

CITY OF MASON

201 West Ash St.
Mason, MI 48854-0370

City Hall 517-676-9155
Fax 517-676-1330

CITY COUNCIL MEETING - COUNCIL CHAMBER Monday, November 18, 2013

7:30 p.m.

AGENDA

1. Call to Order
2. Roll Call
3. Pledge of Allegiance and Invocation
4. Announcements
5. People from the Floor
6. Consent Agenda
 - A. Approval of Minutes
 - Regular Council Meeting: November 4, 2013
 - B. Approval of Bills
 - C. Excused Absence, Mayor Pro Tem Robin Naeyaert
7. Regular Business
 - A. Resolution No. 2013-50- Resolution for Adopting MERS Defined Benefit Program
 - B. Second Reading and Adoption—Ordinance No. 195 – An Ordinance To Amend Section 94-151 Of Chapter 94 – Zoning – Of The Code Of The City Of Mason To Amend Subsection (D) To Add A New Subsection (4) To Permit The Sale Of Repaired, Used Vehicles, By Special Use Permit As An Accessory Use To A Body And Paint Shop For Automobiles And Other Vehicles
 - C. Discussion – Used Vehicle Sales as an Accessory Use to Auto Body Shops
 - D. Motion—Approve 2014 Contracted Tree Service Plan
8. Unfinished Business
9. New Business
10. Correspondence
 - Monthly Revenue and Expenditure Report
11. Liaison Reports
12. Councilmember Reports
13. Administrator's Report
 - Regional Trail System
 - Mason Bed and Breakfast
14. Adjournment

**CITY OF MASON
REGULAR CITY COUNCIL MEETING
MINUTES OF NOVEMBER 4, 2013**

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

Present: Councilmembers: Brown, Bruno, Clark, Droscha, Ferris, Mulvany, Naeyaert
Absent: Councilmember: None
Also present: Martin A. Colburn, City Administrator
Deborah J. Cwierniewicz, City Clerk
Eric Smith, Finance Director/Treasurer
David Haywood, Zoning & Development Director
John Stressman, Chief of Police

ANNOUNCEMENTS

- Mason Pizza Day – Mason Public Schools Foundation – November 6, 2013
- Rayner Park Clean Up – November 9, 2013
- Ingham County Veterans Day Memorial Service and Parade – November 11, 2013
- Art Sculpture “Silver Respite” dedication – November 13, 2013
- Mason Community Thanksgiving Day Dinner – Mason First United Methodist Church – November 28, 2013

PEOPLE FROM THE FLOOR

None.

CONSENT AGENDA

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

- A. Motion – Approval of Minutes – Regular Council Meeting: October 21, 2013
- B. Motion – Approval of Bills - \$62,412.13
- C. Motion – Request for Excused Absence – Councilmember Bruno
 - To excuse the absence of Councilmember Bruno from the November 18, 2013 City Council Meeting.

MOTION APPROVED UNANIMOUSLY

REGULAR BUSINESS

Resolution No. 2013-47 – MERS Employer Resolution Establishing Uniform Transfer Provision

Officer Todd Thie was present for the consideration of his request for an alternate transfer provision that would allow him to choose which plan he prefers with the Municipal Employees' Retirement System (MERS) when he transfers to the Wastewater Treatment Plant.

MOTION by Droscha, seconded by Brown,
to consider Resolution No. 2013-47 read.

MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-47 was introduced by Mulvany and second by Ferris.

CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2013-47
November 4, 2014
EMPLOYER RESOLUTION ESTABLISHING
UNIFORM TRANSFER PROVISION



Introduced: Mulvany
Second: Ferris

WHEREAS, the City of Mason is a participating municipality or court in the Municipal Employees' Retirement System of Michigan ("MERS"); and

WHEREAS, the Standard MERS Transfer Rules became effective in August 2007; and

WHEREAS, under the Standard Rules, all transferees to a new division are covered under the active employee plan in the new division; where the defined benefit plan in the new division is closed to entrants, the accrued defined benefit (based on benefits, service and wages as of transfer date) of transferees is frozen as of transfer date.

WHEREAS, pursuant to Retirement Board action on November 10, 2010, the employing municipality or court will be allowed, on a one-time irrevocable and uniform basis, to adopt for all its MERS divisions (present and future) an alternate policy which allows all transferred employees an individual choice at the time of transfer to either be placed in: (1) the division's open plan, or (2) the closed plan if it is the same plan type, provided there are active employees remaining in the plan type.

WHEREAS, this alternate transfer provision applies to transferred employees only; retired employees will continue to be enrolled into the active plan; and

NOW THEREFORE BE IT RESOLVED, that effective December 1st, 2013, the Governing Body adopts this Resolution (or for a participating court, the Chief Judge by Administrative Order) for all present and future employee divisions requiring that all transferred employees (select only one):

- shall be covered under the active employee plan in the division they are transferred into.
- shall be given the individual choice to either be placed in the open plan or the closed division if it is the same plan type (in the division from which the employee is transferred from) provided there are active employees remaining in the closed plan type.

CERTIFICATION FOR PARTICIPATING MUNICIPALITY OR COURT

I hereby certify that this Resolution was adopted by (check one):

- The Governing Body of the Mason City Council at its meeting held on November 4, 2013.
- Administrative Order No. _____ adopted by the Chief Judge of the _____, on _____, 20_____.

(Signature of Authorized Official)
Deborah Cwierzniak, City Clerk
(Title)

RESOLUTION APPROVED UNANIMOUSLY

Resolution No. 2013-48 – A Resolution to Adopt the 80/20 Cost Sharing Model as Set Forth in Section 4 of Public Act 152

MOTION by Droscha, second by Brown,
to consider Resolution No. 2013-48 read.

MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-48 was introduced by Mulvany and seconded by Ferris.

CITY OF MASON
CITY COUNCIL RESOLUTION NO. 2013-48
A RESOLUTION TO ADOPT THE 80/20 COST SHARING MODEL
AS SET FORTH IN SECTION 4 OF PUBLIC ACT 152
November 4, 2014

WHEREAS, Public Act 152 (PA 152) was designed to lessen the burden of employee healthcare costs on public employers; and

WHEREAS, the communities are given three options for complying with the requirements of PA 152; and

WHEREAS, the options available to the city are:

- 1) Apply the hard cap (capped dollar amount each employer may pay towards an employee's health care costs;
- 2) Adopt by majority vote the 80%/20% cost-sharing model;
- 3) Opt out (exempt itself from) the cost-sharing model as set forth in the act and revisit it prior to the next plan year; and

NOW THEREFORE BE IT RESOLVED, the City of Mason will comply with the contribution limits contained in Section 4 of the Act, the 80%/20% cost sharing option, subject to the limitations contained in Section 5 of the Act pertaining to collective bargaining agreements.

RESOLUTION APPROVED UNANIMOUSLY

Resolution No. 2013-49 – Approve Funding and Construction of an Apron in Front of the Mason Fire Department and the Sidewalks Within the Local Development Finance Authority (LDFA)

Discussion was held regarding the proposal to replace the drive approach at Mason Fire Station No. 1, and the installation of sidewalks at two locations within the LDFA. In connection with a MDOT Traffic Safety Grant, funds were awarded to place sidewalk at the intersections of Jefferson Street and Kipp Road, and Cedar Street and Kipp Road.

MOTION by Naeyaert, second by Droscha,
to consider Resolution No. 2013-49 read.

MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-49 was introduced by Ferris and seconded by Mulvany. Discussed ensued regarding concerns for installing concrete and asphalt in November.

MOTION by Bruno, second by Naeyaert,
to defer the proposed projects in Resolution No. 2013-49 to the next construction season.

Yes (6) Bruno, Brown, Clark, Droscha, Mulvany, Naeyaert

No (1) Ferris

RESOLUTION APPROVED

Motion – Request to Occupy the Public Right-of-Way

Ms. Brittany Perisco, Pennsylvania State University student and FOTO Canning Chair, submitted a letter requesting to occupy the public right-of-way for the purpose of soliciting funds for the Penn State IFC Panhellenic Dance Marathon, the main benefactor of the Four Diamonds Fund at Penn State Children's Hospital. Penn State students would occupy the sidewalk at the corner of Jefferson and Ash Streets and Jefferson and Maple Streets in groups of two to three, soliciting donations that are collected in canisters on Friday and Saturday, November 8-9, 2013, 7:00 a.m. - 4:00 p.m.

It was the consensus of Council that this type of fund raising should be reserved for those that would benefit the local community. No action was taken.

UNFINISHED BUSINESS

Council determined to meet with City Financial Planner Tom Traciak, November 25, 2013 at 7:00 p.m.

NEW BUSINESS

It was discussed that the police officer job opening had been posted.

CORRESPONDENCE

Distributed.

LIAISON REPORTS

- Brown informed Council regarding the Mason 150 Steering Committee business
- Droscha informed Council regarding Traffic Commission business

COUNCILMEMBER REPORTS

Clark reported that he, Administrator Colburn, David Haywood, and John Sabbadin met with Vevay Township representatives to present Mason's Draft Master Plan.

ADMINISTRATOR'S REPORT

Colburn informed Council regarding City business.

ADJOURNMENT

The meeting adjourned at 8:10 p.m.

Deborah J. Cwiertniewicz, City Clerk

Leon R. Clark, Mayor

11/15/2013 09:18 AM
User: TF
DB: Mason City

INVOICE APPROVAL BY INVOICE REPORT FOR CITY OF MASON
EXP CHECK RUN DATES 11/15/2013 - 11/19/2013
BOTH JOURNALIZED AND UNJOURNALIZED
BOTH OPEN AND PAID
COUNCIL REPORT

MONDAY, NOVEMBER 18, 2013

Vendor Code Invoice GL Number	Vendor Name Invoice Description GL Description	Invoice Date	Amount
07800	BLUE CROSS BLUE SHIELD OF MICHIGAN		
GRP#7029499710DIV002 750-000.00-231.015	DEC HEALTH INS CITY EXPENSE DEC HEALTH INS CITY EXPENSE	11/15/2013	12,147.35
GRP#7029499DIV0001 101-855.00-874.001	DEC RETIREES INS CITY EXPENSE DEC RETIREES INS CITY EXPENSE	11/15/2013	7,378.57
VENDOR TOTAL:			19,525.92
07565	BOBCAT OF LANSING		
E00136 661-901.00-970.023	BOSS 8FT 2" SNOW PLOW #31 BOSS 8FT 2" SNOW PLOW #31	11/15/2013	5,096.00
VENDOR TOTAL:			5,096.00
06474	CONSUMERS ENERGY		
NOV 2013 101-448.00-926.000	ELECTRIC 10/1 - 10/31 ELECTRIC 10/1 - 10/31	11/15/2013	8,555.42
VENDOR TOTAL:			8,555.42
05221	MCGINTY, HITCH, HOUSEFIELD, PERSON,		
NOV 2013 101-266.00-826.000	OCT LEGAL FEES OCT LEGAL FEES	11/15/2013	8,128.35
VENDOR TOTAL:			8,128.35
05234	MML WORKERS COMPENSATION FUND		
8774201 101-850.00-724.000	2013-2014 3RD QTR WORKERS COMP PMT 2013-2014 3RD QTR WORKERS COMP PMT	11/15/2013	11,963.00
VENDOR TOTAL:			11,963.00
TOTAL - ALL VENDORS:			53,268.69

I hereby certify that I have reviewed the above bills and expenses and to the best of my knowledge and belief, they cover expenditures of City services and materials and are within current budget appropriations.


Martin A. Colburn
City Administrator

CITY OF MASON
STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: November 18, 2013

Agenda Item: 6 (C)

AGENDA ITEM

Motion - Request for Excused Absence – Mayor Pro Tem Naeyaert

EXHIBITS

- Letter from Mayor Pro Tem Naeyaert

STAFF REVIEW

Administration

SUMMARY STATEMENT

Mayor Pro Tem Naeyaert is requesting to be excused from the November 18, 2013 City Council meeting.

RECOMMENDED ACTION

Move to excuse the absence of Mayor Pro Tem Naeyaert from the November 18, 2013 City Council Meeting.

