

February 4, 2008
Gladwin, Michigan

The Regular Meeting of the Gladwin City Council was called to order by 7:00 p.m. by Mayor Winarski.

Present: Alward, Caffrey, Crawford, Hindman, Jungman, Mienk, Novak, Smith

Absent: None

Staff Present: Bob Moffit, Shannon Greaves, Charlie Jones

Also Present: Mayor Winarski, Doug Jacobson, Jordan Case, Bill Rhode

Mayor Winarski led the Pledge of Allegiance and the invocation was given by Council Member Jungman.

Minutes of the January 21, 2008 meeting were approved as presented.

Motion by Council Member Alward, supported by Council Member Novak to approve Warrant #08-22 in the amount of \$273,386.33 and Warrant #08-23 in the amount of \$67,140.43. All ayes. Motion carried.

Hearing of Delegations

County Commissioner Rhode gave an update on Gladwin County issues.

Motion by Council Member Jungman, supported by Council Member Novak to approve the agenda as presented. All ayes. Motion carried.

Motion by Council Member Novak, supported by Council Member Jungman to approve the consent agenda as follows: Communications – (i) Article from Firehouse Magazine Regarding Fire on Cedar Avenue; Meetings – Fair Board 11/20/07, Fire Board 1//08, County Commissioners 1/8/08, Housing Commission 1/15/08, Ordinance Committee 1/21/08, Planning Commission 1/22/08, Parks Commission 1/28/08, Charter Commission 1/30/08; Miscellaneous – (i) GPD – Yearly Complaint Comparison. All ayes. Motion carried.

New Business

Motion by Council Member Smith, supported by Council Member Jungman to approve final payment to Sorensen Gross Construction for Clarifier Refurbishment in the amount of \$38,985.70. All ayes. Motion carried

Motion by Council Member Jungman, supported by Council Member Novak to approve final payment to Sorensen Gross Construction for WWTP Grinder in the amount of \$9,249.99. All ayes. Motion carried.

**DANGEROUS BUILDING ORDINANCE
ORDINANCE NO. 295**

An ordinance to provide a just, equitable and practicable method, to be cumulative with and in adoption to any other remedy provided by the BOCA Code, 2006 Edition or otherwise available at law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants, may be required to be repaired, vacated or demolished; to provide for notices and orders relating to such buildings for their repair, vacation or demolition; to provide for appeals from any such notice or order and to establish a procedure for the conduct of hearing such appeals; to provide for the enforcement of orders issued pursuant to said code and to prescribe procedures for repair or demolition work, the recovery of the cost thereof and to provide penalties for the violation of said ordinance.

THE CITY OF GLADWIN, GLADWIN COUNTY, MICHIGAN, ORDAINS:

**CHAPTER 1
TITLE AND SCOPE**

Title.

Sec. 101. This code shall be known as the "Uniform Code for Abatement of Dangerous Buildings", may be cited as such, and will be referred to herein as "this code."

Scope.

Sec. 102. The provisions of this code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter be located in the City of Gladwin.

Alterations, additions and repairs.

Sec. 103. All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of BOCA 2006.

**CHAPTER 2
ENFORCEMENT**

General.

Sec. 201.

- (a) *Administration.* The City Administrator appointed by the City of Gladwin is hereby authorized to enforce the provisions of this code.

- (b) *Inspections.* The City Administrator and his designees are hereby authorized to make such inspections and take such actions as may be required to enforce the provisions of this code.
- (c) *Right of entry.*
 1. Whenever necessary to make an inspection to enforce any of the provisions of this code, or whenever the Building Official or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises dangerous as defined in this code, the Building Official or his authorized representative may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the Building Official by this code; provided that (i) if such building or premises be occupied, he shall first present proper credentials and demand entry; and (ii) if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Building Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.
 2. "Authorized representative" shall include the officers named in Section 201(b) and their authorized inspection personnel.
 3. No owner or occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper demand is made as herein provided, to promptly permit entry therein by the Building Official or his authorized representative for the purpose of inspection and examination pursuant to this code. Any person violating this subsection shall be guilty of a misdemeanor.
- (d) *Building Official.* City Administrator and any person retained or appointed by the City Administrator for the purpose of inspection, who shall have specific knowledge of building, fire or safety codes and construction.
- (e) County Health Department and Central Michigan District Health Department or its successor.

