

**CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF FEBRUARY 2, 2004**

Whipple called the meeting to order at 7:33 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan. Johnson led the Pledge of Allegiance and offered the invocation.

Present: Councilmembers: Bruno, Clark, Helbig, Johnson, Naeyaert, Preadmore, Whipple
Also present: Martin Colburn, City Administrator
Kathy Revels, Finance Director
Joe Dean, DPW Director
Bill Potter, City Engineer
Deborah Stein, Deputy City Clerk

APPROVAL OF MINUTES - REGULAR COUNCIL MEETING: January 19, 2004

The Regular Meeting Minutes of January 19, 2004 were approved as corrected.

APPROVAL OF BILLS

MOTION by Preadmore, seconded by Helbig,
To approve the payment of bills in the amount of \$88,067.28 as submitted.
MOTION APPROVED UNANIMOUSLY

PEOPLE FROM THE FLOOR

None.

REGULAR BUSINESS

**Public Hearing - Notice of Hearing on the Special Assessment Roll for the Street and Sidewalk
Special Assessment Project No.2004-1**

Mayor Whipple opened the public hearing at 7:38 p.m.

Kurt Bancroft of 100 N. Jefferson Street stated that his property is located at the apex of N. Jefferson Street and Okemos Street. In 1990 the property was specially assessed for improvements on N. Jefferson Street. He attended that public hearing and was told that a property could only be assessed once in a lifetime; he asked about the city's policy. He also asked about the bid for this project and the city's bidding process. He felt that the proposed three-year amortization should be extended. He added that the improvements should be deferred until a walkway for the five-point intersection was addressed. Whipple responded to Mr. Bancroft's questions. He cited the special assessment policy that was publicly read at the 1990 public hearing Mr. Bancroft attended. It states that, "...no property owner could be assessed on the same property more than once for like improvements within a ten year period." Whipple stated that the City Council has the authority to waive the bid process and Aggregate has won the bid for the last ten years. The contract from last year has been extended for this project. Colburn stated that the city is currently looking into obtaining federal grant money to assist reconfiguring the five-point intersection; however it is unknown if, or when, the grant would be awarded. Whipple stated that the proposed improvements for Okemos Street would help by reducing the width of the intersection. The grant is not a sure thing and he would not favor deferring the project because Okemos Street is in serious need of repair and there are infrastructure issues as well.

Tom Plumhoff of 730 N. Okemos stated that he purchased this property about a month ago and that he

had not been notified of the assessments. He asked why his assessment included curb and gutter costs. The assessment roll shows properties that are not being assessed for curb and gutter.

Whipple suggested that he contact his realtor and request the disclosure because the property owner was notified and the special assessment is a lien on the property. He explained that an improvement to the infrastructure increases the value of the property; assessments are made, and the city shares the cost 50/50 with the property owner. Street maintenance and capital improvements are funded by the five-mill tax appropriation. The properties that have existing curb and gutter are receiving maintenance; the properties that are receiving installation of curb and gutter for the first time are being assessed.

Larry Dorrow of 522 Okemos Street stated that he is opposed to sidewalks being installed on Okemos Street because they lead to nowhere and he feels that they will not be used. He is concerned about the number of trees that will need to be removed, and about residents that cannot afford the assessment.

Sue Risch of 526 Okemos Street stated opposition to sidewalk installation on Okemos Street because it will be too close to her home. She is concerned about trees that will need to be removed and residents that cannot afford the assessment.

Naeyaert commented that state and city deferments are available for those who would not be able to afford the assessment.

Kevin Lovell of 141/144 Okemos Street stated that he is opposed to sidewalk installation for Okemos Street. He feels that the money could be used elsewhere.

Phil Bernardi of 359 Okemos Street asked the Council to consider a ten-year amortization rather than three years to help assist those that the assessment will impose a hardship for.

Dean stated that at this time there are not any plans to remove trees for the installation of sidewalks along Okemos Street. Whipple stated that the city would work with property owners regarding the placement of sidewalks in front of their property.

Whipple closed the public hearing at 8:21 p.m.

Naeyaert commented that she would call the property owners on the assessment roll to discuss the hardship deferment available and get the forms to those who want to apply.

MOTION by Johnson, seconded by Bruno,
To amend the agenda by moving Item No. 7C before Item No. 7B.
MOTION APPROVED UNANIMOUSLY

Special Assessment Resolution No. 5, Project No. 2004-1

Special Assessment Resolution No. 5, Project No. 2004-1 was introduced by Helbig and seconded by Johnson.