I'm requesting an excused absence
for the November 18th meeting.

Robin Naegert

CITY OF MASON

STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: November 18, 2013

Agenda Item: 7 (A)

AGENDA ITEM

- Resolution No. 2013-50- Resolution for Adopting MERS Defined Benefit Program

EXHIBITS

None

STAFF REVIEW

Administration

SUMMARY STATEMENT

In April 2012, Council adopted the proposed plan for the non-union group for any new employees hired into the group. This was to reduce benefit costs for the future for both the employer and the employee. With the most current AFSCME contract, which was adopted September 2, 2013, employees agreed to this plan for any newly hired employees on or after the date of July 1, 2013.

The proposed Resolution offers a Defined Benefit plan with a 1.5% multiplier, retirement at age 55 or older, vesting at 10 years of employment with the city, and a final average compensation of 5 years. The employee contribution is 4%. The employer contribution will be calculated annually as employees join this group. It will be calculated based on the employee's age, wage, gender, and salary. This will place future management, non-union, and AFSCME employees on the same retirement plan and ultimately reduce future legacy costs for the city.

RECOMMENDED ACTION

Approve Resolution No. 2013-50.

Defined Benefit Plan Adoption Agreement



1134 Municipal Way Lansing, MI 48917 | 800.767.2308 | Fax 517.703.9711

The Employer, a participating municipality or participating court within the state of Michigan, hereby agrees to adopt and administer the MERS Defined Benefit Plan provided by the Municipal Employees' Retirement System of Michigan, as authorized by 1996 PA 220, in accordance with the MERS Plan Document, as both may be amended, subject to the terms and conditions herein.

I. Employer Name City of Mason **Municipality #:** 330401

If new to MERS, please provide your municipality's fiscal year: _____ Month through _____ Month.

II. Effective Date

Check one:

A. If this is the **initial** Adoption Agreement for this group, the effective date shall be the first day of _____, 20__.

This municipality or division is new to MERS, so vesting credit prior to the **initial** MERS effective date by each eligible participant shall be credited as follows (choose one):

- All prior service from date of hire
- Prior service proportional to assets transferred; all service used for vesting
- Prior service and vesting service proportional to assets transferred
- No prior service but grant vesting credit
- No prior service or vesting credit

Link this new division to division number _____ for purposes of determining contributions (Unless otherwise specified, the standard transfer/rehire rules apply)

B. If this is an **amendment** of an existing Adoption Agreement (Defined Benefit division number _____), the effective date shall be the first day of _____, 20__. *Please note:* You only need to mark **changes** to your plan throughout the remainder of this Agreement.

C. If this is a **temporary benefit** that lasts 2-6 months, the effective dates of this temporary benefit are from ___/01/___ through ___/___/___ for Defined Benefit division number _____.
Last day of month
Please note: You only need to mark **changes** to your plan throughout the remainder of this Agreement.

D. If this is to **separate employees from an existing Defined Benefit division** (existing division number(s) 01 General Union) into a new division, the effective date shall be the first day of December, 2013.

Defined Benefit Plan Adoption Agreement

III. Eligible Employees

Only those Employees eligible for MERS membership may participate in the MERS Hybrid Plan. A copy of ALL employee enrollment forms must be submitted to MERS. The following groups of employees are eligible to participate:

General Union, Full Time Hired After July 1, 2013

(Name of Defined Benefit division – e.g. All Full Time Employees, or General after 7/01/13)

Only retirees will be in this division.

These employees are (check one or both):

In a collective bargaining unit (attach cover page, retirement section, signature page)

Subject to the same personnel policy

To receive one month of service credit (check one):

An employee shall work 10 ⁸ hour days.

An employee shall work _____ hours in a month.

All employees as classified under eligible employees, whether full or part time, who meet this criteria must be reported to MERS. If you change your current day of work definition to be more restrictive, the new definition only applies to employees hired after the effective date.

To further define eligibility, check all that apply:

Probationary Periods are allowed in one-month increments, no longer than 12 months. During this introductory period, the Employer will not report or provide service time for this period, including retroactively. Service will begin after the probationary period has been satisfied.

The probationary period will be _____ month(s).

Temporary employees in a position normally requiring less than a total of 12 whole months of work in the position may be *excluded* from membership. These employees must be notified in writing by the participating municipality that they are excluded from membership within 10 business days of date of hire or execution of this Agreement.

The temporary exclusion period will be 11.5 month(s).

IV. Provisions

Valuation Date: December 31, 20 12

1. This Adoption Agreement will be implemented in conjunction with a current actuarial valuation certified by a MERS actuary that sets contribution rates.
2. Annually, the MERS actuary will conduct an actuarial valuation to determine the employers' contribution rates. Employers are responsible for payment of said contributions at the rate, in the form and at the time that MERS determines.

Defined Benefit Plan Adoption Agreement

3. Benefit Multiplier (1%-2.5%, increments of 0.05%) 1.5% % (max 80% for multipliers over 2.25%)

Check here if multiplier will be effective for existing active members' future service only (Bridged Benefit as of effective date on page 1)

If checked, select one below:

Termination Final Average Compensation (calculated over the members entire wage history)

Frozen Final Average Compensation (FAC is calculated twice, once for the timeframe that matches the original multiplier, and once for the new multiplier)

4. Final Average Compensation (Min 3 yr, increments of 1 yr) 5 years

5. Vesting (5 -10 yrs, increments of 1 yr) 10 years

6. Required employee contribution (Max 10%, increments of 0.1%) 4 %

7. Compensation, for retirement purposes, is defined as base wages and all of the following. Check applicable boxes to *exclude* these types from your MERS reported wages:

Longevity pay

Overtime pay

Shift differentials

Pay for periods of absence from work by reason of vacation, holiday, and sickness

Workers' compensation weekly benefits (if reported and are higher than regular earnings)

A member's pre-tax contributions to a plan established under Section 125 of the IRC

Transcript fees paid to a court reporter

A taxable car allowance

Short term or long term disability payments

Payments for achievement of established annual (or similar period) performance goals

Payment for attainment of educational degrees from accredited colleges, universities, or for acquisition of job-related certifications

Lump sum payments attributable to the member's personal service rendered during the FAC period

Other: _____

Other 2: _____

Defined Benefit Plan Adoption Agreement

8. Early Normal Retirement with unreduced benefits

- Age 50 with 25 years of service Age 50 with 30 years of service
- Age 55 with 15 years of service Age 55 with 20 years of service
- Age 55 with 25 years of service Age 55 with 30 years of service
- Any age with (20-30 yrs, in 1 yr increments) _____ years of service
- _____

9. Other

- Surviving Spouse will receive _____% of Straight Life benefit without a reduction to the participant's benefit
- Duty death or disability enhancement (add up to additional 10 years of service credit not to exceed 30 years of service)
- DROP + with _____%

10. Cost-of-Living Adjustment

<input type="checkbox"/> All current retirees as of effective date <input type="checkbox"/> Retirees who retire between ____/01/____ and ____/01/____ <i>(one time increase only)</i>	<input type="checkbox"/> Future retirees who retire after effective date
Increase of ____% or \$____ per month	Increase of ____% or \$____ per month
Select one: <input type="checkbox"/> Annual automatic increase <input type="checkbox"/> One-time increase	<input type="checkbox"/> Annual automatic increase
Select one: <input type="checkbox"/> Compounding <input type="checkbox"/> Non-compounding	Select one: <input type="checkbox"/> Compounding <input type="checkbox"/> Non-compounding
Employees must be retired ____ months (6-12 months, increments of 1 month)	Employees must be retired ____ months (6-12 months, increments of 1 month)

V. Appointing MERS as the Plan Administrator

The Employer hereby agrees to the provisions of this *MERS Defined Benefit Plan Adoption Agreement* and appoints MERS as the Plan Administrator pursuant to the terms and conditions of the Plan. The Employer also agrees that in the event any conflict between MERS Plan Document and the MERS Defined Benefit Plan, the provisions of the Plan Document control.

Defined Benefit Plan Adoption Agreement

VI. Modification Of The Terms Of The Adoption Agreement

If the Employer desires to amend any of its elections contained in this Adoption Agreement, including attachments, the Governing Body or Chief Judge, by resolution or official action accepted by MERS, must adopt a new Adoption Agreement. The amendment of the new Agreement is not effective until approved by MERS.

VII. Enforcement

1. The Employer acknowledges that the Michigan Constitution of 1963, Article 9, Section 24, provides that accrued financial benefits arising under a public Employer's retirement plan are a contractual obligation of the Employer that may not be diminished or impaired, and prohibits the use of the Employer's required current service funding to finance unfunded accrued liabilities.
2. The Employer agrees that, pursuant to the Michigan Constitution, its obligations to pay required contributions are contractual obligations to its employees and to MERS and may be enforced in a court of competent jurisdiction;
3. In accordance with the Constitution and this Agreement, if at any time the balance standing to the Employer's credit in the reserve for employer contributions and benefit payments is insufficient to pay all service benefits due and payable to the entity's retirees and beneficiaries, the Employer agrees and covenants to promptly remit to MERS the amount of such deficiency as determined by the Retirement Board within thirty (30) days notice of such deficiency.
4. The Employer acknowledges that wage and service reports are due monthly, and the employee contributions (if any) and Employer contributions are due and payable monthly, and must be submitted in accordance with the MERS Enforcement Procedure for Prompt Reporting and Payment, the terms of which are incorporated herein by reference.
5. Should the Employer fail to make its required contribution(s) when due, the retirement benefits due and payable by MERS on behalf of the entity to its retirees and beneficiaries may be suspended until the delinquent payment is received by MERS. MERS may implement any applicable interest charges and penalties pursuant to the MERS Enforcement Procedure for Prompt Reporting and Payment and Plan Document Section 45A(3), and take any appropriate legal action, including but not limited to filing a lawsuit and reporting the entity to the Treasurer of the State of Michigan in accordance with MCL 141.1544(d), Section 44 of PA 436 of 2012, as may be amended.
6. The Employer acknowledges that changes to the Employer's MERS Defined Benefit Plan must be made in accordance with the MERS Plan Document and applicable law, and agrees that MERS will not administer any such changes unless the MERS Plan Document and applicable law permit same, and MERS is capable of administering same.

Defined Benefit Plan Adoption Agreement

VIII. Execution

Authorized Designee of Governing Body of Municipality or Chief Judge of Court

The foregoing Adoption Agreement is hereby approved by City of Mason on
the 18 day of November, 2013. (Name of Approving Employer)

Authorized signature: _____

Title: Deborah Cwierniewicz, City Clerk

Witness signature: _____

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: _____, 20____ Signature: _____
(Authorized MERS Signatory)

CITY OF MASON

STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: November 18, 2013

Agenda Item: 7 (B)

AGENDA ITEMS

Ordinance No. 195 – An Ordinance To Amend Section 94-151 Of Chapter 94 – Zoning – Of The Code Of The City Of Mason To Amend Subsection (D) To Add A New Subsection (4) To Permit The Sale Of Repaired, Used Vehicles, By Special Use Permit As An Accessory Use To A Body And Paint Shop For Automobiles And Other Vehicles

EXHIBITS

- Ordinance No. 195
- Planning Commission Resolution No. 2013-11, including Attorney and PC edited ordinance
- City Attorney's memo of Sept. 16, 2013
- Zoning Ordinance Amendment Application – Darrel Benedict
 - Letter of authorization of September 10, 2013 – J.M.E Consultants, Inc.
 - Proposed Amendment language
 - Legal description and property information
 - Email corr. – J.M.E. Consultants and Zoning Administrator of September 12, 2013

STAFF REVIEW

Zoning & Development Department

SUMMARY STATEMENT

At their November 12, 2013 meeting, the Planning Commission acted to approve Resolution No. 2013-11 recommending the City Council adopt Ordinance No. 195, with amendments. The Planning Commission concurred with the City Attorney's recommendations. Further, the Planning Commission recommends striking the last two items l and m in subsection 94-151(d)(4), stating that there does not appear to be a purpose for imposing a time limitation on the SUP, particularly when we do not do it for other similar SUPs.

