

**CITY OF MASON  
REGULAR CITY COUNCIL MEETING  
MINUTES OF JULY 15, 2013**

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: Brown, Bruno, Clark, Droscha, Ferris, Naeyaert  
Absent: Councilmember: Mulvany (excused)  
Also present: Martin A. Colburn City Administrator  
Deborah J. Cwierniewicz, City Clerk  
Eric Smith, Finance Director/Treasurer  
John Stressman, Chief of Police

**ANNOUNCEMENTS**

- Kiwanis invited Council to attend the Tuesday, July 16 meeting – Guest Speaker is from FAN, Families Against Narcotics
- Thursday Night Live! – July 18, 2013 on the Courthouse lawn

**PEOPLE FROM THE FLOOR**

None.

**CONSENT AGENDA**

MOTION by Naeyaert, second by Droscha,  
to approve the Consent Agenda as presented:

- A. Approval of Minutes – Regular Council Meeting: July 1, 2013
- B. Approval of Bills - \$55,247.03
- C. Motion – Request to be Excused – City Council Member Jim Mulvany  
Excuse the absence of Councilmember Mulvany from the July 15, 2013 meeting.
- D. Motion – Alley Closure – Bad Brewing Company  
Approve the closure of the alley between Bad Brewing Company and Keans Store Co.  
from Jefferson Street to the end of the Bad Brewing Company building to allow a hot dog  
vender to sell refreshments for the company's first year anniversary in business.

**MOTION APPROVED UNANIMOUSLY**

**REGULAR BUSINESS**

**Second Reading and Adoption – Ordinance No. 194 - An Ordinance, Granting to Consumers Energy Company, Its Successors and Assigns, the Right, Power and Authority to Construct, Maintain and Commercially Use Electric Lines Consisting of Towers, Masts, Poles, Crossarms, Guys, Braces, Feeders, Transmission and Distribution Wires, Transformers and Other Electrical Appliances On, Under, Along and Across the Highways, Streets, Alleys, Bridges, Waterways, and Other Public Places, and to Do a Local Electric Business in the City of Mason, Ingham County, Michigan, for a Period of Thirty Years.**

Colburn gave a brief summary of proposed Ordinance No 194. McGinty spoke to the legal components of the franchise agreement.

MOTION by Naeyaert, second by Droscha,  
to consider Ordinance No. 194 read for the second time and adopted.  
MOTION APPROVED UNANIMOUSLY

**CITY OF MASON  
ORDINANCE NO. 194**

AN ORDINANCE, GRANTING TO CONSUMERS ENERGY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, POWER AND AUTHORITY TO CONSTRUCT, MAINTAIN AND COMMERCIALY USE ELECTRIC LINES CONSISTING OF TOWERS, MASTS, POLES, CROSSARMS, GUYS, BRACES, FEEDERS, TRANSMISSION AND DISTRIBUTION WIRES, TRANSFORMERS AND OTHER ELECTRICAL APPLIANCES ON, UNDER, ALONG AND ACROSS THE HIGHWAYS, STREETS, ALLEYS, BRIDGES, WATERWAYS, AND OTHER PUBLIC PLACES, AND TO DO A LOCAL ELECTRIC BUSINESS IN THE CITY OF MASON, INGHAM COUNTY, MICHIGAN, FOR A PERIOD OF THIRTY YEARS.

THE CITY OF MASON ORDAINS:

**Section 1. Grant, term.** The City of Mason, Ingham County, Michigan, hereinafter "City," hereby grants the right, power and authority to the Consumers Energy Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances, hereinafter referred to collectively as electric lines, for the purpose of transmitting, transforming and distributing electricity on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the city of Mason, Ingham County, Michigan, for a period of thirty years.

**Section 2. Consideration.** In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

**Section 3. Conditions.** Except in cases of emergency, no work requiring any excavation in, opening in, or tunneling under any highway, street, alley, bridge, waterway, or other public place shall be commenced by said Grantee without first obtaining a permit for said work from the City. Except in cases of emergency, no work requiring the obstruction of any portion of any right-of-way for longer than one day shall be commenced by Grantee without first obtaining a right-of-way permit from the City. In cases of emergency, the required permits shall be obtained as soon as practicable after commencement of the work. No highway, street, alley, bridge, waterway, or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same order and condition as when said work was commenced. All of Grantee's structures and equipment shall be so placed on either side of the highways so as not to unnecessarily interfere with the use thereof for highway purposes. All of Grantee's wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in said highways. The Grantee shall have the right to trim trees if necessary in the conducting of such business, subject, however, to the supervision and reasonable control of the City's Public Works Department or its successor.

**Section 4. Hold harmless.** Said Grantee shall at all times keep and save the City free and harmless from all loss, costs and expense to which it may be subject by reason of the electric lines hereby authorized. In case any action is commenced against the City on account of the permission herein given, said Grantee shall, upon notice, defend the City and save it free and harmless from all loss, cost and damage arising out of the electric lines. Provided, however, that Grantee's obligations under this Section 4 shall not apply to any loss, cost, damage, or claims arising solely out of the negligence of the City, its employees, or its contractors. Furthermore, in the event that any loss, cost, damage or claims arise out of the joint negligence of the City, its employees or its contractors, Grantee's obligations under this Section 4 shall not apply to the proportional extent of the negligence of the City, its employees or its contractors.