MOTION by Naeyaert, seconded by Johnson,
To amend Special Assessment Resolution No. 5, Project No. 2004-1 under *NOW*,
THEREFORE, BE IT RESOLVED THAT, paragraph three, strike *three (3)* and insert
ten (10); strike *two (2)* and insert *nine (9)*.
MOTION APPROVED UNANIMOUSLY

Discussion was held regarding the amount of interest charged for annual installments. The Finance

Director was asked to respond to the rationale for the amount of the interest charged and the administration costs that the city incurs. Revels stated that it had not been planned to bond for the three-year period. However, funds were transferred to the Fund Balance in Special Assessments to cover the interest in that fund this past year. The fund may not be healthy enough to withstand a ten year installment. The interest rate for special assessments can't be adjusted after it has been set. The local banks have quoted 4% if the city were to bond right now.

MOTION by Clark, seconded by Bruno,
To amend Special Assessment Resolution No. 5, Project No. 2004-1 under *NOW*,
THEREFORE, BE IT RESOLVED THAT, paragraph three, strike *four and one half*
percent (4.5%) and insert *three percent (3%)*.
MOTION APPROVED UNANIMOUSLY

CITY OF MASON

**2004 STREET AND SIDEWALK SPECIAL ASSESSMENT RESOLUTION NO. 5
PROJECT 2004-1**

February 2, 2004

WHEREAS, pursuant to due notice to all interested parties, this City Council did meet on Monday, February 2, 2004, in the City Hall, 201 West Ash Street, Mason, Michigan, for the purpose of reviewing the special assessment roll and hearing any objections thereto for Street and Sidewalk Special Assessment District - 2004-1; and

WHEREAS, at the time and place designated for said meeting, the meeting was duly called to order and the opening of the hearing for objections to the special assessment roll, prepared by the City Assessor and on file with the City Clerk, was announced, said roll assessing the cost of certain sidewalk improvements against the benefiting properties; and

WHEREAS, objections were heard or filed in writing with the City Clerk and the following adjustment or corrections, if any, were made:

; and

WHEREAS, the City Council now desires to confirm the special assessment roll attached hereto as **Exhibit A**.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council hereby designates the special assessment district as the "Street and Sidewalk Special Assessment District - 2004-1."
2. The special assessment roll as prepared and reported to the City Council by the City Assessor shall be designated as the "Special Assessment Roll, Street and Sidewalk Special Assessment District 2004-1" in the final amount of **\$124,776.93**, and is hereby adopted and confirmed, and the City Clerk is hereby directed to endorse thereon this date of confirmation.

3. The special assessment roll shall be divided into ten (10) equal annual installments. The first installment shall be due on July 1, 2004, and the nine (9) subsequent installments shall be due on July 1 of the succeeding years thereafter. Special assessments may be paid in full on or before August 31, 2004, without interest. Thereafter, installments of the special assessment roll shall bear interest at the rate of three percent (3%) per annum, commencing on September 1, 2004, payable annually on the due date of each installment after the first installment. If any installment is not paid when due then the same shall be deemed to be delinquent and there shall be collected thereon in addition to the interest above provided, a penalty at the rate of one percent (1%) for each month or fraction thereof that the same remains unpaid before being reported for reassessment upon the City tax roll. In the event the City Council determines that it is in the best interest of the district and the City at large to issue bonds pledging the receipts of said special assessment roll and the full faith and credit of the City; then and in that event, the interest on the unpaid installments shall be adjusted to not more than one percent (1%) greater than the average interest rate at which the bonds were sold. Said interest shall be payable annually on each installment due date.

4. Any of the unpaid balance due on the special assessment roll may be paid in full on any installment date, together with interest due to said payment date.

5. The assessments made in said special assessment roll are hereby ordered and directed to be collected. The City Clerk shall deliver the special assessment roll to the City Finance Director/Treasurer with the proper warrant attached, commanding the City Finance Director/Treasurer to collect the assessments therein in accordance with the directions of the City Council with respect thereto, and the City Finance Director/Treasurer is authorized and directed to collect the amounts assessed as they become due pursuant to the terms of this resolution and the provisions of the applicable statutes of the State of Michigan.

6. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be, and the same are, hereby rescinded.

Vote: Yes (6) Bruno, Helbig, Johnson, Naeyaert, Preadmore, Whipple

No (1) Clark

RESOLUTION APPROVED

Resolution No. 2004-09 Resolution To Accept A Bid Change Order For FY 2004 Okemos Street Project

Resolution No. 2004-09 was introduced by Johnson and seconded by Helbig.