The Planning Commission also felt that the imposition of a fence in subsection 94-151(d)(4)f where adjacent to residentially zoned land should not be necessary, as it is not required for the principal use of the body shop. They felt that an additional, more stringent, requirement should not be imposed on an accessory use, when the main use is not any different than the accessory use.

RECOMMENDED ACTION(S)

1. Amend Ordinance No. 195 pursuant to the Planning Commission Resolution No. 2013-11.
2. Read for the second time, as amended, and adopt Ordinance No. 195.

Introduced: October 7, 2013
First Reading: October 7, 2013
Second Reading: _____, 2013
Adoption: _____, 2013
Effective: _____, 2013

CITY OF MASON
ORDINANCE NO. 195

AN ORDINANCE TO AMEND SECTION 94-151 OF CHAPTER 94 – ZONING – OF THE CODE OF THE CITY OF MASON TO AMEND SUBSECTION (d) TO ADD A NEW SUBSECTION (4) TO PERMIT THE SALE OF REPAIRED, USED VEHICLES, BY SPECIAL USE PERMIT AS AN ACCESSORY USE TO A BODY AND PAINT SHOP FOR AUTOMOBILES AND OTHER VEHICLES.

THE CITY OF MASON ORDAINS:

Section 94-151 of Chapter 94 of the Mason City Code is hereby amended to read as follows:

Section 94-151. M-1: Light manufacturing district.

- (a) Intent and purpose. It is the purpose of this district to provide opportunities for a variety of industrial activities that can be generally characterized as being of low intensity, including the absence of objectionable external affects such as noise, fumes, vibrations, odors and traffic patterns, and resulting in limited demands for additional public services. Manufacturing operations in this district are generally intended to utilize previously prepared materials as opposed to the use, alteration, or manipulation of raw materials.
- (b) Uses permitted by right.
- (1) Industrial parks.
 - (2) Research, development, and prototype manufacturing facilities and offices.
 - (3) Warehousing, grain elevators, grain storage, refrigerated storage, bulk storage of petroleum products, and general storage.
 - (4) Local and regional transit and passenger transportation facilities, and trucking terminals, maintenance and service facilities.
 - (5) Laundry services.
 - (6) The manufacturing, compounding, processing or treatment of such products as bakery goods, candy, cosmetics, dairy products, and food products.

- (7) Assembly of merchandise such as electrical appliances, and electronic or precision instruments.
 - (8) Printing, lithographic, blueprinting, copying, and similar uses.
 - (9) Light manufacturing activity which, by the nature of the materials, equipment, and processes utilized, is to a considerable extent clean, quiet, and free from any objectionable or dangerous nuisance or hazard including any of the following goods or materials:
 - a. Furniture and fixtures.
 - b. Paper and paperboard products.
 - c. Jewelry, silverware and plated ware.
 - d. Musical instruments and parts.
 - e. Toys and sporting goods.
 - f. Signs, advertising displays and canvas products.
 - g. Office computing and accounting equipment.
 - h. Jobbing and repair machine shops.
 - (10) Body and paint shops for automobiles and other vehicles.
- (c) Permitted accessory uses. Accessory uses and structures as defined in this chapter.
- (d) Uses authorized by special use permit.
- (1) Day care facilities serving the principal uses in the M-1 district if the planning commission determines that the nature of the principal use and/or the relative location of the principal use or other uses to the day care facility does not pose any significant threat to the safety of children attending the day care facility (refer to section 94-192(8)).
 - (2) Public buildings for governmental utility or public service use, including storage yards, transformer stations, and substations (refer to section 94-192(8)).
 - (3) Communication towers and antennas (refer to section 94-173(d)).
 - (4) Sale of repaired, used vehicles, by special use permit as an accessory use (refer to section 94-151(c)) to a paint and body shop for automobiles and other vehicles (refer to section 94-151(b)(10)) which meets and complies with the following conditions and criteria.

- a. Only the sale of vehicles which have been purchased in a state of disrepair and then repaired at the premises operated as a body and paint shop pursuant to section 94-151(b)(10).
- b. The sale of the repaired vehicles shall not exceed a total sum of eighteen (18) per calendar year.
- c. No advertising shall occur or be placed on the premises indicating the sale of used vehicles. This shall include no "for sale" signage on the vehicle itself unless such vehicle is located on the premises where it is not readily visible to the general public from any nearby roads.
- d. No "off premises" advertising of any kind or nature which would impute or imply that the premises is being used as a used car dealership. This shall not restrict newspaper or other publication advertising any individual vehicle for sale, and so long as such advertising does not impute or imply that the business owner is primarily engaged in the business of the sale of used vehicles.
- e. No repaired vehicles shall be kept or stored at the front of the site or at any location on the site where they are reasonably visible to the general public from abutting roadways.
- f. If and to the extent that the real estate used for purposes herein abuts any residentially zoned property, the applicant shall have installed a "privacy fence" to obscure the view of the accessory use permitted herein.
- g. The owner maintains accurate records reflecting the following regarding each vehicle purchased for repair: date of purchase, purchase price, brief description of repairs accomplished, and sale price.
- h. Compliance with all other provisions of these Ordinances including the requirements for a Special Use Permit as well as section 94-151(e).
- i. The owner complies with any federal, state, or county ordinances or requirements relative to the sale of repaired vehicles, obtains all required licenses and/or permits and maintains them in good standing at all times.
- k. For purposes of this section 94-151(d), the following definitions shall apply:
 1. "Vehicles" shall mean and refer to automobiles, trucks, motorcycles, and similar items.
 2. "State of disrepair" shall mean that the vehicle in question had such damage or necessitated repairs to its power

CITY OF MASON
PLANNING COMMISSION RESOLUTION NO. 2013-11

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT
ORDINANCE NO. 195 – AN ORDINANCE TO AMEND SECTION 94-151 OF
CHAPTER 94 – ZONING – OF THE CODE OF THE CITY OF MASON TO
AMEND SUBSECTION (d) TO ADD A NEW SUBSECTION (4) TO PERMIT
THE SALE OF REPAIRED, USED VEHICLES, BY SPECIAL USE PERMIT AS
AN ACCESSORY USE TO A BODY AND PAINT SHOP FOR AUTOMOBILES
AND OTHER VEHICLES

November 12, 2013

WHEREAS, Darrel Benedict of Benedict Auto Body has submitted a petition to amend the Mason Zoning Ordinance to amend the M-1 (Light Manufacturing) zoning district to permit the sale of used vehicles by special use permit as an accessory use to a body shop; and

WHEREAS, the Planning Commission recommends that the City Council amend Ordinance No. 195 to include the recommendations from the City Attorney described in his memorandum of September 16, 2013 as shown in his edited ordinance attached thereto; and

WHEREAS, the Planning Commission further recommends that the City Council amend Ordinance No. 195 by striking subsection 94-151(d)(4)f; and

WHEREAS, the Planning Commission further recommends that the City Council amend Ordinance No. 195 by accepting the City Attorney's edits as shown in his memorandum dated September 16, 2013; and

WHEREAS, the Planning Commission further recommends that the City Council amend Ordinance No. 195 by recommendation of the City Attorney by striking subsections 94-151(d)(4)l and m; and

WHEREAS, the Planning Commission finds that proposed Ordinance No. 195, including the amendments recommended herein, is consistent with the Section 94-396(a) and offers the following as findings of fact:

1. Compliance with the Master Plan of the city. The proposed amendment supports Objectives #2, 3, 4, 5, and 7 of the Industrial Development Goals of listed in Chapter Two, Planning Issues, Goals and Objectives, of the Mason Master Plan.

The proposed amendment does not significantly strengthen the position of industrial in the vicinity of the Elevator Site listed in the Industrial Areas component of the Future Land Use strategy of Chapter Three, Future Land Use Strategy, to the extent that it undermines or adversely affects the adjacent commercial center and adjacent residential neighborhoods.

The proposed amendment supports strategy #1 of the Industrial Development Implementation Strategy component of Chapter Four, Implementation Strategy, of the Mason Master Plan, in that it provides a new opportunity for local industrial business expansion.

2. What, if any, identifiable conditions related to the proposed amendment have changed which justify the proposed amendment? There does not appear to be any changes in the vicinity.

3. What, if any, error in judgment, procedure or administration was made in the original chapter which justifies the petitioner's change in zoning? There is no known error of this sort.

4. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition? The precedents and possible effects might be additional vehicles, limited to 18 per year, on site in various states of repair. However, the proposed amendment proposes to shield any visual affect via fencing from casual view. The effect will be negligible compared to the current activity related to auto repair facilities.

5. What is the impact of the amendment on the ability of the city and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the petition is approved? There appears to be no impact of this type. The site is currently served with the necessary public utilities.

6. Does the proposed amendment adversely affect the value of the surrounding property? The proposed amendment will not adversely affect the value of the surrounding property.

7. Are there any significant environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built? There are no known environmental impacts associated with the proposed amendment.

8. The ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located. There is no proposed change in zoning district. The only proposed change is a limited expanded use; and

WHEREAS, the Planning Commission did properly notice and conduct a public hearing on the proposed amendment at its regular meeting held November 12, 2013.

NOW THEREFORE BE IT RESOLVED, that the city of mason planning commission does hereby recommend that the city council adopt ordinance no. 195 – an ordinance to amend section 94-151 of chapter 94 – zoning – of the code of the city of mason to amend subsection (d) to add a new subsection (4) to permit the sale of repaired, used vehicles, by special use permit as an accessory use to a body and paint shop for automobiles and other vehicles

Yes (8) Barna, Green, Naeyaert, Reeser, Sabbadin, Trotter, Waltz, Waxman

No (0)

Absent (1) King

CLERK'S CERTIFICATION: I hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Planning Commission at its regular meeting held Tuesday, November 12, 2013, the original of which is part of the Planning Commission minutes.

Deborah J. Cwierniewicz, Clerk
City of Mason
Ingham County, Michigan

Introduced: _____, 2013
First Reading: _____, 2013
Second Reading: _____, 2013
Adoption: _____, 2013
Effective: _____, 2013

CITY OF MASON
ORDINANCE NO. 195

AN ORDINANCE TO AMEND SECTION 94-151 OF CHAPTER 94 – ZONING – OF THE CODE OF THE CITY OF MASON TO AMEND SUBSECTION (d) TO ADD A NEW SUBSECTION (4) TO PERMIT THE SALE OF REPAIRED, USED VEHICLES, BY SPECIAL USE PERMIT AS AN ACCESSORY USE TO A BODY AND PAINT SHOP FOR AUTOMOBILES AND OTHER VEHICLES.

THE CITY OF MASON ORDAINS:

Section 94-151 of Chapter 94 of the Mason City Code is hereby amended to read as follows:

Sec. 94-151. M-1: Light manufacturing district.

- (a) Intent and purpose. It is the purpose of this district to provide opportunities for a variety of industrial activities that can be generally characterized as being of low intensity, including the absence of objectionable external affects such as noise, fumes, vibrations, odors and traffic patterns, and resulting in limited demands for additional public services. Manufacturing operations in this district are generally intended to utilize previously prepared materials as opposed to the use, alteration, or manipulation of raw materials.
- (b) Uses permitted by right.
- (1) Industrial parks.
 - (2) Research, development, and prototype manufacturing facilities and offices.
 - (3) Warehousing, grain elevators, grain storage, refrigerated storage, bulk storage of petroleum products, and general storage.
 - (4) Local and regional transit and passenger transportation facilities, and trucking terminals, maintenance and service facilities.
 - (5) Laundry services.
 - (6) The manufacturing, compounding, processing or treatment of such products as bakery goods, candy, cosmetics, dairy products, and food products.

