

May 17, 2010  
Gladwin, Michigan

The Regular Meeting of the Gladwin City Council was called to order by Mayor Pro Tem Winarski at 5:00 p.m.

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

Absent: None

Staff Present: Bob Moffit, Shannon Greaves

Also Present: Doug Scott, Dan Svetcos, Nancy Bodnar, Kristen Schultz,  
Tammy Hawblitzel, Scott Hawblitzel, Pastor David Sprang,  
County Commissioner Bill Rhode, Larry Miller, Marti Miller

The Pledge of Allegiance was led by Mayor Pro Tem Mienk and the invocation was given by Pastor David Sprang.

Motion by Council Member Novak, supported by Council Member Alward to recess the regular meeting and enter into the Public Hearing for the 2010 Community Recreation Plan at 5:01 p.m. All ayes. Motion carried.

No comments were heard.

Motion by Council Member Smith, supported by Council Member Alward to adjourn the Public Hearing and re-enter the regular meeting at 5:04 p.m. All ayes. Motion carried.

Minutes of the May 3, 2010 Regular Meeting were approved as presented. All ayes. Motion carried.

Motion by Council Member Alward, supported by Council Member Novak to approve Warrant #10-31 in the amount of \$145,838.51 and payroll for pay period ending May 3, 2010 in the amount of \$55,305.31. All ayes. Motion carried.

### **Hearing of Delegations**

County Commissioner Bill Rhode stated Gladwin County issues.

Council Member Caffrey was seated at 5:08 p.m.

Doug Scott from Rowe Professional Services Corporation gave the monthly progress report for the Gladwin Campground Improvements, the Buzzell/Quarter water main, iron removal facility/DWRF application, M-61 sidewalk project, State

Street and M-61 intersection, Grout Street Phase II, water tower project, pump replacement at WWTP, Grout Street parking lot, Grout Street reconstruction and Industrial Park wetland mitigation project.

Nancy Bodnar asked if gravel would be brought in on Martin Street where it is newly paved. Administrator Moffit stated that it would.

Tammy Hawblitzel asked what were the determining factors of the Grout Street reconstruct. Administrator Moffit stated that it was a continuation of the project adjacent to the downtown area.

Scott Hawblitzel asked as to the status of the sewer camera truck that was supposed to be at his house on Monday.

Discussion regarding the Hawblitzel sewer backup issue at 801 North Cayuga Street.

Motion by Council Member Jungman, supported by Council Member Alward to approve the agenda with the following additions: New Business – (k) Hotel Bar Request, (l) Central Asphalt. All ayes. Motion carried.

Motion by Council Member Novak, supported by Council Member Alward to approve the consent agenda as follows: Communications – (i) Press Release – Certificate of Achievement for Excellence in Financial Reporting, (ii) Gladwin Metal Processing – Industrial Facility Exemption Certificate Issued; Meetings – Arts Council – March 29, 2010, Housing Commission – April 13, 2010, Fire Board – May 5, 2010, Arena Board – May 12, 2010, Airport Board – May 13, 2010, Commissioners Minutes – April 27, 2010. All ayes. Motion carried.

## **Old Business**

### **ORDINANCE 312 AMENDMENT OF ORDINANCE NO. 192 WATER UTILITY ORDINANCE #2010-05**

An ordinance to provide for the operation of the City of Gladwin water utility system; to fix method of establishment of rates and charges; and to provide rules and regulations for the operation and maintenance of said utility.

THE CITY OF GLADWIN ORDAINS:

Section 1. Definitions. For the purposes of this Ordinance, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section.

"Agent of the City" shall mean any fire fighter while acting in the official capacity of their position as a fire fighter, any contractor under contract with the City to perform construction, operation or maintenance to the utility system or any person who has been given permission by

the City Administrator or Director of Public Works to perform work which requires construction, operation of or maintenance to the utility system when such construction, operation of or maintenance to the utility system without presence of a City employee has been determined to be in the best interest of the City.