Abatement of dangerous buildings.

Sec. 202. All buildings or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this code are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in Section 401 of this code.

Violations.

Sec. 203. No person, firm, or corporation, whether as owner, lessee, sublessee, or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove,

demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this code or any order issued by the Building Official hereunder. Any person violating the provisions of this section shall be guilty of a misdemeanor for each day such violation continues.

Inspection of work.

Sec. 204. All buildings or structures within the scope of this code and all construction or work for which a permit is required shall be subject to inspection by the Building Official in accordance with and in the manner provided by this code.

Board of Appeals.

Sec. 205. In order to provide for final interpretation of the provisions of this code and to hear appeals provided hereunder there is hereby established a Board of Appeals consisting of the same members and holding the same terms of office as members of the Construction Board of Appeals, established under the applicable building codes. The Board may adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the appellant with a copy to the Building Official. Appeals to the Board shall be processed in accordance with the provisions contained in this code. Copies of all rules or regulations adopted by the Board shall be delivered to the Building Official who shall make them freely accessible to the public.

CHAPTER 3 DEFINITIONS

General.

Sec. 301. For the purpose of this code, certain words, phrases, and terms, and their derivatives shall be construed as specified in this chapter. Words, phrases, and terms used in this code, but not specifically defined herein, shall have the meanings stated therefore in the BOCA 2006. Where not defined in this code or in the BOCA 2006 such words, phrases, and terms, shall have the meanings stated therefore in Webster's New International Dictionary of the English Languages, Unabridged, Third Edition.

Dangerous building.

Sec. 302. For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be in a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property, or safety of the public or its occupants are endangered:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
2. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1 ½) times the working stress or stresses allowed in the BOCA 2006 for new buildings of similar structure, purpose or location.
3. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the BOCA 2006 for new buildings of similar structure, purpose or location.
4. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
5. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the BOCA 2006 for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the BOCA 2006 for such buildings.
6. Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
7. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
8. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
9. Whenever the exterior walls or other vertical structural members lean, bow or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
10. Whenever the building or structure, exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members, or fifty (50) percent damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.
11. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing immoral acts.

12. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this City as specified in the BOCA 2006, or of any law or ordinance of this state or City relating to the condition, location, or structure of buildings.
13. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion, less than fifty (50) percent, or in any supporting part, member or portion less than sixty-six (66) percent of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
14. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the County Health Department to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
15. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire resistive construction faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Chief to be a fire hazard.
16. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
17. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

CHAPTER 4 NOTICES AND ORDERS OR BUILDING OFFICIAL

General

Sec. 401.

- (a) *Commencement of proceedings.* Whenever the Building Official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, he shall commence proceedings to cause the repair, vacation, or demolition of the building.

- (b) *Notice and order.* The Building Official shall issue a notice and order directed to the owner of the building as shown by the latest assessment roll for the City. The notice and order shall contain:
1. The street address and a legal description sufficient for identification of the premises upon which the building is located.
 2. A statement that the Building Official has found the building to be dangerous with a brief and concise description of the conditions found to render the building dangerous under the provisions of Section 302 of this code.
 3. A statement of the action required to be taken as determined by the Building Official.
 - i. If the Building Official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefore and the work physically commenced within such time (not to exceed sixty (60) days from the date of the order) and completed within such time as the Building Official shall determine is reasonable under all of the circumstances.
 - ii. If the Building Official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a time certain from the date of the order as determined by the Building Official to be reasonable.
 - iii. If the Building Official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Building Official shall determine is reasonable (not to exceed sixty (60) days from the date of the order); that all required permits be secured therefore within sixty (60) days from the date of the order, and that the demolition be completed within such time as the Building Official shall determine is reasonable.
 4. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official (i) will order the building vacated and posted to prevent further occupancy until the work is completed, and (ii) may proceed to cause the work to be done and charge the costs thereof against the property or its owner.
 5. Statements advising (i) that any person having any record, title or legal interest in the building may appeal from the notice and order or any action of the Building Official to the Board of Appeals, provided the appeal is made in writing as provided in this code, and filed with the Building Official within thirty (30) days from the date of service of such notice and order; and (ii) that failure to appeal will constitute a waiver of all rights to an administrative hearing and determination of the matter.
- (c) *Service of notice and order.* The notice and order, and any amended or supplemental notice and order, shall be served upon the owner, as

disclosed by the latest assessment roll for the City and posted on the property; and one copy thereof shall be served on each of the following if known to the Building Official; The holder of any mortgage of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the Building Official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed on him by the provisions of this section.