MOTION by Bruno, seconded by Naeyaert,
To amend Resolution No. 2004-09 in the *BE IT HEREBY RESOLVED* by striking \$1,731,630 and inserting \$1,385,302; strike *Okemos Street* and insert *sidewalk, road, and*; strike *project* and insert *on Okemos Street*. Under *BE IT FURTHER RESOLVED*, strike *Okemos Street* and insert *sidewalk, road, and*; strike *project* and insert *on Okemos Street*.

MOTION APPROVED UNANIMOUSLY

CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2004-09
FEBRUARY 2, 2004

RESOLUTION TO ACCEPT A BID CHANGE ORDER
FOR FY 2004 OKEMOS STREET PROJECT

WHEREAS, the City of Mason accepted a bid through a public competitive bid process in April, 2003, and awarded the street improvements to Aggregate Industries.

BE IT HEREBY RESOLVED that the City Council of the City of Mason does hereby extend the bid contract and furthermore, accepts from Aggregate Industries Change Order No. 1 in the amount of \$1,385,302 for the construction of sidewalk, road, and water and sewer improvements project on Okemos Street.

BE IT FURTHER RESOLVED that the City Administrator is to forward the Notice of Award to Aggregate Industries for the sidewalk, road, and water and sewer improvements project on Okemos Street.
RESOLUTION APPROVED UNANIMOUSLY

Resolution No. 2004-10 MDOT Performance and Indemnification

Resolution No. 2004-10 was introduced by Johnson and seconded by Helbig.

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Michigan Department
Of Transportation
2207B (01.03)

PERFORMANCE AND INDEMNIFICATION RESOLUTION FOR GOVERNMENTAL BODIES

RESOLUTION NO. 2004-10

This Performance and Indemnification Resolution is required by the Michigan Department of Transportation for purposes of issuing to a municipal utility an "Individual Permit for Use of State Trunkline Right of Way" (form 2205), or an "Annual Application and Permit for Miscellaneous Operations Within State Trunkline Right of Way" (form 2205B).

RESOLVED WHEREAS, the City of Mason

(city, village, township, etc.)

hereinafter referred to as the "GOVERNMENTAL BODY," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utility or other facilities, or to conduct other activities, on, over, and under state trunkline right of way at various locations within and adjacent to its corporate limits;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the GOVERNMENTAL BODY agrees that:

1. It will fulfill all permit requirements and will indemnify, save harmless, represent and defend the State of Michigan, Michigan Transportation Commission, and the DEPARTMENT and all officers, agents, employees and those contracting governmental bodies performing permit activities for the DEPARTMENT according to a maintenance contract:

a. from any and all claims and losses occurring or resulting to any and all persons, firms, or corporations furnishing or supplying work, services, materials, or supplies to the GOVERNMENTAL BODY as the result of the GOVERNMENTAL BODY's installation, construction, operation, or maintenance activities which are being performed under the terms of the PERMIT on, over, and/or under the state trunkline right of ways; and

b. from any and all claims of every kind for injuries to, or death of, any and all persons, and for loss of or damage to property, and environmental damage or degradation, and from attorney's fees and related costs arising out of, under, or by reason of the GOVERNMENTAL BODY's installation, construction, operation or maintenance activities which are being performed under the terms of the PERMIT on, over, and/or under the state trunkline right of way, except claims resulting from the direct negligence or willful acts or omissions of said DEPARTMENT performing permit activities.

c. from any and all claims made by any and all persons, firms, or corporations furnishing or supplying materials, supplies, work, or services on, over, and/or under the State trunkline right of way pursuant to an agreement with the State of Michigan, the DEPARTMENT and/or the Michigan Transportation Commission, as a result of the GOVERNMENTAL BODY's failure to move or otherwise relocate its facilities in a timely manner after being requested to do so by the DEPARTMENT.

2. Any work performed for the GOVERNMENTAL BODY by a contractor or subcontractor will be solely as a contractor for the GOVERNMENTAL BODY and not as a contractor or agent of the DEPARTMENT. Any claims by any contractor or subcontractor will be the sole responsibility of the GOVERNMENTAL BODY. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the GOVERNMENTAL BODY, or their subcontractors or any other person not a party to the PERMIT without its specific prior written consent and notwithstanding the issuance of the PERMIT.

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3. The GOVERNMENTAL BODY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for money damages.

4. It will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State trunkline right of way resulting from the installation construction, operation and/or maintenance of the GOVERNMENTAL BODY'S facilities according to a PERMIT issued by the DEPARTMENT.

5. With respect to any activities authorized by PERMIT, when the GOVERNMENTAL BODY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.

6. The incorporation by the DEPARTMENT of this indemnification resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.

7. This indemnification resolution shall continue in force from this date until cancelled by the GOVERNMENTAL BODY or the DEPARTMENT with no less than thirty (30) days prior written notice to the other party. It will not be cancelled or otherwise terminated by the GOVERNMENTAL BODY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED, that the following position(s) are authorized to apply to the Michigan Department of Transportation for the necessary permit to work within state trunkline right of way on behalf of the GOVERNMENTAL BODY.