- (7) Assembly of merchandise such as electrical appliances, and electronic or precision instruments.
 - (8) Printing, lithographic, blueprinting, copying, and similar uses.
 - (9) Light manufacturing activity which, by the nature of the materials, equipment, and processes utilized, is to a considerable extent clean, quiet, and free from any objectionable or dangerous nuisance or hazard including any of the following goods or materials:
 - a. Furniture and fixtures.
 - b. Paper and paperboard products.
 - c. Jewelry, silverware and plated ware.
 - d. Musical instruments and parts.
 - e. Toys and sporting goods.
 - f. Signs, advertising displays and canvas products.
 - g. Office computing and accounting equipment.
 - h. Jobbing and repair machine shops.
 - (10) Body and paint shops for automobiles and other vehicles.
- (c) Permitted accessory uses. Accessory uses and structures as defined in this chapter.
- (d) Uses authorized by special use permit.
- (1) Day care facilities serving the principal uses in the M-1 district if the planning commission determines that the nature of the principal use and/or the relative location of the principal use or other uses to the day care facility does not pose any significant threat to the safety of children attending the day care facility (refer to section 94-192(8)).
 - (2) Public buildings for governmental utility or public service use, including storage yards, transformer stations, and substations (refer to section 94-192(8)).
 - (3) Communication towers and antennas (refer to section 94-173(d)).
 - (4) Sale of repaired, used vehicles, by special use permit as an accessory use (refer to section 94-151(c)) to a paint and body shop for automobiles and other vehicles (refer to section 94-151(b)(10)) which meets and complies with the following conditions and criteria.

- a. Only the sale of vehicles which have been purchased in a state of disrepair and then repaired at the premises operated as a body and paint shop pursuant to Sec. 94-151(b)(10).
- b. The sale of the repaired vehicles shall not exceed a total sum of eighteen (18) per calendar year.
- c. No advertising shall occur or be placed on the premises indicating the sale of used vehicles. This shall include no "for sale" signage on the vehicle itself unless such vehicle is located on the premises where it is not readily visible to the general public from any nearby roads.
- ~~d. No "off premises" advertising of any kind or nature which would impute or imply that the premises is being used as a used car dealership. This shall not restrict newspaper or other publication advertising any individual vehicle for sale, and so long as such advertising such does not impute or imply that the business owner is primarily engaged in the business of the sale of used vehicles.~~
- ~~de. No repaired vehicles shall be kept or stored at the front of the site or at any location on the site where they are reasonably visible to the general public from abutting roadways.~~
- ~~ef. If and to the extent that the real estate used for purposes herein abuts any residentially zoned property, the applicant shall have installed a "privacy fence" to obscure the view of the accessory use permitted herein.~~
- efg. The owner maintains accurate records on the premises for each vehicle purchased for repair reflecting the following regarding each vehicle purchased for repair: date of purchase, purchase price, seller, a brief description of repairs accomplished, and sale price. Such records shall be made available for inspection by the zoning official upon request.
- fgh. Compliance with all other provisions of these Ordinances including the requirements for a Special Use Permit as well as Sec. 94-151(e).
- ghi. The owner complies with any federal, state, or county ordinances or requirements relative to the sale of repaired vehicles, obtains all required licenses and/or permits and maintains them in good standing at all times.
- hik. For purposes of this §subsec. 94-151(d)(4), the following definitions shall apply:
 - 1. "Vehicles" shall mean and refer to automobiles, trucks, motorcycles, and similar items.

2. "State of disrepair" shall mean that the vehicle in question had such damage or necessitated repairs to its power train, chassis, other non-exterior visible items and/or body work and where the necessary repairs, at normal retail pricing would exceed twenty-five percent (25%) of the retail value of the vehicle, after repair.

~~jl. The City Planning Commission shall have the responsibility of the determination of granting a Special Use Permit pursuant to this Section. The Special Use Permit granted pursuant to this Subsection shall be valid for a calendar year. The owner may shall reapply no later than October 15th of each calendar year for a renewal of the Special Use Permit, which application shall include an affidavit from the business owner that it has complied with the terms and provisions of this Subsec. 94-151(d)(4) during the previous calendar year. The zoning official shall Renewal shall occur administratively approve the application for renewal, if he finds there appears to have been full compliance during the existing calendar year by the applicant has fully complied with the requirements of this subsection and the Special Use Permit during the existing calendar year. If there appears to be a failure of the applicant to have complied with the requirements of this Subsec. 94-151(d)(4), the matter application for renewal shall be set before the Planning Commission at the earliest opportunity.~~

~~km. The City Council shall establish such reasonable fees regarding the filing of the application, and any renewals thereof.~~

- (e) Development standards. Any use of land or structures in this district shall comply with the general development standards of section 94-121(c) of this chapter.

Effective Date. Notice of this ordinance shall be published in a newspaper of general circulation in the city within 15 days after its adoption and mailed in accordance with the requirements of MCL 125.3401. This ordinance shall take effect upon the expiration of 20 days after its adoption.

The foregoing Ordinance was moved for adoption by Council Member _____ and supported by Council Member _____ with a vote thereon being: YES () NO (), at a regular meeting of the City Council held pursuant to public notice in compliance with the Michigan Open Meetings Act, on the ___ day of _____, 2013.

Mason Codes declared adopted this ___ day of _____, 2013.

Leon Clark, Mayor

Deborah J. Cwierniewicz, City Clerk

MEMORANDUM

TO: David Haywood, Zoning & Development Director

FROM: Dennis E. McGinty, City Attorney 

RE: **PROPOSED ORDINANCE NO. 195**
SUP FOR SALE OF REPAIRED USED VEHICLES

DATE: September 16, 2013



This is in response to your memo dated September 12, 2013, requesting that I review draft Ordinance No. 195 which will add a new subsection (d)(4) to the use district regulations for the M-1: Light Manufacturing District found at section 94-151 to allow the sale of repaired used vehicles by Special Use Permit.

It is my understanding that this draft ordinance has been prepared by an attorney for a local property owner who wishes to undertake this new business in the M-1 District and it will be introduced by the City Council Monday, September 16, 2013, and referred to the Planning Commission for review and recommendation. I have made a few drafting changes which I believe are helpful to the proposed ordinance and have deleted the first sentence of new subparagraph (j) on page 4 since this is covered elsewhere in Chapter 94. My editorial changes are highlighted on the enclosed ordinance.

I also have two substantive issues with respect to the draft ordinance. My first concern is with respect to subparagraph (4)(d), which prohibits "off-premises" advertising of any kind or nature for the permitted activity. I believe that a blanket prohibition against any off-premises advertising for this permitted business would be in violation of the First Amendment as an unconstitutional infringement upon freedom of commercial speech. Similar prohibitions were once proposed by the Michigan Liquor Commission with respect to the advertising for alcoholic liquor off the licensed premises. In OAG No. 6051 (April 6, 1982) (copy attached), the Michigan Attorney General held that such regulation against off-premises advertising is unconstitutional on two grounds. First, it analyzed the rule under the due process clause. Here there must be a legitimate public purpose to be served by the regulation and the regulation itself must directly advance the public interest in a real and substantial way. Such rules must, when applied to regulate speech, also be drafted to regulate through the least restrictive means permissible. Under this analysis, the Michigan Attorney General found such a rule to be invalid as an improper exercise of the commission's police power and as an unconstitutional infringement upon the licensee's freedom of commercial speech. I have not done an exhaustive search of case law on this issue, but I am well convinced that a blanket prohibition of

“off-premises” advertising such as this would clearly be found to be an over broad and unnecessary restraint on commercial speech. I would recommend that the entire subparagraph (d) be deleted.

My second concern has to do with new subparagraph (j), which places a one-year term limit on the SUP and requires the owner to seek annual renewals thereafter. Special use permits are generally considered to create rights in the land when the use is first established which thereafter run with the land for an indefinite period of time. Michigan courts have generally not looked with favor upon efforts by local communities to place time limits on special land uses. “Conditions limiting the time duration of a special land use attached to approval of an adult foster care facility, to allow the city to see the actual affect of the use on the neighborhood were invalidated in *Room and Board Homes and Family Care Homes*, 67 Mich App 381.” ICLE, Michigan Zoning, Planning & Land Use, March, 2010 Update, § 3.33, p 110. However, in the case of *Whitaker and Gooding Co v Co Twp*, 122 Mich App 538 (1983), the Court did approve a five-year time limit on an SUP for a mining operation. The Court distinguished its earlier ruling in room and board on the basis that a mining operation was, by its very nature, time-limited and therefore a time limitation in the SUP was reasonably related to the use of the land.

If challenged, I believe it may be difficult to defend a time limitation here since there does not seem to be any natural time limit for such use as proposed by the amendment. Nevertheless, there is some authority for time limits and, if the Planning Commission wishes to go forward with an SUP for this use with a one-year time limit, I have made a few changes to this section which I think would make it more defensible. I have changed the language to require that the zoning official shall renew the permit administratively on an annual basis unless there is a finding that the applicant has failed to comply with the requirements of the code and permit; if not, then the matter would be referred to the Planning Commission for further review. With this change, the permit can be considered to be issued for an indefinite term, subject to administrative review by the zoning official for compliance and by the Planning Commission in the case where full compliance was not obtained. In this way, the property owner has an expectation that the permit will continue indefinitely and may plan his business affairs accordingly with the understanding that he may be reviewed annually for compliance.

Please let me know if you have any further questions regarding these changes or whether you would like us to conduct a more in-depth research and review of these two legal issues.

bks
Enclosures
cc Marty Colburn w/enc



2 of 50 DOCUMENTS

OFFICE OF THE ATTORNEY GENERAL OF THE STATE OF MICHIGAN

Opinion No. 6051

1982 Mich. AG LEXIS 63; 1981-82 Op. Atty Gen. Mich. 607

April 6, 1982

SYLLABUS:

[*1]

ADVERTISING:

Alcoholic liquor, beer and wine -- brand advertising

CONSTITUTIONAL LAW:

First Amendment guarantee of free speech -- advertising restrictions of Liquor Control Commission

INTOXICATING LIQUORS:

Prohibition against brand advertising

LIQUOR CONTROL:

Prohibition against brand advertising

Administrative Code 1979, R 436.1309(2) and (3), R 436.1315(2) and R 436.1327(1), which prohibit advertising of alcoholic liquor, violate the First Amendment to the Constitution of the United States.

REQUESTBY:

Thomas F. Schweigert, Chairman
Liquor Control Commission
7150 Harris Drive
Lansing, Michigan 48909

OPINIONBY:

FRANK J. KELLEY
Attorney General

OPINION:

You have requested my opinion as to whether the following administrative rules promulgated by the Liquor Control Commission, all of which affect advertising, are legally valid:

Administrative Code 1979, R 436.1309(2);

"Advertising in newspapers and periodicals, by all licensees except retail licensees, shall be limited to those published not less than quarterly and having a second class mailing permit, except upon written order of the commission."

Administrative Code 1979, R 436.1309(3):

"Alcoholic liquor shall not be advertised [*2] in a publication or program for a special occasion, except upon written order of the commission 30 days in advance of the event."

Administrative Code 1979, R 436.1315(2):

"Alcoholic liquor shall not be advertised on the licensed premises by placing the alcoholic liquor or an advertisement of alcoholic liquor in a window facing outside the licensed premises."

Administrative Code 1979, R 436.1327(1):

"Advertising of a brand of alcoholic liquor shall not be placed or erected on the outside of the licensed premises of a retail licensee."

OAG 1981-1982, No 6033, p 561 (February 4, 1982, considered the constitutionality of Administrative Code 1979, R 436.1333, an administrative rule of the Liquor Control Commission which prohibited licensees of the Commission from advertising the price of alcoholic liquor off the licensed premises. The opinion concluded that the advertising ban contained in said administrative rule was invalid on two separate and distinct grounds. First, it held that the Commission's absolute ban on price advertising by its licensees was invalid as an improper exercise of the police power vested in the Commission by Const 1963, art 4, § 40 and by 1933 Ex Sess PA [*3] 8, as amended; *MCLA 436.1 et seq.*, MSA 18.971 *et seq.* Secondly, the Commission's ban on price advertising was also determined to be invalid as an unconstitutional restraint upon the freedom of commercial speech guaranteed by the First and Fourteenth Amendments to the United States Constitution and by Const 1963, art 1, § 5.