- (d) *Method of service.* Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the last assessment roll of the City or as known to the Building Official. If no address of any such person so appears or is known to the Building Official, then a copy of the notice and order shall be so mailed and addressed to such person at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.
- (e) *Proof of service.* Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the Building Official.

Repair, vacation and demolition

Sec. 402.

- (a) *Standards to be followed.* The following standards shall be followed by the Building Official (and by the Board of Appeals if an appeal is taken) in ordering the repair, vacation or demolition of any dangerous building or structure:
 1. Any building declared a dangerous building under this ordinance shall either be repaired in accordance with the current Building Code or shall be demolished at the option of the building owner.
 2. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or its occupants, it shall be ordered to be vacated.

Notice to vacate.

Sec. 403.

- (a) *Posting.* Every notice to vacate shall, in addition to being served as provided in Section 401(c), be posted at or upon each exit of the building, and shall be in substantially the following form:

“DO NOT ENTER UNSAFE TO OCCUPY”

It is a misdemeanor to occupy this building, or to remove or deface this notice.

Building Official
City of Gladwin

- (b) *Compliance.* Whenever such notice is posted, the Building Official shall include a notification thereof in the notice and order issued by him under Subsection (b) of Section 401, reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition, or removal have been completed and a Certificate of occupancy issued pursuant to the provisions of the BOCA 2006. Any person violating this subsection shall be guilty of a misdemeanor.

CHAPTER 5

APPEAL

General.

Sec. 501.

- (a) *Form of appeal.* Any person entitled to service under Section 401(c) may appeal from any notice and order or any action of the Building Official under this code by filing at the office of the Building Official within thirty (30) days from the date of the service of such order, a written appeal containing:
1. A heading in the words: “Before the Board of Appeals of the City of Gladwin.”
 2. A caption reading: “Appeal of _____”, giving the names of all appellants participating in the appeal.
 3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
 4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

5. A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside.
 6. The signatures of all parties named as appellants, and their official mailing addresses.
 7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.
- (b) *Processing of appeal.* Upon receipt of any appeal filed pursuant to this section, the City Administrator shall present it at the next regular or special meeting of the Construction Board of Appeals.
- (c) *Scheduling and noticing appeal for hearing.* As soon as practicable after receiving the written appeal the Construction Board of Appeals shall fix a date, time, and place for the hearing of the appeal by the Board. Such date shall be not less than ten (10) days nor more than sixty (60) days from the date the appeal was filed with the City Administrator. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the Secretary of the Board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.

Effect of failure to appeal

Sec. 502.

Failure of any person to file an appeal in accordance with the provisions of Section 501 shall constitute a waiver of his right to an administrative hearing and adjudication of the notice and order, or any portion thereof.

Scope of hearing on appeal.

Sec. 503.

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

Staying of order under appeal.

Sec. 504.

Except for vacation orders made pursuant to Section 403, enforcement of any notice and order of the Building Official issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

CHAPTER 6

PROCEDURE FOR CONDUCT OF HEARING APPEALS

General

Sec. 601.

- (a) *Hearing.* The hearing shall be before a minimum of three (3) members of the Board who shall designate one of its members to preside at the hearing.
- (b) *Record.* A record of the entire proceedings shall be made by tape recording, or by any other means of permanent recording determined to be appropriate by the Board.
- (c) *Continuances.* The Board may grant continuances for good cause shown.
- (d) *Reasonable dispatch.* The Board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

Form of hearing.

Sec. 602.

The notice to appellant shall be substantially in the following form, but may include other information:

“You are hereby notified that a hearing will be held before the Board of Appeals at _____ on the _____ day of _____, 20__, at the hour _____ upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. The Board may consider written reports, photographs and testimony.”

