 6, 2009**

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

Present: Councilmembers: Bruno, Clark, Ferris, Johnson, Naeyaert, Tornholm, Waltz  
Absent: Councilmember: None  
Also present: Martin Colburn, City Administrator  
Eric Smith, Finance Director/Treasurer  
John Stressman, Chief of Police  
Rolland Olney, Public Works Director  
Deborah Cwierniewicz, Deputy City Clerk  
Dennis McGinty, City Attorney

**APPROVAL OF MINUTES: June 15, 2009**

The regular meeting Minutes of June 15, 2009 were approved as submitted.

**APPROVAL OF BILLS**

MOTION by Naeyaert, second by Waltz,  
to approve the payment of bills in the amount of \$174,383.28 as submitted.  
MOTION APPROVED UNANIMOUSLY

**PEOPLE FROM THE FLOOR**

None.

**PUBLIC HEARING**

**Final Hearing Regarding the Results of the Downtown Planning Study Funded by the Michigan State Housing Development Authority (MSHDA) Grant**

Clark opened the public hearing at 7:34 p.m.

Colburn stated that The City applied for a 50/50 matching grant of up to \$20,000 through the Michigan State Housing Development Authority (MSHDA) to assist with developing a marketing study for the Mason Downtown Development Authority (MDDA).

McKenna and Associates, Inc. worked with the City and the MDDA on the project. The study has been completed and accepted by the MDDA. A final public hearing is the last step of the grant process.

Bruno inquired about the recommended improvements detailed in the study on page nine regarding the corner of State and Maple Streets. It is being recommended to enhance the streetscape improvements.

Tornholm stated that the City's Master Plan is consistent with the study's findings for accomplishing matters of concern and opportunities, like signage. However, it is mistakenly assumed that traffic and pedestrians primarily come from the west.

Clark stated that McKenna stood out as first choice for the project until key players left the company, followed by the replacements leaving the company as well. There were several typos, as well as nonsensical errors; the draft had to be sent back a second time. He concluded by saying that although the study could have been a better product, it will be helpful.

Clark closed the public hearing at 7:40 p.m.

## **REGULAR BUSINESS**

### **Presentation – Christman Company**

Jay Smith, Christman Company Senior Vice President, stated that he will be managing the City Hall/Police Department project: Similar to the City's experience with McKenna, Pete Kramer has left Christman Company. He introduced the management team present, Craig Smith of Christman Company, Jim Lynch, Civil Engineer with Fleis & VandenBrink Engineering, Inc., and designer Gene Carroll of Neumann/Smith Architecture Designers.

The Christman Team gave individual presentations of the schematic design. Craig Smith informed Council that the cost of construction will be \$197 a square foot with a \$171,000 contingency. He stated that the City clearly expressed that a raised access floor and under floor air distribution and demountable partitions were designated features in the plans. However, it was mutually determined by the team that the 5.5 million dollar budget did not allow inclusion of these items. Mr. Craig Smith stated that they are bumping into the budget everywhere they turn. They are striving to provide a functioning project that supports the needs while trying to satisfy the desires and goals that they set out originally; some of which have been hard to achieve.

Mr. Craig Smith stated they have estimated that if the preliminary phase was approved, they would proceed with the design phase through early September, provide final subcontractor bids and final project costs in mid October; construction would begin in November, continue through the winter, with a move in date of mid August 2010.

Discussion ensued regarding the nondescript elevation design and other items designated as most important and desirable by the City. Also discussed, was the desire to have the structure built in accordance with Leadership in Energy and Environmental Design (LEED) certification. The team stated that building will be constructed under a green approach; however, it will not achieve LEED certification. The plans will not include a basement, as the City had desired. The police department vehicle shelter is not incorporated in the project. The team stated that a shelter may be added if there are funds for it. The building plans fit the needs of current staff and do not include room for future growth.

It was the consensus of Council to schedule a work session Tuesday, July 7, 2009, at 7:00 p.m. to further discuss details of the presentation given by Christman Company tonight.

### **Resolution No. 2009-30 - Establish Retiree Health Funding Vehicle (RHFV)**

MOTION by Naeyaert, second by Waltz  
to consider Resolution No. 2009-30 as read.  
**MOTION APPROVED UNANIMOUSLY**

Resolution No. 2009-30 was introduced by Bruno and seconded by Tornholm.