Name	And/or	Title
Ken Baker		Supervisor, Street/Water/Vehicle

I HEREBY CERTIFY that the foregoing is a true copy of a resolution adopted by

the Mason City Council (Name of Board, etc)

of the City of Mason (Name of GOVERNMENTAL BODY) of Ingham (County)

at a Regular meeting held on the 2nd day of

February A.D. 2004

Signed *Mark A. Collo* Title City Clerk

RESOLUTION APPROVED UNANIMOUSLY

2003 Annual Fire Department Report

Fire Chief Dave Scutt presented the 2003 Annual Mason Fire Department Report.

MOTION by Preadmore, seconded by Clark,
To accept the 2003 Mason Fire Department Annual Report and place it on file.

MOTION APPROVED UNANIMOUSLY

Recommendation – Base Water Connection – Revision of the Standard

Council requested the DPW Director to recommend a standard for residential base water connection. Dean commented briefly regarding his recommendation to revise the existing three-quarter-inch connection to a one-inch connection. Discussion ensued.

MOTION by Helbig, seconded by Naeyaert,

To approve staff's recommendation to revise the existing three-quarter-inch base water connection standard per residential dwelling unit, to a one-inch base water connection for all new residential dwelling water services installed after March 1, 2004.

Vote: Yes (3) Helbig, Naeyaert, Whipple

No (4) Bruno, Clark, Johnson, Preadmore

MOTION FAILED

Request for Excused Absence – Council Member Helbig

MOTION by Bruno, seconded by Preadmore,

To excuse Council Member Helbig from the February 16, 2004 meeting.

MOTION APPROVED UNANIMOUSLY

UNFINISHED BUSINESS

Discussion was held regarding the replacement of fire hydrants for the Okemos Street project.

MOTION by Bruno, seconded by Johnson,

To reinstall the useable fire hydrants that are impacted by the Okemos Street project.

MOTION APPROVED UNANIMOUSLY

Naeyaert asked if there was any information regarding the matter of sidewalk installation for Holt Street between Elm and Oak streets.

Bruno stated that he researched the matter; however he couldn't find specifics regarding that portion of Holt Street. He recalls that it was proposed for Holt Street about eight years ago; at that time, Council determined not to install sidewalks there due to the elevation problems. Preadmore stated that he had the same recollection.

NEW BUSINESS

Clark stated that snow removal enforcement needed to be elevated downtown. Also, the recently paved alleys need to be plowed regularly.

CORRESPONDENCE

All correspondence was distributed.

LIAISON REPORTS

Helbig informed the Council on the following Cable Communications Commission business.

- A battery back-up is being purchased for the computer system
- Software needs to be upgraded
- The CD Drive needs to be repaired
- PowerPoint training needs to be scheduled
- There will be a change in the channel line up

ADMINISTRATOR'S REPORT

Colburn informed the Council on the following items.

- Columbia Lakes Investment Group is proposing to construct a 400-500 manufactured home development outside of the city. A public hearing will be held regarding the proposed wastewater treatment plant.
- Discussion was held regarding participation in the 2004 Mayors Exchange.
- Gary Naeyaert (associated with the Michigan Road Builder's Association) asked that the elected officials contact legislators and request that a cap on road tax funds be established. The State of Michigan currently pays more to road taxes than it receives and the lost funding goes to other states in accordance with TEA 21.
- The Planning Commission asked that a request be forwarded to the Ingham County Road Commission to reduce the speed limit on Kipp Road due to the forth-coming construction of Independent Bank at Kipp Road and Cedar Street. Ingham County Road Commission has chosen to take no action, which means the issue is denied.

PEOPLE FROM THE FLOOR

None.

EXECUTIVE SESSION

MOTION by Clark, seconded by Preadmore,
To adjourn to executive session to discuss an attorney/client privileged communication.

ROLL CALL VOTE: Yes (7) Bruno, Clark, Helbig, Johnson, Naeyaert,
Preadmore, Whipple
No (0)

MOTION APPROVED UNANIMOUSLY

MOTION by Clark, seconded by Preadmore,
To also discuss property acquisition in the executive session.

ROLL CALL VOTE: Yes (7) Bruno, Clark, Helbig, Johnson, Naeyaert,
Preadmore, Whipple
No (0)

MOTION APPROVED UNANIMOUSLY

The meeting adjourned at 9:50 pm.

Martin A. Colburn, City Clerk

Russell W. Whipple, Mayor