**Section 5. Extensions.** Said Grantee shall construct and extend its electric distribution system within said city, and shall furnish electric service to applicants residing therein in accordance with applicable laws, rules and regulations.

**Section 6. Franchise not exclusive.** The rights, power and authority herein granted, are not exclusive.

**Section 7. Rates.** Said Grantee shall be entitled to charge the inhabitants of said city for electric furnished therein, the rates as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate electric rates and rules regulating such service in said City, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said City, acting by its City Council, or by said Grantee.

**Section 8. Revocation.** The franchise granted by this ordinance is subject to revocation at the will of the City Council or Grantee and upon sixty (60) days written notice by the party desiring such revocation.

**Section 9. Right of regulation.** The Grantee shall be and remain subject to all charter provisions, ordinances, rules and regulations of the City now in effect, or which are subsequently adopted for the regulation of land uses or for the protection of the health, safety and general welfare of the public; provided, however, that nothing herein shall be construed as a waiver by Grantee of its existing or future rights under State or Federal law.

**Section 10. Use of streets of streets.** The franchise granted by this ordinance is subject to the right of the City to use, control, and regulate the use of its streets, alleys, bridges, and public places and the space above and beneath them. The Grantee and its contractors and subcontractors shall, at Grantee's own cost and expense, relocate or remove Grantee's facilities from streets, alleys, bridges, and public places whenever (i) the use of such streets, alleys, bridges, and public places by the public for the installation or repair of public improvements, such as, but not limited to, drains, sewers, water mains or pipes, road construction, grading or repair, or (ii) the vacation of any street or public right of way, necessitates such relocation or removal; provided, however, that nothing herein shall be construed as a waiver by Grantee of any of its existing or future rights under state or Federal law. Nothing herein shall restrict or impair Grantee's rights under any statutes or laws regarding the vacation or relocation of public streets. Grantee shall permit joint use of, or attachment to, its poles and other appurtenances located within the streets, alleys and other public places of Grantor in accordance with the rules and regulations of the Michigan Public Service Commission and the Federal Communications Commission, as applicable.

**Section 11. Michigan Public Service Commission, jurisdiction.** Said Grantee shall, as to all other conditions and elements of service not herein fixed that fall within the jurisdiction of the Michigan Public Service Commission, be and remain subject to the rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in said City.

**Section 12. Repealer.** This ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of an electric ordinance adopted by the City on January 15, 1979 entitled:

AN ORDINANCE, GRANTING TO CONSUMERS POWER COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, POWER AND AUTHORITY TO CONSTRUCT, MAINTAIN AND COMMERCIALY USE ELECTRIC LINES CONSISTING OF TOWERS, MASTS, POLES, CROSSARMS, GUYS, BRACES, FEEDERS, TRANSMISSION AND DISTRIBUTION WIRES, TRANSFORMERS AND OTHER ELECTRICAL APPLIANCES ON, UNDER, ALONG AND ACROSS THE HIGHWAYS, STREETS, ALLEYS, BRIDGES AND OTHER PUBLIC PLACES, AND TO DO A LOCAL ELECTRIC BUSINESS IN THE CITY OF MASON, INGHAM COUNTY, MICHIGAN FOR A PERIOD OF THIRTY YEARS.

and amendments, if any, to such ordinance whereby an electric franchise was granted to Consumers Energy Company.

**Section 13. Effective date.** This ordinance shall take effect upon the latter of (i) the day after the date of publication thereof and (ii) twenty days after adoption thereof by the City Council; provided, however, it shall cease and be of no effect after thirty days from its adoption unless within said period the Grantee shall accept the same in writing filed with the City Clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said City and said Grantee.

**ORDINANCE APPROVED UNANIMOUSLY**

**Motion – Directory of Charges**

Colburn summarized the proposed changes to the Directory of Charges. A brief discussion ensued regarding various City fees. Stressman responded to questions regarding fees for police services.

MOTION by Naeyaert, second by Droscha  
to approve the Directory of Charges dated July 15, 2013.  
MOTION APPROVED UNANIMOUSLY

**UNFINISHED BUSINESS**

None.

**NEW BUSINESS**

Council asked staff to pursue a request for proposals for LEED landscape renovations around the city hall parking lot to allow estimating the cost of a new landscape plan, working with the American Legion project, for consideration in the next budget.

**CORRESPONDENCE**

All correspondence was distributed. Clark read a letter received from Allison Doneth, age nine, regarding an art program.

**LIAISON REPORTS**

- Naeyaert informed Council regarding Planning Commission business
- Clark informed Council regarding Downtown Development Authority business

**COUNCILMEMBER REPORTS**

None.

**ADMINISTRATOR'S REPORT**

Colburn informed Council regarding City business.

**ADJOURNMENT**

The meeting adjourned at 8:25p.m.

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Deborah J. Cwierniewicz, City Clerk

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Leon R. Clark, Mayor