**CITY OF MASON  
CITY COUNCIL RESOLUTION NO. 2009-30  
UNIFORM RESOLUTION ADOPTING THE MERS  
RETIREE HEALTH FUNDING VEHICLE  
(Excluding Plans Governed by Internal Revenue Code Section 401(h))  
July 6, 2009**

**WHEREAS**, the Municipal Employees' Retirement System ("MERS") Plan Document of 1996, effective October 1, 1996, authorized the Municipal Employees' Retirement Board ("Board") to establish additional programs including but not limited to defined benefit and defined contribution

program (MERS Plan Document Section 36(2)(a)); and the Municipal Employees Retirement Act of 1984, Section 36(2)(a) as amended by 1996 PA 220, MCL 38.1536(2)(a);

**WHEREAS**, the Board has previously authorized MERS' establishment of a retiree health funding vehicle ("RHFV" or "Program"), which a participating municipality or court, or another eligible public employer that is a political subdivision of the State which constitutes a "municipality" under MERS Plan Document Section 2B(4); MCL 38.1502b(2) ("Eligible Employer"), may adopt for its Eligible Employees;

**WHEREAS**, MERS has been determined by the Internal Revenue Service to be a taxqualified "governmental plan" and trust under section 401(a) of the Internal Revenue Code of 1986, and all trust assets within MERS reserves are therefore exempt from taxation under Code section 501(a) (IRS Letter of Favorable Determination dated June 15, 2005).

**WHEREAS**, the Board has established a governmental trust under Section 115 of the Internal Revenue Code (the "Trust Fund") to hold the assets of the RHFV, which Trust Fund shall be administered under the discretion of the Board as fiduciary, directly by (or through a combination of) MERS or MERS' duly-appointed Program Administrator;

**WHEREAS**, 1999 PA 149, the Public Employee Health Care Fund Investment Act, MCL 38.1211 *et seq.* ("PA 149") provides for the creation by a public corporation of a public employee health care fund, and its administration, investment, and management, in order to accumulate funds to provide for the funding of health benefits for retirees and beneficiaries;

**WHEREAS**, a MERS health care trust fund constitutes a governmental trust established by a public corporation ("municipality") as an Eligible Employer, provided that all such employers shall be the State of Michigan, its political subdivisions, and any public entity the income- of which is excluded from gross income under Section 115 of the Internal Revenue Code; provided further, that the health care trust shall not accept assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code;

**WHEREAS**, the Board acts as investment fiduciary for the pooled assets of each MERS participating municipality and court enrolled in MERS defined benefit programs, Health Care Savings Program, the Retiree Health Funding Vehicle, and the Investment Services Pool Program, on whose behalf MERS performs all plan administration and investment functions, and such participating municipalities and courts have full membership, representation and voting rights at the Annual Meeting as provided under Plan Section 45; MCL 38.1545.

**WHEREAS**, the Board also acts as investment fiduciary for those participating employers who are non-MERS participating municipalities and courts that have adopted the MERS Health Care Savings Program, Retiree Health Funding Vehicle, or Investment Service Pool Program, and such entities are not accorded membership, representation or voting rights provided to MERS participating municipalities and courts at the Annual Meeting under Plan Section 45; MCL 38.1545.

**WHEREAS**, adoption of this Uniform Resolution (the "Uniform Resolution") by the Eligible Employer is necessary and required in order that the benefits available under the MERS Retiree Health Funding Vehicle may be extended;

**WHEREAS**, this Uniform Resolution has been approved by the Board under the authority of 1996 PA 220, MERS Plan Document Section 36(2)(a), MCL 38.1536(2)(a), declaring that the Board "shall determine . . . and establish" all provisions of the retirement system. The MERS RHFV shall not be implemented with respect to any Eligible Employer unless in strict compliance with the terms and conditions of this Resolution, the Trust Document, and Trust Agreement.

- It is expressly agreed and understood as an integral and nonseverable part of extension or continuation of coverage under this Uniform Resolution Adopting MERS Retiree Health Funding Vehicle that Section 43B of the MERS Plan Document shall not apply to this Uniform Resolution, its administration or interpretation.
- In the event any alteration of the language, terms or conditions stated in this Uniform Resolution Adopting MERS Retiree Health Funding Vehicle is made or occurs, under MERS Plan Document Section 43B or other plan provision or other law, it is expressly recognized that MERS and the Board, as fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty: to administer (or to have administered) the MERS RHFV or its Trust Fund; or to continue administration.

**NOW, THEREFORE, BE IT RESOLVED** that the governing body adopts the MERS PA 149 Health Care Trust Fund as provided below.

### **SECTION 1. MERS RHFV PROGRAM**

**EFFECTIVE** July 6, 2009, the MFRS Retiree Health Funding Vehicle is hereby adopted by the City of Mason.  
(MERS municipality or court or other eligible employer)

**CONTRIBUTIONS** shall be made only by the Eligible Employer, remitted to MERS by the Eligible Employer, and credited to the Eligible Employer's separate fund within the trust subfund for MERS RHFV. As this Plan is funded solely by employer, on a cash or actuarial basis as determined by the employer, there is no requirement for a Participation Agreement establishing the schedule of contributions.