"Corporation stop" or "curb stop" shall mean the valve at or near the property line which is used by City employees to discontinue service to a premises.

"Consumer" shall be construed to mean the person, firm or corporation owning or occupying the property in or upon which the water is consumed.

"Meter" shall be construed to mean any measuring device by which the quantity of water used by consumers is measured.

"Owner" shall mean the owner of record upon the most recent tax roll as prepared by the City Treasurer of the City of Gladwin.

"Person" both singular or plural, shall include all natural persons, firms, co-partnerships, corporations, and all associations of natural persons, incorporated or unincorporated owning or occupying any lot or land, whether acting by themselves, or by a servant, agent, or employee. All persons who violate any provisions of this ordinance, whether as owner, occupant, lessee, agent, servant, or employee shall, except as herein otherwise provided, be equally liable as principals.

"Service pipe" shall be construed to mean the pipe which delivers water from the distribution main commencing at the corporation stop at or near the property line of the property being served and ending at the intake side of the meter.

"Tenant" shall mean any person occupying a premises other than the owner.

Section 2. Authorization. The Water Utility is owned and operated by the City of Gladwin under authorization of City Charter.

Section 3. Operation By City Employee(s) or Authorized Agents Only. It shall be unlawful for any person, except for a City employee(s) or authorized agent of the City acting in their official capacity, to tap, change, remove, disconnect, repair, install, break a seal, turn on or off, or in any way vandalize any wells, retention facilities, water mains, branch pipes, fire hydrants, service meters, curb stops, valves, fittings or any other appurtenances of the utility system except as provided herein:

- A. Customer may turn water on and off by the valve immediately ahead of the meter in the basement or meter pit in which the meter is located, at their pleasure.

Section 4. Maintenance of Service Pipes Responsibility of Owner. The owner of property being served by the water utility shall install, maintain in good working condition and protect from frost, and replace if necessary at their own expense, any service pipe. The Owner of any service pipe which is susceptible to or has a history of freezing in the winter may be notified by the water utility to replace the service pipe in such a manner as to prevent it from freezing. Said notice may be given in person, by posting the premises or by first class mail. Any owner, after being served said notice, shall replace the service pipe during the next succeeding construction season. If the owner should fail to remedy the condition, in addition to penalties prescribed in this Ordinance, no allowance or consideration shall be given if water is allowed to flow from any outlet on the premises to avoid service from freezing.

Section 5. Unlawful to Serve More than One Premises With One Meter. Only one residence, business or facility may be served by a single meter unless otherwise permitted, in writing, by the City Administrator. Such permission may only be granted on a temporary basis

when connection to a separate meter is impossible or would cause extreme hardship on the owner or occupant of the property. When a main is installed on the street past any premises currently being served by a meter which serves more than one premises, the connection previously installed shall be removed forthwith and each premises connected to the main as a separate service.

Section 6. Only One Meter/Account Per Service Connection. Only one billing account may be established for the purpose of billing service to any meter and only one meter may be connected to any single service connection to the Water Utility distribution main.

Section 7. Unlawful to Allow Un-metered Service; Exceptions. It shall be unlawful for any person, firm or corporation to open any valve, make any connection, or in any way bypass a water meter except:

- A. Where it is impractical to meter the water, where the amount used can be accurately estimated, where proper arrangements have been made for the payment of water used and the City Administrator or Director of Public Works has granted temporary permission in writing for such un-metered uses.

Section 8. New Buildings During Construction. When a new building is being constructed, a water meter shall be set in a place approved by the Director of Public Works at the expense of the consumer to measure the water used during construction. Water so used shall be charged to the consumer at the usual rate.

Section 9. Unlawful to Damage or Obstruct; Cost of Repair or Removal. It shall be unlawful for any person, firm or corporation to deface, damage, cover up or, in any way, obstruct free access to any hydrant, corporation stop, street valve, water meter, building, machinery, equipment, apparatus or other fixture related to the providing of water service owned or operated by the City of Gladwin. In case of violation of this provision, the cost of removing the obstruction, together with the cost of restoring or repairing said hydrant, curb box, street valve, water meter, building, machinery, equipment, apparatus or other fixture to its previous condition shall be charged to and/or the responsibility of the person, firm or corporation causing the defacing, damage or obstruction. The costs referred to herein shall be in addition to any penalties provided for in the section entitled "Violation."

