

**CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF FEBRUARY 6, 2006**

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

Present: Councilmembers: Bruno, Clark, Coady, Mulvany, Naeyaert, Whipple
Absent: Councilmember: Johnson
Also present: Martin Colburn, City Administrator
Kathy Revels, Finance Director/Treasurer
Dave Scutt, Fire Chief
John Stressman, Police Chief
Joe Dean, Public Works Director
Bill Potter, City Engineer
Phil Birdsall, DDA Director
Dennis McGinty, City Attorney
Deborah Cwierniewicz, Deputy City Clerk

APPROVAL OF MINUTES - REGULAR COUNCIL MEETING: January 16, 2006

The Minutes of January 16, 2006 were approved as submitted.

APPROVAL OF BILLS

MOTION by Bruno, second by Whipple,
To approve the payment of bills in the amount of \$216,553.52 as submitted.
MOTION APPROVED UNANIMOUSLY

PEOPLE FROM THE FLOOR

Rebecca Palmer Cornish of 521 S. Barnes Street read and provided a prepared statement regarding the history of the Palmer family and requested that the Hayes Park would be renamed to Palmer Park

Sandy Garrish of 424 W. Elm Street asked that a recycling program be established to replace Ingham County's program that closed December 31, 2005.

Mary Lou Pax of 324 South Street also stated that she would like the city to provide recycling.

Betty Pebbles of 440 W. Maple Street stated that she would like the city to provide recycling.

Clark stated that curb side recycling is available through our current trash collector, Granger.

REGULAR BUSINESS

**Resolution No. 2006-05 – Tax Sharing Agreement between the City of Mason
Downtown Development Authority and the County of Ingham**

Resolution No. 2006-05 was introduced by Bruno and seconded by Mulvany. Discussion ensued regarding the Ingham County Board of Commissioner's resolve to opt out of a tax capture for the expanded Mason DDA District until a tax sharing agreement has been executed. Birdsall spoke briefly and recommended entering into the agreement.

MOVED by Whipple, seconded by Bruno,
To defer Resolution No.2006-05 to obtain further information from the Finance Director; and to ask the County to reconsider paragraph (4) of the Agreement, which limits the use of revenue generated beyond the initial projections for calling bonds or other debt related to the approved projects.

Yes (4) Bruno, Clark, Mulvany, Whipple

No (2) Coady, Naeyaert

Absent (1) Johnson

MOTION APPROVED

Resolution No. 2006-06 – MDOT Performance Resolution for Governmental Bodies
Resolution No. 2006-06 was introduced by Bruno and seconded by Mulvany.

MASON CITY COUNCIL
RESOLUTION NO. 2006-06

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Michigan Department
Of Transportation
22(7)B (03/04)

**PERFORMANCE
RESOLUTION FOR GOVERNMENTAL BODIES**

This Performance 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 220-B).

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:

Each party to this Agreement shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Agreement, as provided by law.

This Agreement is not intended to increase either party's liability for, or immunity from, tort claims.

This Agreement is not intended nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.

1. 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.

2. 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.

3. 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.

4. 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.

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

6. This 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
MASON POLICE DEPT	SGT ED HUDE/SGT DON HANSON/DET. LYNNE MARK	
MASON FIRE DEPT	CHIEF DAVID SCUTT/ASST. CHIEF KERRY MINSHALL	
MASON DEPT OF PUBLIC WORKS	JOE DEAN/KEN BAKER/ROD YEAGER/JIM KING	
WOLVERINE ENGINEERING (CITY ENGINEER)	BILL POTTER.	

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

the _____
(Name of Board, etc)
 of the _____ of _____
(Name of GOVERNMENTAL BODY) (County)
 at a _____ meeting held on the _____ day of
 _____ A.D. _____

Signed _____ Title _____

RESOLUTION APPROVED UNANIMOUSLY

Annual Report – Fire Department, Chief David Scutt

Chief Scutt briefly spoke regarding the annual report he submitted.

MOTION by Coady, second by Whipple,
 To accept the Mason Fire Department 2005 Annual Report and place it on file.
MOTION APPROVED UNANIMOUSLY

Annual Report – Police Department, Chief John Stressman

Chief Stressman spoke briefly regarding the annual report he submitted.

MOTION by Coady, second by Naeyart,
To accept the Mason Police Department 2005 Annual Report and place it on file.
MOTION APPROVED UNANIMOUSLY

Report – Ingham Court – DDA Director, Phil Birdsall

Birdsall informed the Council regarding the current design plan for Ingham Court. Potter responded to questions regarding the Probable Cost Sheet that he submitted. Discussion ensued regarding probable construction costs, aesthetic enhancements and landscape maintenance. Whipple requested that this item be placed on the February 20th agenda.

Request for Excused Absence – Council Member Johnson

MOTION by Mulvany, second by Naeyaert,
To excuse Councilmember Johnson from the February 6, 2006 City Council Meeting.
MOTION APPROVED UNANIMOUSLY

UNFINISHED BUSINESS

None.

NEW BUSINESS

Coady informed Council that she attended the Public Officials Conference conducted by the Michigan State Police Emergency Management Division in cooperation with Ingham County Emergency Management held February 1, 2006.

CORRESPONDENCE

Distributed.

LIAISON REPORTS

- ♦ Mulvany informed the council regarding the Historic District Commission's current business.
- ♦ Whipple informed the Council regarding Cable Communications Commission. He also gave a brief update of comments that were forwarded to the Capitol Area District Library's Strategic Planning Committee for the Report they are compiling.
- ♦ Coady informed the Council regarding Planning Commission business.
- ♦ Clark Informed the Council regarding Downtown Development Authority business.

ADMINISTRATOR'S REPORT

Colburn informed the Council regarding current city business.

PEOPLE FROM THE FLOOR

None.

Clark stated that the City Administrator had requested an executive session regarding property acquisition. The regular meeting will reconvene following executive session.

MOTION by Whipple, second by Coady,
To adjourn to executive session to consider a matter regarding property acquisition.

ROLL CALL VOTE:

Yes (6) Bruno, Clark, Coady, Mulvany, Naeyaert, Whipple

No (0)

Absent (1) Johnson

MOTION APPROVED UNANIMOUSLY

The meeting adjourned to executive session at 9:55 p.m. and the regular meeting reconvened at 10:10 p.m.

MOTION by Whipple, second by Naeyaert,
To authorize the City Administrator to execute a buy/sell agreement for the property located at 510 S. Park Street for the purchase price of \$150,000, with allowance for \$5,000 in earnest money and appropriate terms as determined by the Administrator and the Attorney.

Yes (4) Coady, Mulvany, Naeyaert, Whipple

No (2) Bruno, Clark

Absent (1) Johnson

MOTION APPROVED

ADJOURNMENT

Being there was no further business the meeting adjourned at 10:13 p.m.

Martin A. Colburn, City Clerk

Leon Clark, Mayor