The bases for these two holdings were similar. In order for a regulation to be sustained under the police power, there must be a 'real and substantial relationship' between the regulation and the public purpose which it is to share. *Grocers Dairy Co. v. Department of Agriculture Director* 377 Mich 71, 75-76; 138 NW2d 767 (1966). A substantially similar requirement is found in the test established by *Central Hudson Gas & Electric Corp v. Public Service Commission of New York*, 447 US 557, 566; 100 S Ct 2343, 2351; 65 L Ed 2d 341, 351 (1980), for determining the validity of restrictions upon commercial speech. That test requires a four-part analysis in such cases:

"[1] At the outset, we must determine whether the expression is protected by the First Amendment. For commercial speech to come within that provision, it at [*4] least must concern lawful activity and not be misleading. [2] Next, we ask whether the asserted governmental interest is substantial. If both inquiries yield positive answers, we must determine [3] *whether the regulation directly advances the governmental interest asserted*, and [4] whether it is not more extensive than is necessary to serve that interest." [Emphasis supplied.]

The primary public purpose or governmental interest which could be asserted in support of the Commission's ban on advertising was the promotion of temperance. Because the Commission's ban on advertising not only failed to effectuate this purpose, but actually ran contrary to another express policy of this State, that of fostering commercial competition, it was concluded that Administrative Code 1979, R 436.1333 failed to satisfy the foregoing standards for either the exercise of the police power or the regulation of commercial speech.

This is not to say that the Liquor Control Commission is totally without authority to regulate advertising by its licensees. Although the United States Supreme Court has repeatedly rejected absolute bans upon price advertising, see, e.g., *Virginia State Board of Pharmacy* [*5] *v. Virginia Citizens Consumer Council, Inc.*, 425 US 748; 96 S Ct 1817; 48 L Ed 2d 346 (1976) and *Bates v. State Bar of Arizona*, 433 US 350; 97 S Ct 2691; 53 L Ed 2d 810 (1977), the Court has made it equally clear that reasonable regulations upon commercial speech, if consistent with the four-part test established by *Central Hudson*, *supra*, may be sustained. This point was most recently reaffirmed in *In re RMJ* US ; 102 S Ct 929, 939; 71 L Ed 2d 64, 76-77 (1982), a case involving state imposed restrictions upon the form and content of advertising by attorneys. Although rejecting the regulations involved in that case on the ground that they were unduly restrictive, the Court stated:

"We emphasize . . . that the States retain the authority to regulate advertising that is inherently misleading or that has proven to be misleading in practice. There may be other substantial state interests as well that will support carefully drawn restrictions. But although the states may regulate commercial speech, the First and Fourteenth Amendments re-

quire that they do so with care and in a manner no more extensive than reasonably necessary to further substantial [*6] interests. . . ."

Turning to the questions of whether the four administrative rules you have cited comply with the foregoing standards for the exercise of the police power and the regulation of commercial speech, the central factor to be considered must be the public purpose or governmental interest which is served by those rules. In order to be sustained under the Commission's police power, there must be a "real and substantial" relationship between each of these rules and that public purpose. Similarly, because each of the cited rules restricts truthful commercial speech, each rule may be sustained, under the test set forth in *Central Hudson, supra*, only if the governmental interest is substantial and is directly advanced by the rule and, finally, if the rule is no more extensive than is necessary to serve the governmental interest.

Your staff indicates that the purpose of the four administrative rules here in question is identical to that of Administrative Code 1979, R 436.1333 and that the primary purpose of these four rules was simply to implement the general ban on price advertising contained in Administrative Code 1979, R 436.1333. A review of the hearing [*7] transcripts and other documents compiled during the promulgation of these rules confirms this conclusion. Inasmuch as OAG, 1981-1982, No 6033, *supra*, has concluded that the latter rule is deficient, it must follow that these four additional rules, intended to implement and to serve the same public purpose as Administrative Code 1979, R 436.1333, are also invalid.

It is my opinion, therefore, that Administrative Code 1979, R 436.1309(2) and (3), R 436.1315(2), and R 436.1327(1) are invalid as an improper exercise of the Commission's police power and as an unconstitutional infringement upon the freedom of commercial speech.

Legal Topics:

For related research and practice materials, see the following legal topics:

Constitutional LawBill of RightsFundamental FreedomsFreedom of SpeechCommercial SpeechAdvertisingConstitutional LawBill of RightsFundamental FreedomsFreedom of SpeechCommercial SpeechMisleading SpeechLegal EthicsLegal Services MarketingAdvertising



APPLICATION – ZONING ORDINANCE AMENDMENT

City of Mason

Zoning & Development Department • 201 W. Ash Street, Mason, MI 48854

Phone: 517/676-9155 • Fax: 517/676-1330

www.mason.mi.us

Applicant- Please indicate the following:	
Current Zoning District(s):	
Requested Zoning District(s):	
Text Amendment	SEC. 94-151. U-2: LIGHT MANUF. DISTRICT

ZONING & DEVELOPMENT DEPT. USE ONLY	
Application Received:	Sept. 11, 2013
Tax ID:	N/A
Fee:	N/A
Receipt #:	N/A

I. APPLICANT INFORMATION

Name DARRELL BENEDICT, BY: LEE J. KLEW, JME CONSULTANTS INC.

Organization BENEDICT AUTO BODY

Address 2958 CRESTWOOD DR., EAST LAUSING, MI 48823

Telephone Number 517-332-2388 Facsimile Number 517-332-2374

Interest in Property (owner, tenant, option, etc.) OWNER REP.

Note: If applicant is anyone other than owner, request must be accompanied by a signed letter of authorization from the owner.* ATTACHED*

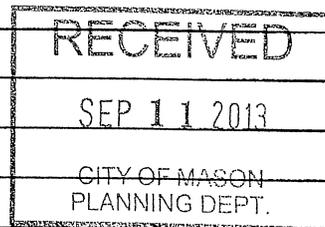
II. PROPERTY INFORMATION (for rezoning only)

Owner DARRELL BENEDICT Telephone Number 517-676-4970

Property Address 246 W. MAPLE ST., MASON, MI 48854

Legal Description: If in a Subdivision: Subdivision Name _____ Lot Number _____

If Metes and Bounds (can be provided on separate sheet): _____



APPLICANT CERTIFICATION

By execution of this application, the person signing represents that the information provided and the accompanying documentation is, to the best of his/her knowledge, true and accurate. In addition, the person signing represents that he or she is authorized and does hereby grant a right of entry to City officials for the purpose of inspecting the premises to determine compliance with the requirements of the zoning code district requested by the applicant and compliance with conditions precedent to the granting of the zoning district change/text amendment requested.

Signature Darrell Benedict

Date 9-11-13

III. **REQUEST DESCRIPTION**

A. **Text Amendment Description (if applicable, attach additional sheets as necessary)**

SEE ATTACHED.

B. **Site Area (for rezoning only)**

Indicate the size of the site subject to the request for change of zoning:

In square feet (if under one (1) acre): 8,064 sq. ft.

In acres (if over one (1) acre): _____

B. **Master Plan (for rezoning only)**

Future Land Use Designation (from Master Plan): AUTO BODY REPAIR & LIMITED REPAIRED VEHICLE

Does the proposed Zoning District conform to this designation? YES NO SALES.

C. **Available Services (for rezoning only)**

Public Water YES NO

Public Sanitary Sewer YES NO

Paved Road(s) (Asphalt or Concrete) YES NO

Public Storm Sewer YES NO

Note: Health Department Certification may be required where public water and/or sanitary sewer are not available

D. **Current Use (for rezoning only)**

Are there any structures currently on the property? YES NO

If so, describe the number of structures and how the structures are used (attach additional sheets, if necessary):

BODY SHOP-AUTO REPAIR AND PAINTING, PAINT BOOTH, FRAME MACHINE

BODY REPAIR WELDING WAREHOUSE FOR STORAGE

E. **Soils Data (for rezoning only)**

Has soil bearing capacity and septic suitability of the ground been tested? YES NO

If so, attach 30 copies. Note: such testing may be required if conditions warrant.

IV. **APPLICATION MATERIALS**

The following is a checklist of items that generally must be submitted with applications for Rezoning. The applicant must submit 30 copies of plans or drawings larger than 11" x 17". Incomplete applications will not be processed.

- Completed application form
- Plot Plan of area proposed for Rezoning (see "A" below)
- Legal description of area proposed for Rezoning
- Proof of ownership or owner authorization to request Rezoning
- Fee (see "B" below)
- Any other information deemed necessary

A. **Plot Plan**

The Plot Plan shall be drawn to a readable scale and shall show all of the following information:

1. Existing structures and parking areas, with setback dimensions from property lines
2. Survey pins or monuments

3. All easements on the property
4. Overhead and underground utilities
5. Floodplain and wetlands
6. Topography (where land characteristics have a bearing on the request)
7. Surface drainage indicated by directional arrows
8. Existing zoning and use of surrounding properties

B. **Application Fee (for rezoning only) \$300.00** All requests must be accompanied by a fee, as established by City Council.

Engineering Review Fee (for rezoning only) \$220.00 – Minimum Two-hour fee for projects increasing demand on public utilities. Actual fees incurred are billed to applicant upon completion of review.

V. **APPLICATION DEADLINES**

Complete applications must be received at least one week in advance of a City Council meeting. A public hearing will be scheduled at the next Planning Commission meeting. At that time the Planning Commission will make a recommendation to the City Council, which has the final authority to approve or deny an application for Rezoning.

Planning Commission meetings are held on the second Tuesday after the first Monday of every month. The City Council will consider recommendations from the Planning Commission at their regular meeting on the third Monday of the month. If any Monday is a City recognized holiday, the meeting is held on the following day (Tuesday).

VI. **STAFF REPORT**

The Planning Department Staff will prepare a report to the Planning Commission regarding an application for Rezoning/Text Amendment. The report will explain the request and review whether it complies with the standards in the Zoning Code and the Master Plan. Staff will present the findings of that report during the Planning Commission meeting. An applicant who wishes to obtain one (1) copy of that report, at no cost, prior to the meeting must provide a written request to the Planning Department. The report is generally complete on the Friday before the Planning Commission meeting and can be mailed to the applicant or picked up by the applicant in the Planning Department.

J.M.E. Consultants, Inc.

Business Consultants
Contract Negotiations
Real Estate Planning
Development & Financing
Property Management
Construction Management

Lee J. Klein, President
2958 Crestwood Drive
East Lansing, Michigan 48823
517-332-2388 - Telephone
517-332-2374 - Facsimile
517-490-1310 - Cellular
j.m.e@comcast.net

Projections & Pro-Formas
Sales & Acquisitions
Licensing & Zoning
Commercial Market Analysis
Business/Commercial Arbitration
Divorce Mediation

September 10, 2013

Mr. David Haywood
City of Mason
201 W. Ash Street, P.O. Box 370
Mason, MI 48854

Re: *Darrell Benedict; Benedict Auto Body*
246 W. Maple Street, Mason, Michigan

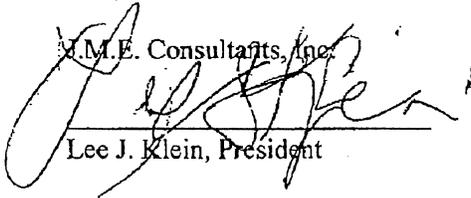
Dear Mr. Haywood:

Please be advised that this office has been retained by Darrell Benedict and Benedict Auto Body to represent them in connection with the possible amendment to the City of Mason Ordinances. By signature hereon below, Darrell Benedict, individually, and as the owner of Benedict Auto Body, does hereby authorize JME Consultants, Inc. and, in particular, Lee J. Klein, President of JME Consultants, Inc. to act on his behalf and on behalf of his company in connection with all matters with the City of Mason, including, but not limited to, possible amendments to the City Ordinances and any applications for Special Use Permits.

Thank-you for your attention to this matter.

Sincerely,

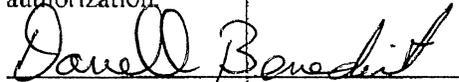
J.M.E. Consultants, Inc.



Lee J. Klein, President

LJK/dss
benedict-authorization ltr-091013.vpd

I do hereby acknowledge and confirm the above authorization.