Section 10. City Employee Right of Entry. Employees of the City of Gladwin shall have the right to enter any premises, at reasonable times, to which City water is provided to inspect, adjust, repair or remove water meters or equipment associated with the water service.

Section 11. Waiver of Guaranteed Continuous Service. City of Gladwin does not guarantee uninterrupted water service and shall not be liable for any damage which a consumer may sustain by any reason, including, but not limited to failure to provide water, breakage of equipment, failure to repair or any other reason approximately caused by the negligence of the City in conjunction with the providing of water service.

Section 12. Cross Connection.

Section 1. That the City of Gladwin adopts by reference the Water Supply Cross Connection Rules of the Michigan Department of Environmental Quality being R 325.11401 to R 325.11407 of the Michigan Administrative Code.

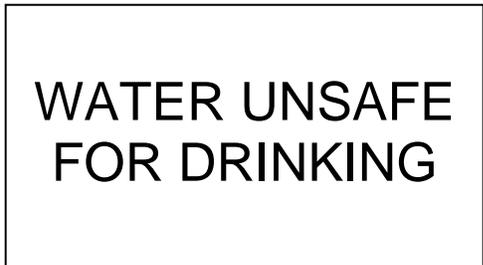
Section 2. That it shall be the duty of the City of Gladwin to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the City of Gladwin and as approved by the Michigan Department of Environmental Quality.

Section 3. That the representative of Hydro Designs, Inc. shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the City of Gladwin for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessees, or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connection.

Section 4. That the City of Gladwin is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this ordinance exists and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection(s) has been eliminated in compliance with the provisions of this ordinance.

Section 5. That all testable backflow prevention assemblies shall be tested initially upon installation to be sure that the assembly is working properly. Subsequent testing of assemblies shall be tested on an annual basis as required by the City of Gladwin and in accordance with Michigan Department of Environmental Quality requirements. Only individuals that are approved and State of Michigan certified shall be qualified to perform such testing. That individual(s) shall certify the results of his/her testing.

Section 6. That the potable water supply made available on the properties served by the public water supply be protected from possible contamination as specified by this ordinance and by the state plumbing code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:



Section 7. That this ordinance does not supersede the state plumbing code.

Section 13. Electrical Grounding. It shall be unlawful for any person, firm or corporation to ground or electrically connect any radio, telephone, television, ham radio or any other electrical device to any pipes or appurtenances connected to the discharge side of any water meter, unless either:

- A. A shunt is placed around said water meter to shunt or bypass any electric current which might otherwise flow through the water meter, or
- B. Ten (10) feet or more of water pipe connected to the discharge side of the water meter is buried in moist dirt.

Any shunt placed around a water meter shall be placed so that the water meter may be removed without disturbing same, and no electrical connection whatsoever shall be made to the meter itself, the meter union or meter "tail piece." The "tail piece" shall be construed as the short piece of special pipe (often of brass) which is immediately adjacent to the meter and connected thereto by the meter union.

Section 14. Rates Set By Resolution. All rates and charges for water service or related thereto, including, but not limited to, charges associated with the consumption of water, tap fees, connection charges, repair charges, penalties, late fees, and interest on unpaid balances shall be established from time to time by resolution of the City Commission.

Section 15. Unpaid Charges As Lien. All unpaid charges, including penalties and interest, shall constitute a lien upon the premises to which water was provided and shall become effective immediately upon the providing of water to the premises.