**INVESTMENT** of funds accumulated and held in the Fund shall be held in a separate reserve and invested on a pooled basis by MERS subject to the Public Employee Retirement System Investment Act ("PERSIA"), 1965 PA 314, as provided by MERS Plan Document Section 39; MCL 38.1539, and PA 149.

**THE ELIGIBLE EMPLOYER** shall abide by the terms of MERS RHFV, including all investment, administration, and service agreements, and all applicable provisions of the Code and other law. It is affirmed that no assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code shall be transferred to, or accepted by, MERS.

### **SECTION 2. IMPLEMENTATION DIRECTIONS FOR MERS AS RHFV INVESTMENT FIDUCIARY AND TRUSTEE**

- (A) The governing body of this Eligible Employer desires that all assets placed in its MERS RHFV (as a sub-fund within all pooled Trust Funds with MERS) be administered by MERS, which shall act as investment fiduciary with all powers provided under Public Employee Retirement System Investment Act, PA 149, all applicable provisions of the Internal Revenue Code and other relevant law.
- (B) The governing body desires, and MERS upon its approval of this Resolution agrees, that all funds accumulated and held in the MERS RHFV Trust Fund shall be invested and managed by MERS within the collective and commingled investment of all funds held in trust for all Eligible Employers.
- (C) All monies in the MERS RHFV Trust Fund (and any earnings thereon, positive or negative) shall be held and invested for the sole purpose of paying health care benefits for the exclusive benefit of "Eligible Employees" who shall constitute "qualified persons" who have retired or separated from employment with the Eligible Employer, and for any expenses of administration, and shall not be used for any other purpose, and shall not be distributed to the State.
- (D) The Eligible Employer will fund its MERS RHFV Trust sub-fund to provide funds for health care benefits for "Eligible Employees" who shall constitute "qualified persons." Participation in and any coverage under RHFV shall not constitute nor be construed to constitute an "accrued financial benefit" under Article 9 Section 24 of the Michigan Constitution of 1963, nor shall any contribution method for Eligible Employer funding other than "pay as you go" cash funding be required or imposed, and all benefits, rights, and obligations conferred by or arising under RHFV shall be as provided under the RHFV documents.
- (E) The Eligible Employer generically designates the following groups of persons as "Eligible Employees" who shall constitute "qualified persons," to receive retiree health care benefits subsidized under the MERS RHFV trust sub-fund. Groups may include any dependent(s) as specified in your bargaining agreement and/or personnel policy (provide copies of any governing agreement or other policy):  
  
*For example "non-union employees"*  
All full time employees
- (F) Finance Director (Use title of official, not name) shall be the Eligible Employer's RHFV Coordinator; **shall direct payment of fund monies for the benefit of the** Eligible

Employees identified in (E) under any MERS (or non-MERS) retiree health care benefit program, including, but not limited to, MERS HCSP, or MERS Premier Health; make investment allocations of the Employer's sub-trust fund within MERS-approved portfolios; receive necessary reports, notices, etc.; shall act on behalf of the Eligible Employer; and may delegate any administrative duties relating to the Fund to appropriate departments.

- (G) Fees and Expenses for the MERS RHFV are contained in Addendum A to this Resolution.

### SECTION 3. EFFECTIVENESS OF THIS RESOLUTION

This Resolution shall have no legal effect until a certified copy of this adopting Resolution shall be filed with MERS, and MERS determines that all necessary requirements under MERS Plan Document Section 36(2)(a), 1999 PA 149 and other relevant laws, and this Resolution have been met. Upon MERS' determination that all necessary documents have been submitted, MERS shall record its formal approval upon this Resolution, and return a copy to the Eligible Employer's RHFV Coordinator as identified above.

In the event an amendatory resolution or other action by the Eligible Employer is required by MERS, such Resolution or action shall be deemed effective as of the date of the initial Resolution or action where concurred in by this governing body and MERS (and the Program Administrator if necessary). Section 54 of the MERS Plan Document shall apply to this Resolution and all acts performed under its authority. The terms and conditions of this Resolution supersede and stand in place of any prior resolution, and its terms are controlling.

### RESOLUTION APPROVED UNANIMOUSLY

#### MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM RETIREE HEALTH FUNDING VEHICLE

#### CONTACT INFORMATION

Employer Name City of Mason

Contact Person and Title Eric Smith Finance Director

Phone (517) 676-9155 Ext 211

Facsimile (517) 676-1330

E-mail [erics@mason.mi.us](mailto:erics@mason.mi.us)

Address 201 W Ash St

City Mason Zip 48854

#### ADDENDUM A

Fees and Expenses for the MERS RHFV are as follows:

(a) The administrative fee is 45 basis points (45 hundredths of 1 percent). The fee will be applied by MERS to the fair market value of assets determined as of the first business day of each month. The fee will be deducted from the municipality's account. A quarterly statement will be provided following each quarter.