Conduct of hearing.

Sec. 603.

- (a) *Rules.* Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
- (b) *Oral evidence.* Oral evidence shall be taken only on oath or affirmation.
- (c) *Hearsay evidence.* Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in Courts of competent jurisdiction in this state.

- (d) *Admissibility of evidence.* Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in Courts of competent jurisdiction in this state.
- (e) *Exclusion of evidence.* Irrelevant and unduly repetitious evidence shall be excluded.
- (f) *Rights of parties.* Each party shall have these rights, among others:
 - 1. To call and examine witnesses on any matter relevant to the issues of the hearing;
 - 2. To introduce documentary and physical evidence;
 - 3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
 - 4. To impeach any witness regardless of which party first called him to testify;
 - 5. To rebut the evidence against him;
 - 6. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.
- (g) *Inspection of the premises.* The Board may inspect any building or premises involved in the appeal during the course of the hearing, provided that (i) notice of such inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during the inspection, and (iii) the Board shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the Board.

Method and form of decision.

Sec. 604.

- (a) *Hearing before board.* No member of the Board of Appeals who did not hear the evidence shall vote on or take part in the decision.
- (b) *Form of decision.* The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him by certified mail, postage prepaid, return receipt requested.
- (c) *Effective date of decision.* The effective date of the decision shall be as stated therein.

CHARTER 7

ENFORCEMENT OF THE ORDER OF THE BUILDING OFFICIAL OR THE BOARD OF APPEALS

Compliance.

Sec 701.

- (a) *General.* After any order of the Building Official or the Board of Appeals made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. Any person who fails to comply with any such order is guilty of a misdemeanor, with a maximum penalty of 90 days in jail and/or \$500 fine plus costs.
- (b) *Failure to obey order.* If, after any order of the Building Official or Board of Appeals made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the City of Gladwin may (i) cause such person to be prosecuted under Subsection (a) of this section or (ii) institute any appropriate action to abate such building as a public nuisance.
- (c) *Failure to commence work.* Whenever the required repair or demolition is not commenced within thirty (30) days after any final notice and order issued under this code becomes effective:
 - 1. The City of Gladwin shall cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading:

“DANGEROUS BUILDING DO NOT OCCUPY”

It is a misdemeanor to occupy this building or to remove or deface this notice.

Building Official
City of Gladwin

- 2. No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the repairs, demolition, or removal ordered by the Building Official have been completed and a Certificate of Occupancy issued pursuant to the provisions of the BOCA 2006.
- 3. The Building Official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building dangerous as set forth in the notice and order; or, if the notice and order required demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the premises cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition

and of cleaning the premises, shall be paid over to the person or persons lawfully entitled thereto.

Extension of time to perform work.

Sec. 702.

Upon receipt of an application from the person required to conform to the order and an agreement by such person that he will comply with the order if allowed additional time, the Building Official may, in his discretion, grant an extension of time, not to exceed an additional one hundred twenty (120) days, within which to complete said repair, rehabilitation, or demolition, if the Building Official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The Building Official's authority to extend time is limited to the physical repair, rehabilitation, or demolition of the premises and will not in any way affect or extend the time to appeal his notice and order.

Interference with repair or demolition work prohibited.

Sec. 703.

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code; or with any person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of the City, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building, pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

CHAPTER 8

PERFORMANCE OF WORK OF REPAIR OR DEMOLITION

General

Sec. 801.

- (a) *Procedure.* When any work of repair or demolition is to be done pursuant to Section 701(c)3 of this code, the Building Official shall issue his order therefore to the Director of the City Public Works Department or such other authorized City person as the City Council shall from time to time designate and the work shall be accomplished by City personnel or private contract under the

direction of said Director. Plans and specifications therefore may be prepared by said Director, or he may employ such architectural and engineering assistance on a contract basis as he may deem reasonably necessary.

- (b) *Costs.* The cost of such work shall be paid from an appropriate City Fund, and may be made a special assessment against the property involved, and may also be made a personal obligation of the property owner, whichever the City Council shall determine is appropriate.

Repair and demolition fund.

Sec. 802.