Section 16. Unpaid Charges; Collection of Delinquent Accounts. Whenever any charge, including penalties and interest, remains unpaid for a period of three months or more, such charge may be entered upon the next tax roll as a charge against the premises and shall be collected and the lien enforced in the same manner as general City taxes against such premises are collected. Nothing in this section, however, shall be deemed to prevent the City of Gladwin from suing in a court of law to collect the amount due. In addition to those other remedies referred to herein, the City of Gladwin shall have the right, at its sole discretion, to turn off and discontinue supplying water to any premises where charges remain unpaid.

Section 17. Duty of Property Owner; Tenant.

- A. It shall be the duty of any property owner who allows a tenant to occupy any premises served by the Water utility, before said tenant shall occupy said premises, to notify, in writing, the Water Utility billing department of the tenants full name, the address to which the bill should be sent, the tenant date of birth, and the date the tenant shall become responsible to pay the utility billing, should the tenant agree, in writing, to pay for service on behalf of the property owner.
- B. It shall be the duty of any property owner where such agreement has been entered into as described in Sec. 17(A) herein, to notify the Water Utility billing department, in writing, before the date in which any such arrangement is to terminate and/or there becomes necessary a change in any billing information.
- C. It shall be the duty of any tenant to pay in a timely manner any charges while any agreement as described by Sec. 17(A) herein is in force and effect and to notify the Water Utility billing department of any changes of address or any other information necessary for proper billing, in no case shall any tenant leave any unpaid balance on an account final billing, whether intentional or unintentional. Failure of any tenant to comply with this Section shall, in addition to penalties and account collection procedures prescribed in this Ordinance, be responsible for and/or subject to any unpaid charges owing the Utility including any penalties and interest thereon, and any costs associated with collection of the delinquent amounts owing.
- D. This section shall not be construed to relieve any owner of the responsibility for payment of services provided any premises, nor shall this section be construed to be contrary to Section 15 and Section 16. This Section prescribes terms and conditions upon which the Water Utility will accept payment from any person other than an owner of the premises being served.

Section 17. Procedure for New Service. In any district or for any parcel within the City of Gladwin which is not presently provided water service, one or more owners of real property affected may present a petition to the City Council requesting that water service be provided to such district or parcel. Such petition shall be signed by the owner or owners of property owning at least 51% of the frontage of such streets in which said water service pipes, mains or aqueducts will be laid. The City Council may, by resolution, at its sole discretion determine whether the providing of water service to the district or parcel set forth on the petition is necessary for the

preservation of the public health, safety and welfare or is in the best interest of the residents of the City of Gladwin. If it is deemed necessary for the public health, safety and welfare or in the best interest of the residents of the City of Gladwin, the City Council shall resolve to extend water service to the district or parcel and provide for payment thereof by special assessment and/or any other means allowed for by law or City Charter.

Section 18. Use of Gladwin Symbol Prohibited. It shall be unlawful for any person, except a(n) authorized City employee(s), to use the distinctive uniform, hat or logo or other identification of the City of Gladwin for any deceptive purpose, including, but not limited to, as a means of obtaining entrance to any house or building.

Section 19. Authority to Prohibit or Restrict Water Usage.

- A. When water reserves are low or at any time deemed necessary by the City Administrator to protect the health, safety and general welfare of the residents of the Gladwin area served by City water, the City Administrator may prohibit or place such restrictions on the usage of water as deemed necessary by the City Administrator under the circumstances.
- B. The City Administrator shall cause written notice of any prohibitions or restrictions on the usage of water to be given to all affected individuals and/or businesses. At his discretion, notice may be given by any method deemed appropriate under the circumstances, including, but not limited to, posting, publishing or mailing.
- C. After notice of prohibitions or restrictions have been given, and irrespective of whether actual notice has been received, any person or business using water contrary to those prohibitions and/or restrictions shall be informed verbally or in writing, to immediately cease any violation thereof. Any person or business who does not immediately cease violation shall be subject to penalties as hereinafter provided.
- D. Any person or business not immediately ceasing to use water contrary to the prohibitions or restrictions, after warning, shall have water services suspended and/or discontinued until adequate assurances are provided that there will be no further usage of water contrary to the prohibitions or restrictions. In addition, the City Council may establish, from time to time by Resolution, a service fee to be paid before reestablishing water service.