Darrell L. Benedict, individually and
as Owner of Benedict Auto Body
246 W. Maple Street
Mason, Michigan 48854
Dated: September 11, 2013

**PROPOSED AMENDMENT TO MASON CODE ORDINANCE
SECTION 94-151. M-1: LIGHT MANUFACTURING DISTRICT**

The following is the proposed Amendment to Section 94-151. M-1: Light Manufacturing District and, in particular, 94-151(d) to add a new Section (4) to 94-151(d):

Sec. 94-151(d)(4) Sale of repaired, used vehicles, by Special Use Permit as an accessory use (refer to Sec. 94-151(c)) to a body and paint shop for automobiles and other vehicles (refer to Sec. 94-151(b)(10)) which meets and complies with the following conditions and criteria:

(i) Only the sale of vehicles which have been purchased in a state of disrepair and then repaired at the premises operated as a body and paint shop pursuant to Sec. 94-151(b)(10).

(ii) The sale of the repaired vehicles shall not exceed a total sum of eighteen (18) per calendar year.

(iii) No advertising shall occur or be placed on the premises indicating the sale of used vehicles. This shall include no "for sale" signage on the vehicle itself unless such vehicle is located on the premises where it is not readily visible to the general public from any nearby roads.

(iv) No "off premises" advertising of any kind or nature which would impute or imply that the premises is being used as a used car dealership. This shall not restrict newspaper or other publication advertising any individual vehicle for sale, and so long as such advertising such does not impute or imply that the business owner is primarily engaged in the business of the sale of used vehicles.

(v) No repaired vehicles shall be kept or stored at the front of the site or at any location on the site where they are reasonably visible to the general public from abutting roadways.

(vi) If and to the extent that the real estate used for purposes herein abuts any residentially zoned property, the applicant shall have installed a "privacy fence" to obscure the view of the accessory use permitted herein.

(vii) The owner maintains accurate records reflecting the following regarding each vehicle purchased for repair: date of purchase, purchase price, brief description of repairs accomplished, and sale price.

(viii) Compliance with all other provisions of these Ordinances including the requirements for a Special Use Permit as well as Sec. 94-151(e).

(ix) The owner complies with any federal, state, or county ordinances or requirements relative to the sale of repaired vehicles, obtains all required licenses and/or permits and maintains them in good standing at all times.

(x) For purposes of this Sec. 94-151(d), the following definitions shall apply:

(A) "Vehicles" shall mean and refer to automobiles, trucks, motorcycles, and similar items.

(B) "State of disrepair" shall mean that the vehicle in question had such damage or necessitated repairs to its power train, chassis, other non-exterior visible items and/or body work and where the necessary repairs, at normal retail pricing would exceed twenty-five percent (25%) of the retail value of the vehicle, after repair.

(xi) The City Planning Commission shall have the responsibility of the determination of granting a Special Use Permit pursuant to this Section. The Special Use Permit granted pursuant to this Section shall be valid for a calendar year. The owner shall reapply no later than October 15th of each calendar year for a renewal of the Special Use Permit, which application shall include an affidavit from the business owner that it has complied with the terms and provisions of this Sec. 94-151(d)(4) during the previous calendar year. Renewal shall occur administratively, if there appears to have been full compliance during the existing calendar year by the applicant. If there appears to be a failure of the applicant to have complied with the requirements of this Sec. 94-151(d)(4), the matter shall be set before the Planning Commission at the earliest opportunity.

(xii) The City shall establish such reasonable fees regarding the filing of the application, and any renewals thereof.

INGHAM COUNTY

OWNER/TAXPAYER/OTHER PARTY OF RECORD: BENEDICT DARRELL L		[REDACTED]		
246 W MAPLE MASON, MI 48854		TOTAL DUE IF PAID BY 11/30/12	TOTAL DUE IF PAID BY 12/31/12	TOTAL DUE IF PAID BY 01/31/13
PARCEL INFORMATION		2011	5,216.95	7,040.16
PARCEL NUMBER: 33-19-10-08-231-008				
PARCEL ADDRESS: 246 W MAPLE MASON MI 48854				
LEGAL DESCRIPTION: BEG RT PT 54 FT W OF SW COR LOT 5 BLOCK 51 - S89D20'01"W 142.08 FT TO E R/W LN PENN CENTER N19D0'102.07 FT -W44D09' S2"E 48.48 FT - N18D19'E 215 FT-S18D44'46"E 154.27 FT -S15D 29'E 92 FT -S00D06'49"E 99 FT TO POB SEC 8 T2NRIW CITY OF MASON				
		TOTAL	6,216.95	7,040.16

Unpaid 2011 real property taxes were turned delinquent to the Ingham County Treasurer's Office on March 1, 2012. If the 2011 delinquent tax, interest, penalties, and fees are not paid on or before March 31, 2014, after an uncontested judgment has been entered by a circuit court judge, absolute title to the property shall vest in the foreclosing governmental unit. All redemption rights will expire on March 31, 2014.

The Ingham County Treasurer will accept partial payments for the delinquent tax. Very low income households may qualify for State or Local hardship, contact the Michigan Department of Human Services at (517) 877-9400 or visit them at 5303 S. Cedar St. in Lansing for possible State hardship assistance, or call your local assessor and request a poverty exemption application.

Payments may be made in our Lansing Office at 313 W. Kalamazoo St. in the Veterans Memorial Courthouse

PLEASE DETACH ALONG PERFORATION ABOVE. KEEP THE TOP PORTION FOR YOUR RECORDS.

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT. THANK YOU.

SEND PAYMENT TO:

ERIC SCHERTZING
INGHAM COUNTY TREASURER
PO BOX 215
341 S JEFFERSON ST.
MASON, MI 48854-0215
(517) 676-7220

TAX IS FOR PARCEL NUMBER:
33-19-10-08-231-008



****POSTMARKS WILL NOT BE ACCEPTED AS DATE OF PAYMENT****

NEW! ACE Payment option available on our website. Please visit <http://www.ingham.org> for the ACE Authorization Form link.

Due if paid by 11/30/12	7,040.16
Due if paid by 12/31/12	7,102.33
Due if paid by 01/31/13	7,164.49

PARCEL ADDRESS:
246 W MAPLE
MASON MI 48854

BENEDICT DARRELL L

246 W MAPLE
MASON, MI 48854

MAKE CHECK OR MONEY ORDER PAYABLE TO:
INGHAM COUNTY TREASURER

AMOUNT REMITTED: _____

David Haywood

From: j.m.e@comcast.net
Sent: Thursday, September 12, 2013 9:44 AM
To: David Haywood
Subject: Re: Amendment to City Ordinance Sec. 94-151 Allowing for Sale of Repaired Vehicles as Ancillary Use to Body & Paint Shop

David - Please make the following changes to the proposed Ordinance Amendment. References are to lettered section numbers.

(d) Please remove the word "such" after the word "advertising" in the second to last line.

(l) Please change the 8th line by removing the words "previous calendar year" at the end of the third sentence and put the following in its place: "...current calendar year, to date, and will continue to comply with the terms and provisions through the remaining and the next calendar year".

That covers it. Thanks for your help. Keep me posted as matters progress.

Lee

Lee J. Klein, President
JME Consultants, Inc.
2958 Crestwood Drive
East Lansing, Michigan 48823
517-332-2388 - Telephone
517-332-2374 - Facsimile
517-490-1310 - Cellular
j.m.e@comcast.net - Email

From: "David Haywood" <davidh@mason.mi.us>
To: "j m e" <j.m.e@comcast.net>
Sent: Thursday, September 12, 2013 9:17:45 AM
Subject: RE: Amendment to City Ordinance Sec. 94-151 Allowing for Sale of Repaired Vehicles as Ancillary Use to Body & Paint Shop

Lee, this is what I have proposed to go to Council. It is due to the City Clerk today, so any comments would be appreciated as soon as possible. I had to re-number your version to fit the City's outline format and some minor formatting. Otherwise it is verbatim. I cut and paste from the attachment in your email of 9/10/13.

From: j.m.e@comcast.net [<mailto:j.m.e@comcast.net>]
Sent: Tuesday, September 10, 2013 9:51 AM
To: David Haywood
Cc: autodarrell@hotmail.com
Subject: Amendment to City Ordinance Sec. 94-151 Allowing for Sale of Repaired Vehicles as Ancillary Use to Body & Paint Shop

David - I was waiting to hear back from you. I went back and looked at your last email, and realized that you were probably waiting for me to provide you with the changed language. I thought when we spoke I indicated I had no problems with those changes but now realize you needed the actual language from me. Therefore, it is attached. I have "edited" it for your convenience in reviewing the changes. Please call with any questions.

Thanks,
Lee

Lee J. Klein, President
JME Consultants, Inc.
2958 Crestwood Drive
East Lansing, Michigan 48823
517-332-2388 - Telephone
517-332-2374 - Facsimile
517-490-1310 - Cellular
j.m.e@comcast.net - Email

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CIRCULAR 230 DISCLOSURE. In accordance with U.S. Treasury regulations, if this message from JME Consultants, Inc. (or any attachment) contains advice concerning one or more federal tax issues, it is not a formal legal opinion and may not be used by any person for the avoidance of federal tax penalties.

CITY OF MASON

STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: November 18, 2013

Agenda Item: 7 (C)

AGENDA ITEMS

Discussion – Used Vehicle Sales as an Accessory Use to Auto Body Shops

EXHIBITS

None

STAFF REVIEW

Zoning & Development Department

SUMMARY STATEMENT

As a result of the discussions around Ordinance No. 195 involving auto sales as an accessory use to an auto body repair shop, staff has been requested to look into the implications of the ordinance relative to other auto body shops in the City, to analyze the impact of allowing used vehicle sales as an accessory use to auto body shops in other zoning districts in the City.

The Planning Commission has begun the discussion on this issue at its last meeting on November 12, 2013. At that meeting, their goal was to introduce the issue and begin to identify the key issues, which to date are the following:

- Analysis of total number of auto body shops and their respective zoning district
- The intent of each zoning district in which an auto body shop is located
- Whether vehicle sales are permitted in the respective zoning district
- Nonconforming uses – auto body shops located in zoning that does not permit them
- Which zoning districts allow auto body shops, but not vehicle sales
- Master Plan development goals for each respective land use category in question

Staff will prepare an in depth analysis of each of these issues at the next Planning Commission meeting of December 10, 2013 in preparation of a recommendation to City Council.

RECOMMENDED ACTION(S)

No action is necessary at this time.

CITY OF MASON

STAFF AGENDA REPORT TO CITY COUNCIL

Meeting Date: November 18, 2013

Agenda Item: 7 (D)

AGENDA ITEM

2014 Contracted Tree Services

EXHIBITS

None

STAFF REVIEW

Cemetery, Parks, Forestry Superintendent

SUMMARY STATEMENT

The City of Mason needs to contract out the removal of 34 trees within the City in 2014. An additional removal of 23 stumps along with 120 hours of street tree trimmings will also be included in the 2014 tree services contract.

Express Tree Services was awarded the contracted tree work for the City in 2013. Express Tree Services has submitted a quote of \$18,705.00 to complete the contracted tree work for 2014. Express Tree Services has performed their work in a timely and professional matter in the past and they are very competitive in their pricing.

Staff recommends waiving the bid process for the 2014 contracted tree services and allow Express Tree Services to perform the contracted tree services for the City in 2014.

RECOMMENDED ACTION

Move to allow Express Tree Services to perform the 2014 contracted tree services for the City of Mason at a price of \$18,705.00.