- (a) *General.* The City Council shall establish a special fund to be designated as the Repair and Demolition Fund. Payments shall be made out of said fund upon the demand of the City Administrator to defray the costs and expenses which may be incurred by the City in doing or causing to be done the necessary work of repair or demolition of dangerous buildings.
- (b) *Maintenance of fund.* The City Council may at any time transfer to the Repair and Demolition Fund, out of any money in the General Fund of the City, such sums as it may deem necessary in order to expedite the performance of the work of repair or demolition, and any sum so transferred shall be deemed a loan to the Repair and Demolition Fund and shall be repaid out of the proceeds of the collections hereinafter provided for. All funds collected under the proceedings hereinafter provided for, shall be paid to the City Treasurer, who shall credit the same to the Repair and Demolition Fund.

CHAPTER 9

RECOVERY OF COST OF REPAIR OR DEMOLITION

Account of expense, filing of report; contents.

Sec. 901.

The City Administrator shall keep an itemized account of the expense incurred by the City in repair or demolition of any building done pursuant to the provisions of Section 701(c) of this code. Upon the completion of the work of repair or demolition, said Administrator shall prepare and file with the City Clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the building or structure is or was located, and the names and addresses of the persons entitled to notice pursuant to Subsection (c) of Section 401.

Report transmitted to Council – Set for hearing.

Sec. 902.

Upon receipt of said report, the City Clerk shall present it to the City Council for consideration. The City Council shall fix a time, date and place for hearing said report, and any protests or objections thereof. The City Clerk shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in the City, and served by certified mail, postage prepaid, addressed to the owner of the property as his name and address appear on the last assessment roll of the City, if such so appear, or as known to the Clerk. Such notice shall be given at least ten (10) days prior to the date set for hearing and shall specify the day, hour, and place when the City Council will hear and pass upon the Administrator's report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge.

Protests and objections – How made.

Sec. 903.

Any person interested in or affected by the proposed charge may file written protests or objections with the City Clerk at any time prior to the time set for the hearing on the report of the Administrator. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The City Clerk shall endorse on every such protest or objection the date it was received by him. He shall present such protests or objections to the City Council at the time set for the hearing, and no other protests or objections shall be considered.

Hearing of protests.

Sec. 904.

Upon the day and hour fixed for the hearing the City Council shall hear and pass upon the report of the Administrator together with any such objections or protests. The City Council may make such revision, correction or modification in the report or the charge as it may deem just, and when the City Council is satisfied with the corrections of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the City Council on the report and the charge, and on all protests or objections, shall be final and conclusive.

Personal obligation or special assessment.

Sec. 905.

- (a) *General.* The City Council may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved.
- (b) *Personal obligation.* If the City Council orders that the charge shall be a personal obligation of the property owner, it shall direct the City Attorney to collect the same on behalf of the City by use of all appropriate legal remedies.
- (c) *Special assessment.* If the City Council orders that the charge shall be assessed against the property it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.
- (d) *Consensual Assessment.* Notwithstanding other provisions, the City and property owner may enter into an agreement which provides for payment and assessment, and may modify the provisions of Chapter 9 to effect such agreement.

Contest.

Sec. 906.

The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within thirty (30) days after the entry of such judgment.

Authority for installment payment of assessments with interest.

Sec. 907.

The City Council, in its discretion, may determine that assessments in amounts of five hundred dollars (\$500.00) or more shall be payable in not to exceed ten (10) equal annual installments. The City Council's determination to allow payment of such assessments in installments, the number of installments, whether they shall bear interest, and the rate thereof shall be by a resolution adopted prior to the confirmation of the assessment.

Lien of assessment.

Sec. 908.

- (a) *Priority.* Immediately upon its being placed on the assessment roll the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property, and shall be

paramount to all other liens except for state, county, school and City taxes with which it shall be upon a parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

- (b) *Interest and Assessment.* In the event the costs of demolition, repairs or cleanup as hereinbefore provided remains uncollected or unpaid after 30 days following the demolition, repairs or cleanup, then paid amount shall be returned by the city to the City Assessor, and the same, together with the interest at the rate of 6% per annum, shall be placed upon the tax roll next in course of preparation as a charge against the property upon which such order was carried out, and the same shall become a lien upon the land and shall be assessed and collected in the same manner as a special assessment of the city, and as assessed and collected shall be paid into the general fund to reimburse the outlay therefrom aforesaid.