(b) The administrative fee is separate from and does not include underlying investment management expenses netted from all MERS trust funds under investment on a daily valuation basis.

Dated: \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
(Signature of authorized official)

\_\_\_\_\_  
(Title)

RECEIVED AND APPROVED BY THE MUNICIPAL EMPLOYEES'

RETIREMENT SYSTEM OF MICHIGAN

Dated: \_\_\_\_\_, 20\_\_\_\_

(Authorized MERS RHFV signatory)

**Motion – Renewal of Fire Service contracts with Aurelius and Vevay Townships**

The City of Mason provides fire services to both Aurelius and Vevay Townships. The area includes the eastern two-thirds of Aurelius Township, and Vevay Township in its entirety. These contracts provide the language regarding the Mason Fire Department's response to the incidents, how the fees are calculated, the equipment and staffing committed to the services and the release of liability to personnel and property issues.

Both the City Administrator and Fire Chief meet with the respective Supervisors of the Townships annually to review the service and contract. The Supervisors are very satisfied with the service they are receiving. The changes within this contract, other than dates, are found in paragraph 1, listing fire apparatus owned by the city. The contract has been amended to reflect the change from two tankers to one pumper/tanker and one tanker.

MOTION by Tornholm, second by Naeyaert,  
to accept the three-year Fire Service Contracts with Aurelius Township and  
Vevay Township as presented.

MOTION APPROVED UNANIMOUSLY

**Motion – Recommendation from the Tree Commission Regarding City Tree Plantings**

Bruno, liaison to the Tree Commission, stated that at its Tuesday, June 23, 2009, meeting, the Tree Commission recommended by unanimous vote, the following four items for Council's consideration: (1) Trees need to be planted on Cedar Street from South Street to the bridge crossing (2) Franklin Farm development needs to have one (1) tree per lot (3) Areas around the city that are missing trees need to be filled in with plantings from the approved tree species list (4) That city staff monitor and mow when necessary the MDOT right of way along N. Cedar St. to keep the entrance to the city looking good. Colburn stated that city matters are currently being address and that the developer for Franklin Farms is responsible to plant street trees.

Colburn recommended that the Commission and staff collaborate to develop a plan for inclusion with the next Master Plan process. No formal action was taken by Council.

**Motion – Request to Waive the Formal Bid Process to Extend the Current Contract with Biotech Agronomics, Inc.**

The City has been pleased with the service for biosolids land application from the POTW provided by Biotech Agronomics, Inc. They have agreed to extend the contract for a period of three (3) years, with the first year at no cost increase and the second and third year with a 1/10 of a cent per gallon increase. Therefore, staff is requesting to waive the formal bid process and renew the contract with Biotech Agronomics, Inc for a period of three (3) years.

MOTION by Bruno, second by Johnson,  
to waive the formal bid process and renew the contract with Biotech Agronomics,  
Inc. for a period of three (3) years (2009-2011) as outlined in their proposal.

MOTION APPROVED UNANIMOUSLY

**UNFINISHED BUSINESS**

Johnson informed Council that a resident asked him to attend a meeting being held between himself, City staff, and the contractor to address an issue he had with the new water line that went through his yard. The matter was resolved between the parties and the resident left satisfied with the course of action devised.

## **NEW BUSINESS**

Tornholm stated that she provided each Councilmember with a letter requesting an excused absence for the next regular Council meeting. Also, she informed Council regarding Consumers Energy's announcement for energy efficient improvements rebates for commercial buildings.

MOTION by Bruno, second by Johnson,  
to excuse Council Member Tornholm from the July 20, 2009 Council meeting.  
**MOTION APPROVED UNANIMOUSLY**

Ferris informed Council regarding the Garden Tour and the Farmer's Market. She asked if there was an update on the condition of the library roof. Colburn stated that the Friends of the Library gave a \$2,000 monetary gift toward repairs of the roof. A brief discussion ensued regarding library repairs.

Naeyaert inquired about extending Curtis Street to the property west of Cedar Street. A brief discussion ensued regarding interest in the site.

## **CORRESPONDENCE**

Distributed.

## **LIAISON REPORTS**

### **Downtown Development Authority (DDA)**

Clark informed Council regarding current DDA business. They are referring consideration of moving the handicap sign from in front of Mason State Bank to Wares on Jefferson Street.

### **Historic District Commission**

Waltz informed Council regarding current Historic District business.

## **ADMINISTRATOR'S REPORT**

Colburn informed the Council regarding current city business.

## **PEOPLE FROM THE FLOOR**

None.

## **ADJOURNMENT**

The meeting adjourned at 9:00 p.m.

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Martin A. Colburn, City Clerk

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Leon Clark, Mayor