User: MW

DB: Mason City

PERIOD ENDING 10/31/2013

GL NUMBER	DESCRIPTION	2013-14		YTD BALANCE 10/31/2013	ACTIVITY FOR MONTH 10/31/2013	AVAILABLE BALANCE	% BDGT USED
		BUDGET	AMENDED				
Fund 101 - GENERAL FUND							
Revenues							
215.00	CLERK	100.00		22.69	8.75	77.31	22.69
254.00	TREASURER/FINANCE	4,969,430.00		2,823,523.09	132,533.43	2,145,906.91	56.82
271.00	FORESTRY	29,770.00		3,000.00	0.00	26,770.00	10.08
276.00	CEMETERY	31,250.00		20,749.50	2,090.00	10,500.50	66.40
301.00	POLICE DEPARTMENT	71,610.00		48,227.19	7,810.14	23,382.81	67.35
336.00	FIRE DEPARTMENT	161,560.00		42,802.30	2,940.50	118,757.70	26.49
458.00	SIDEWALK CONSTRUCTION-REPAIR	33,000.00		0.00	0.00	33,000.00	0.00
528.00	REFUSE COLLECTION	340,100.00		341,515.20	8,174.40	(1,415.20)	100.42
747.00	COMMUNITY GARDEN	250.00		35.00	0.00	215.00	14.00
751.00	RECREATION	5,750.00		11,630.00	0.00	(5,880.00)	202.26
758.00	PUBLIC ART	10,000.00		0.00	0.00	10,000.00	0.00
850.00	WORKERS COMPENSATION	43,520.00		11,963.00	0.00	31,557.00	27.49
TOTAL Revenues		5,696,340.00		3,303,467.97	153,557.22	2,392,872.03	57.99
Expenditures							
101.00	COUNCIL	40,585.00		17,832.72	11,775.00	22,752.28	43.94
172.00	ADMINISTRATOR	240,980.00		60,504.45	14,747.16	180,475.55	25.11
209.00	ASSESSING	47,205.00		15,253.02	3,807.09	31,951.98	32.31
247.00	BOARD OF REVIEW	650.00		90.00	0.00	560.00	13.85
254.00	TREASURER/FINANCE	472,590.00		120,918.00	26,839.19	351,672.00	25.59
260.00	TECHNOLOGY	80,945.00		10,204.23	1,977.02	70,740.77	12.61
262.00	ELECTIONS	117,370.00		35,267.12	8,175.13	82,102.88	30.05
265.00	BUILDING OFFICIAL/CITY HALL	154,580.00		37,708.33	10,220.87	116,871.67	24.39
266.00	LEGAL/ATTORNEY	87,125.00		32,137.70	9,688.63	54,987.30	36.89
268.00	PARK STREET PROPERTY	41,985.00		0.00	0.00	41,985.00	0.00
269.00	PROPERTY	471,720.00		304,561.29	77,120.84	167,158.71	64.56
271.00	FORESTRY	63,465.00		5,967.78	2,210.64	57,497.22	9.40
272.00	ADMINISTRATIVE SERVICES	239,420.00		98,255.27	33,841.60	141,164.73	41.04
276.00	CEMETERY	220,160.00		40,279.27	9,770.65	179,880.73	18.30
305.00	POLICE ADMINISTRATION	326,065.00		96,471.65	17,961.58	229,593.35	29.59
315.00	CROSSING GUARDS	23,975.00		3,934.99	2,153.00	20,040.01	16.41
316.00	POLICE PATROLLING	1,004,145.00		247,237.10	57,060.06	756,907.90	24.62
336.00	FIRE DEPARTMENT	483,425.00		89,041.74	11,625.78	394,383.26	18.42
380.00	PLANNING/ZONING OFFICIAL	116,355.00		37,174.27	8,552.35	79,180.73	31.95
426.00	CIVIL DEFENSE	615.00		0.00	0.00	615.00	0.00
428.00	DISASTER ACCOUNT	100.00		0.00	0.00	100.00	0.00
441.00	PUBLIC SERVICES	5,620.00		1,322.89	258.26	4,297.11	23.54
447.00	ENGINEERING	290.00		0.00	0.00	290.00	0.00
448.00	STREET LIGHTING	125,700.00		40,858.44	16,108.53	84,841.56	32.50
458.00	SIDEWALK CONSTRUCTION-REPAIR	33,000.00		0.00	0.00	33,000.00	0.00
528.00	REFUSE COLLECTION	339,570.00		107,910.44	27,109.20	231,659.56	31.78
747.00	COMMUNITY GARDEN	530.00		549.49	144.56	(19.49)	103.68
756.00	PARKS AND BALL DIAMONDS	127,895.00		48,638.75	8,502.50	79,256.25	38.03
758.00	PUBLIC ART	15,000.00		6,600.00	3,300.00	8,400.00	44.00
775.00	SENIOR CITIZENS	8,040.00		1,800.00	125.00	6,240.00	22.39
790.00	LIBRARY	8,020.00		3,026.01	1,534.11	4,993.99	37.73
806.00	CHRISTMAS DECORATIONS	6,945.00		0.00	0.00	6,945.00	0.00
807.00	CABLE COMMISSION	4,560.00		1,500.00	300.00	3,060.00	32.89
808.00	PLANNING COMMISSION	755.00		83.61	19.66	671.39	11.07
850.00	WORKERS COMPENSATION	43,520.00		11,963.00	0.00	31,557.00	27.49
855.00	RETIREE BENEFITS	94,770.00		37,014.47	7,529.94	57,755.53	39.06
890.00	CONTINGENCIES	61,900.00		0.00	0.00	61,900.00	0.00
999.00	SURPLUS	586,765.00		537,656.59	338,839.24	49,108.41	91.63

User: MW

DB: Mason City

PERIOD ENDING 10/31/2013

GL NUMBER	DESCRIPTION	2013-14		YTD BALANCE 10/31/2013	ACTIVITY FOR MONTH 10/31/2013	AVAILABLE BALANCE	% BDC
		AMENDED BUDGET	NORMAL (ABNORMAL) INCREASE (DECREASE)				
Fund 101 - GENERAL FUND							
Expenditures							
TOTAL Expenditures		5,696,340.00		2,051,762.62	711,297.59	3,644,577.38	36.02
Fund 101:							
TOTAL REVENUES		5,696,340.00		3,303,467.97	153,557.22	2,392,872.03	57.99
TOTAL EXPENDITURES		5,696,340.00		2,051,762.62	711,297.59	3,644,577.38	36.02
NET OF REVENUES & EXPENDITURES		0.00		1,251,705.35	(557,740.37)	(1,251,705.35)	100.00

User: MW

DB: Mason City

PERIOD ENDING 10/31/2013

GL NUMBER	DESCRIPTION	2013-14 AMENDED BUDGET	YTD BALANCE 10/31/2013 NORMAL (ABNORMAL)	INCREASE (DECREASE)	ACTIVITY FOR MONTH 10/31/2013	NORMAL (ABNORMAL)	AVAILABLE BALANCE	% BDGT USED
Fund 202 - MAJOR STREETS FUND								
Revenues								
000.00		1,353,035.00	608,373.31		370,409.54		744,661.69	44.96
TOTAL Revenues		1,353,035.00	608,373.31		370,409.54		744,661.69	44.96
Expenditures								
000.00		56,130.00	0.00		0.00		56,130.00	0.00
451.00	STREET/ROAD CONSTRUCTION	996,135.00	537,656.59		338,839.24		458,478.41	53.97
463.00	STREET MAINTENANCE	129,240.00	39,430.73		8,025.16		89,809.27	30.51
474.00	TRAFFIC SERVICES	24,640.00	4,501.79		1,687.53		20,138.21	18.27
478.00	WINTER MAINTENANCE	36,850.00	2,019.33		2,019.33		34,830.67	5.48
482.00	STREET ADMIN/GEN EXP	110,040.00	0.00		0.00		110,040.00	0.00
TOTAL Expenditures		1,353,035.00	583,608.44		350,571.26		769,426.56	43.13
Fund 202:								
TOTAL REVENUES		1,353,035.00	608,373.31		370,409.54		744,661.69	44.96
TOTAL EXPENDITURES		1,353,035.00	583,608.44		350,571.26		769,426.56	43.13
NET OF REVENUES & EXPENDITURES		0.00	24,764.87		19,838.28		(24,764.87)	100.00

User: MW

DB: Mason City

PERIOD ENDING 10/31/2013

GL NUMBER	DESCRIPTION	2013-14		YTD BALANCE 10/31/2013	ACTIVITY FOR MONTH 10/31/2013	AVAILABLE BALANCE	% BGD
		BUDGET	AMENDED				
Fund 203 - LOCAL STREETS FUND							
Revenues							
000.00		198,005.00		24,860.61	11,852.12	173,144.39	12.56
TOTAL Revenues		198,005.00		24,860.61	11,852.12	173,144.39	12.56
Expenditures							
463.00	STREET MAINTENANCE	146,890.00		38,694.89	13,696.73	108,195.11	26.34
474.00	TRAFFIC SERVICES	8,725.00		1,263.17	250.75	7,461.83	14.48
478.00	WINTER MAINTENANCE	30,390.00		1,831.87	1,831.87	28,558.13	6.03
482.00	STREET ADMIN/GEN EXP	12,000.00		0.00	0.00	12,000.00	0.00
TOTAL Expenditures		198,005.00		41,789.93	15,779.35	156,215.07	21.11
Fund 203:							
TOTAL REVENUES		198,005.00		24,860.61	11,852.12	173,144.39	12.56
TOTAL EXPENDITURES		198,005.00		41,789.93	15,779.35	156,215.07	21.11
NET OF REVENUES & EXPENDITURES		0.00		(16,929.32)	(3,927.23)	16,929.32	100.00

PERIOD ENDING 10/31/2013

User: MW
DB: Mason City

GL NUMBER	DESCRIPTION	2013-14		YTD BALANCE 10/31/2013	ACTIVITY FOR MONTH 10/31/2013	AVAILABLE		% BDGT USED
		AMENDED BUDGET	NORMAL (ABNORMAL)			INCREASE (DECREASE)	NORMAL (ABNORMAL)	
Fund 248 - DOWNTOWN DEVELOPMENT AUTHORITY								
Revenues								
000.00		125,500.00		41,832.27	38.28		83,667.73	33.33
TOTAL Revenues		125,500.00		41,832.27	38.28		83,667.73	33.33
Expenditures								
000.00		125,500.00		20,922.74	6,794.38		104,577.26	16.67
TOTAL Expenditures		125,500.00		20,922.74	6,794.38		104,577.26	16.67
Fund 248:								
TOTAL REVENUES		125,500.00		41,832.27	38.28		83,667.73	33.33
TOTAL EXPENDITURES		125,500.00		20,922.74	6,794.38		104,577.26	16.67
NET OF REVENUES & EXPENDITURES		0.00		20,909.53	(6,756.10)		(20,909.53)	100.00

PERIOD ENDING 10/31/2013

User: MW
DB: Mason City

GL NUMBER	DESCRIPTION	2013-14		YTD BALANCE 10/31/2013	ACTIVITY FOR MONTH 10/31/2013	AVAILABLE		% B DGT USED
		AMENDED BUDGET	NORMAL (ABNORMAL)			BALANCE NORMAL (ABNORMAL)		
Fund 250 - LOCAL DEV. FINANCE AUTHORITY								
Revenues								
000.00		422,820.00	1,649,306.76	1,649,306.76	590.47	(1,226,486.76)	390.07	
TOTAL Revenues		422,820.00	1,649,306.76	1,649,306.76	590.47	(1,226,486.76)	390.07	
Expenditures								
691.00	L. D. F. A.	422,820.00	38,305.00	38,305.00	2,150.00	384,515.00	9.06	
TOTAL Expenditures		422,820.00	38,305.00	38,305.00	2,150.00	384,515.00	9.06	
Fund 250:								
TOTAL REVENUES		422,820.00	1,649,306.76	1,649,306.76	590.47	(1,226,486.76)	390.07	
TOTAL EXPENDITURES		422,820.00	38,305.00	38,305.00	2,150.00	384,515.00	9.06	
NET OF REVENUES & EXPENDITURES		0.00	1,611,001.76	1,611,001.76	(1,559.53)	(1,611,001.76)	100.00	

PERIOD ENDING 10/31/2013

GL NUMBER	DESCRIPTION	2013-14		YTD BALANCE 10/31/2013	ACTIVITY FOR MONTH 10/31/2013	AVAILABLE BALANCE	% BDGT USED
		AMENDED BUDGET	NORMAL (ABNORMAL)				
Fund 297 - ECONOMIC DEVELOPMENT COMM.							
Revenues							
000.00		70.00		20.76	5.13	49.24	29.66
TOTAL Revenues		70.00		20.76	5.13	49.24	29.66
Expenditures							
000.00		70.00		0.00	0.00	70.00	0.00
TOTAL Expenditures		70.00		0.00	0.00	70.00	0.00
Fund 297:							
TOTAL REVENUES		70.00		20.76	5.13	49.24	29.66
TOTAL EXPENDITURES		70.00		0.00	0.00	70.00	0.00
NET OF REVENUES & EXPENDITURES		0.00		20.76	5.13	(20.76)	100.00