Report to assessor and tax collector; addition of assessment to tax bill.

Sec. 909.

After confirmation of the report, certified copies of the assessment shall be given to the City Administrator and the City Treasurer who shall add the amount of the assessment to the next regular tax bill levied against the parcel.

Collection of assessment; penalties for foreclosure

Sec. 910.

The amount of the assessment shall be collected at the same time and in the same manner as ordinary township taxes are collected; and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for City taxes. All laws applicable to the levy, collection and enforcement of City taxes shall be applicable to such assessment.

If the City Council has determined that the assessment shall be paid in installments, each installment and any interest thereon shall be collected in the same manner as ordinary City taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for sale as provided for ordinary City taxes.

Repayment of repair and demolition fund.

Sec. 911.

All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure sale shall be paid to the City Treasurer who shall credit the same to the Repair and Demolition Fund.

CHAPTER 10

SEVERABILITY, REPEAL, PENALTIES, EFFECTIVE DATE AND PUBLICATION

Severability.

Sec. 1001.

This ordinance and the various parts, sentences and clauses thereof are hereby declared to be severable and if any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid, the same shall not affect the validity of this ordinance as a whole or any part thereof other than the part declared to be unconstitutional and invalid.

Conflicting ordinances repealed.

Sec. 1002.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent necessary to give this ordinance full force and affect.

Penalty

Sec. 1003.

Any person, firm or corporation who violates any of the provisions of this ordinance shall, in addition to the other obligations imposed herein, be deemed guilty of a misdemeanor and, upon conviction, be punished by a fine of not to exceed five hundred dollars (\$500.00) or by imprisonment in the County Jail of not to exceed ninety (90) days or by both such fine and imprisonment in the discretion of the District Judge. Each day that a violation continues to exist shall constitute a separate offense.

Recordation publication; effective date.

Sec. 1004.

The City Clerk is hereby directed to cause this ordinance to be recorded in full in the City Ordinances Book. Further, this ordinance shall be published in the newspaper of general circulation within the City of Gladwin and shall take effect thirty days following publication.

The foregoing ordinance was offered by Council Member Jungman and supported by Council Member Alward.

Roll Call Vote:

Ayes: Alward, Caffrey, Crawford, Hindman, Jungman, Mienk, Novak,
Smith
Nays: None
Absent: None
Abstain: None

Ordinance declared adopted this 4th day of February, 2008.

Motion by Council Member Jungman, supported by Council Member Hindman to approve reimbursement of college educational expenses to Clerk Greaves in the amount of \$2,720.00. All ayes. Motion carried.

Motion by Council Member Jungman, supported by Council Member Hindman to authorize the following changes to the Highland Cemetery Rules and Regulations:

- #5. The scattering of ashes in Highland Cemetery is not permitted.
- #21. All foundations shall be installed by the City of Gladwin.
- #22. Graveside services are not permitted from December 1 to March 31 of each year.

Comments

Mayor Winarski stated that the budget is currently being worked on.

Council Member Alward stated that she has heard from others and would like to state that the City DPW crew does an excellent job of snowplowing.

Council Member Caffrey stated issues regarding the Airport.

Council Member Jungman stated that there are twenty-four sections of the back park fence purchased for replacement.

Chief Jones presented the Gladwin City Police Department Yearly Complaint Comparison.

May 19th is spring clean up day in the City of Gladwin.

Administrator Moffit stated that he has completed the Act 51 report.

North M-18 will be under construction beginning April 15th. There will be a public meeting at City Hall regarding this project on March 3rd at 4:30 p.m.

MSHDA will make a presentation to the Downtown Development Authority on February 26th regarding the Blue Print Communities program.

Administrator Moffit stated there will be a safety audit completed this spring.

Motion by Council Member Jungman, supported by Council Member Alward to adjourn. All ayes. Motion carried.

Meeting ended at 7:18 p.m.

Thomas L. Winarski, Mayor

Shannon Greaves, City Clerk