PERIOD ENDING 10/31/2013

GL NUMBER	DESCRIPTION	2013-14		YTD BALANCE		ACTIVITY FOR		AVAILABLE		
		AMENDED	BUDGET	10/31/2013	NORMAL (ABNORMAL)	MONTH 10/31/2013	INCREASE (DECREASE)	10/31/2013	BALANCE	% BDGT
										USED
Fund 353 - 1992 LDFA BOND										
Revenues										
000.00		0.00	0.00	36,505.00			350.00		(36,505.00)	100.00
TOTAL Revenues		0.00	0.00	36,505.00			350.00		(36,505.00)	100.00
Expenditures										
000.00		0.00	0.00	36,505.00			350.00		(36,505.00)	100.00
TOTAL Expenditures		0.00	0.00	36,505.00			350.00		(36,505.00)	100.00
Fund 353:										
TOTAL REVENUES		0.00	0.00	36,505.00			350.00		(36,505.00)	100.00
TOTAL EXPENDITURES		0.00	0.00	36,505.00			350.00		(36,505.00)	100.00
NET OF REVENUES & EXPENDITURES		0.00	0.00	0.00			0.00		0.00	0.00

User: MW

DB: Mason City

PERIOD ENDING 10/31/2013

GL NUMBER	DESCRIPTION	2013-14		YTD BALANCE 10/31/2013	ACTIVITY FOR MONTH 10/31/2013	AVAILABLE		% BDT USED
		BUDGET	AMENDED			NORMAL (ABNORMAL)	INCREASE (DECREASE)	
Fund 592 - WATER/SEWER FUND								
Revenues								
000.00		3,566,290.00		943,923.52	192,731.07	2,622,366.48		26.47
TOTAL Revenues		3,566,290.00		943,923.52	192,731.07	2,622,366.48		26.47
Expenditures								
545.00	WATER & SEWER ADMINISTRATION	41,110.00		13,530.13	3,091.78	27,579.87		32.91
546.00	SEWER IMPROVEMENT	44,310.00		0.00	0.00	44,310.00		0.00
548.00	SEWER MAINTENANCE	288,865.00		36,415.96	9,014.33	252,449.04		12.61
555.00	WASTEWATER TREATMENT PLANT	871,315.00		230,137.36	79,798.76	641,177.64		26.41
556.00	WATER MAINTENANCE	385,280.00		115,059.20	28,025.66	270,220.80		29.86
557.00	STORM SEWER PROGRAM	26,575.00		0.00	0.00	26,575.00		0.00
558.00	WATER IMPROVEMENT	405,175.00		277,262.26	237,356.76	127,912.74		68.43
559.00	WATER TREATMENT PLANT	838,660.00		172,255.42	30,915.86	666,404.58		20.54
566.00	ALLOWANCE FOR DEPRECIATION	665,000.00		0.00	0.00	665,000.00		0.00
TOTAL Expenditures		3,566,290.00		844,660.33	388,203.15	2,721,629.67		23.68
Fund 592:								
TOTAL REVENUES		3,566,290.00		943,923.52	192,731.07	2,622,366.48		26.47
TOTAL EXPENDITURES		3,566,290.00		844,660.33	388,203.15	2,721,629.67		23.68
NET OF REVENUES & EXPENDITURES		0.00		99,263.19	(195,472.08)	(99,263.19)		100.00

User: MW

DB: Mason City

PERIOD ENDING 10/31/2013

GL NUMBER	DESCRIPTION	2013-14		YTD BALANCE 10/31/2013	ACTIVITY FOR MONTH 10/31/2013	AVAILABLE BALANCE	% BDGT USED
		AMENDED BUDGET	NORMAL (ABNORMAL)				
Fund 612 - MASON BUILDING AUTHORITY							
Revenues							
000.00		277,745.00		115,073.49	0.02	162,671.51	41.43
TOTAL Revenues		277,745.00		115,073.49	0.02	162,671.51	41.43
Expenditures							
000.00		277,745.00		115,069.99	0.00	162,675.01	41.43
TOTAL Expenditures		277,745.00		115,069.99	0.00	162,675.01	41.43
Fund 612:							
TOTAL REVENUES		277,745.00		115,073.49	0.02	162,671.51	41.43
TOTAL EXPENDITURES		277,745.00		115,069.99	0.00	162,675.01	41.43
NET OF REVENUES & EXPENDITURES		0.00		3.50	0.02	(3.50)	100.00

User: MW

DB: Mason City

PERIOD ENDING 10/31/2013

GL NUMBER	DESCRIPTION	2013-14		YTD BALANCE 10/31/2013	ACTIVITY FOR MONTH 10/31/2013	AVAILABLE BALANCE NORMAL (ABNORMAL)	% BDT USED
		AMENDED BUDGET	NORMAL (ABNORMAL)				
Fund 661 - MOTOR VEHICLE POOL							
Revenues							
000.00		344,725.00		56,150.46	9,276.59	288,574.54	16.29
TOTAL Revenues		344,725.00		56,150.46	9,276.59	288,574.54	16.29
Expenditures							
567.00	SHOP & BLDG. MAINTENANCE	44,010.00		878.29	132.73	43,131.71	2.00
568.00	EQUIPMENT MAINTENANCE	170,615.00		64,114.45	18,560.66	106,500.55	37.58
901.00	EQUIPMENT-CAPITAL OUTLAY	130,100.00		33,283.83	31,338.99	96,816.17	25.58
TOTAL Expenditures		344,725.00		98,276.57	50,032.38	246,448.43	28.51
Fund 661:							
TOTAL REVENUES		344,725.00		56,150.46	9,276.59	288,574.54	16.29
TOTAL EXPENDITURES		344,725.00		98,276.57	50,032.38	246,448.43	28.51
NET OF REVENUES & EXPENDITURES		0.00		(42,126.11)	(40,755.79)	42,126.11	100.00

User: MW
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PERIOD ENDING 10/31/2013

GL NUMBER	DESCRIPTION	2013-14 AMENDED BUDGET	YTD BALANCE 10/31/2013 NORMAL (ABNORMAL)	ACTIVITY FOR MONTH 10/31/2013 INCREASE (DECREASE)	AVAILABLE BALANCE NORMAL (ABNORMAL)	% BDGT USED
Fund 702 - RAYNER BOND FUND						
Revenues						
000.00		33,000.00	9,423.91	256.26	23,576.09	28.56
TOTAL Revenues		33,000.00	9,423.91	256.26	23,576.09	28.56
Expenditures						
000.00		33,000.00	7,937.28	7,937.28	25,062.72	24.05
TOTAL Expenditures		33,000.00	7,937.28	7,937.28	25,062.72	24.05
Fund 702:						
TOTAL REVENUES		33,000.00	9,423.91	256.26	23,576.09	28.56
TOTAL EXPENDITURES		33,000.00	7,937.28	7,937.28	25,062.72	24.05
NET OF REVENUES & EXPENDITURES		0.00	1,486.63	(7,681.02)	(1,486.63)	100.00

PERIOD ENDING 10/31/2013

GL NUMBER	DESCRIPTION	2013-14 AMENDED BUDGET	YTD BALANCE 10/31/2013 NORMAL (ABNORMAL)	ACTIVITY FOR MONTH 10/31/2013 INCREASE (DECREASE)	NORMAL (ABNORMAL)	AVAILABLE BALANCE	% BDGT USED
Fund 711 - CEMETERY TRUST FUND							
Revenues							
000.00		4,300.00	1,383.92	203.26		2,916.08	32.18
TOTAL Revenues		4,300.00	1,383.92	203.26		2,916.08	32.18
Expenditures							
000.00		4,300.00	0.00	0.00		4,300.00	0.00
TOTAL Expenditures		4,300.00	0.00	0.00		4,300.00	0.00
Fund 711:							
TOTAL REVENUES		4,300.00	1,383.92	203.26		2,916.08	32.18
TOTAL EXPENDITURES		4,300.00	0.00	0.00		4,300.00	0.00
NET OF REVENUES & EXPENDITURES		0.00	1,383.92	203.26		(1,383.92)	100.00

User: MW

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PERIOD ENDING 10/31/2013

GL NUMBER	DESCRIPTION	2013-14		YTD BALANCE 10/31/2013	ACTIVITY FOR MONTH 10/31/2013	AVAILABLE		% BDC	
		AMENDED BUDGET	NORMAL (ABNORMAL)			INCREASE (DECREASE)	NORMAL (ABNORMAL)		USED
Fund 812 - SPECIAL ASSESSMENT FUND									
Revenues									
000.00		201,640.00		46,690.49	110.65	154,949.51		23.16	
	TOTAL Revenues	201,640.00		46,690.49	110.65	154,949.51		23.16	
Expenditures									
000.00		201,640.00		85,170.00	80,047.50	116,470.00		42.24	
	TOTAL Expenditures	201,640.00		85,170.00	80,047.50	116,470.00		42.24	
Fund 812:									
TOTAL REVENUES									
		201,640.00		46,690.49	110.65	154,949.51		23.16	
TOTAL EXPENDITURES									
		201,640.00		85,170.00	80,047.50	116,470.00		42.24	
	NET OF REVENUES & EXPENDITURES	0.00		(38,479.51)	(79,936.85)	38,479.51		100.00	
TOTAL REVENUES - ALL FUNDS									
		12,223,470.00		6,837,012.47	739,380.61	5,386,457.53		55.93	
TOTAL EXPENDITURES - ALL FUNDS									
		12,223,470.00		3,924,007.90	1,613,162.89	8,299,462.10		32.10	
	NET OF REVENUES & EXPENDITURES	0.00		2,913,004.57	(873,782.28)	(2,913,004.57)		100.00	

City of Mason

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MEMORANDUM

TO: Honorable Mayor and Council Members
FROM: Martin Colburn, City Administrator
DATE: November 18, 2013
RE: City Administrator's Report

Regional Trail System

The City of Mason has been working with Ingham County Parks, Ingham County Road Commission, Vevay Township, Delhi Township and George Hayhoe regarding connectivity of the trail systems regionally. Recently, we have also been inclusive of representatives of Dart Corporation and Alaiedon Township. In an attempt to broaden the discussion, we had a meeting on November 6 at the Ingham County Hilliard Building. This meeting was also inclusive of Tri-County Planning Commission, Ingham County Farmland Preservation, Ingham County Health Department, the City of Lansing, and Greening Mid-Michigan- <http://www.greenmidmichigan.org/>.

An overview was provided by the organization Greening Mid-Michigan with regard to the trail systems that connect different parts of the state, from coast to coast. This includes routes in the southern peninsula, as well as the upper peninsula. There are other, more regional routes, such as the Fred Meijer Clinton, Ionia and Shiawassee Trail. Discussions were held regarding how to link these trails. An overview of the trail system statewide is that there is a lack of connectivity to the Mid-Michigan and Tri-County areas. There were discussions of tying into other sources through the Rails to Trails Program and receiving additional licensing from Consumer's Energy, as well as funding sources to help with the linkage, and address areas where local governments have not participated. The discussions continue on with the interest and desired continuity that brings the regional trails into the Tri-County area. Some of the "mega trails" that currently exist are the Great Lake to Lake Trail, Owosso to Alma Trail, the West Michigan Rail and Trail Network, the Paul Henry Thornapple Trail.

Mason Bed and Breakfast

Through multiple studies over past decades, the City and community of Mason has requested the establishment of a bed and breakfast. We now have a citizen interested in pursuing the ability to do just that. The Mason Planning Commission approved the final site plan to permit the operation of a Bed and Breakfast at 604 S. Barnes Street. The property is owned by Jettie Feintuch. The permit is conditional on allowance of no more than four bedrooms at this time. This will add a new attribute to the downtown and community.