Section 20. No Fluoride In Water Supply. No fluoride shall be added to the water supply of the City of Gladwin. This section is for the purpose of exempting the City of Gladwin from the provisions of M.S.A. 14.528(102) CL '48 Sec. 325.192.

Section 21. Penalty For Violation. In addition to any remedies otherwise provided in this chapter:

- A. Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, be subject to a fine of not more than five hundred (\$500) dollars or ninety (90) days in jail or both.
- B. In the alternative to section 21(A) herein, to the extent permitted by law, the City of Gladwin may issue a civil citation to any person who shall violate any of the provisions of this Ordinance, said civil citation shall carry a fine of not more than Five Hundred (\$500) dollars.

Each day upon which a violation shall occur shall be deemed a separate and additional violation for the purpose of this Ordinance.

Section 22. Saving Clause. If any term, section, paragraph, clause or provision of this Ordinance shall be invalid for any reason, the same shall not affect the validity of any other provision, term, section, paragraph, or clause of this Ordinance which shall remain in force and effect.

Section 23. Repealer Clause. All ordinances or parts thereof in conflict herewith are hereby repealed and deemed null and void, specifically repealing Ordinances 9, 19, 30, 58, 61, 62, 84, 94, 103, 121, 136, and 173.

Section 24. Effective Date. This ordinance shall take effect on May 17, 2010.

The foregoing Ordinance was offered by Council Member Jungman and supported by Council Member Hindman.

Dated this 17<sup>th</sup> day of May, 2010.

Roll Call Vote:

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

### **New Business**

Motion by Council Member Caffrey, supported by Council Member Alward to appoint the following:

#### Downtown Development Authority

DeVere Dennings – Expires 5/5/2014  
Joe Myers – Expires 5/6/2014  
Mark Schwager – Expires 5/6/2014

#### Zoning Board of Appeals

Carolyn Hall – Expires 7/5/2012

All ayes. Motion carried.

## City of Gladwin 2010 Community Recreation Plan Resolution of Adoption

**WHEREAS**, the Gladwin City Parks Commission has undertaken the rewriting of its Community Recreation Plan which describes a new Five Year Plan and indicates actions to be taken to improve and maintain recreation facilities during the same five year period, and

**WHEREAS**, the Parks Commission has, during the past six months, reviewed its accomplishments and actions over the previous five years, and consulted with the city's residents and stakeholders; and

**WHEREAS**, a new plan for the next five years, including a new capital improvements plan, has been prepared; and

**WHEREAS**, the Gladwin Parks Commission reviewed it at their April 26, 2010 meeting and sent it on to the City Council for public hearing and approval; and

**WHEREAS**, a public comment session was held on May 17, 2010 at the Gladwin City Hall to provide an opportunity for citizens to express opinions, ask questions, and discuss all aspects of the new Recreation Plan, and

**WHEREAS**, after the public hearing, the Gladwin City Council voted to adopt the 2010 Gladwin Community Recreation Plan.

**NOW, THEREFORE BE IT RESOLVED** the City of Gladwin hereby adopts the 2010 Gladwin Community Recreation Plan.

The foregoing resolution was offered by Council Member Novak supported by Council Member Caffrey.

Roll Call Vote:

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

Nays: None

Absent: None

Abstain: None

Resolution declared adopted this 17<sup>th</sup> day of May, 2010.

Motion by Council Member Caffrey, supported by Council Member Alward to authorize final payment #4 to Malley Construction, Inc. in the amount of \$3,000.00 for the Grout Street Parking Lot. All ayes. Motion carried.

Motion by Council Member Jungman, supported by Council Member Caffrey to authorize final payment #5 to Malley Construction, Inc. in the amount of \$6,000.00 for the Grout Street/Antler Street Reconstruct. All ayes. Motion carried.

Motion by Council Member Smith, supported by Council Member Caffrey to authorize payment to CB&I Inc. in the amount of \$284,211.00 for the new water tower DWRP project. All ayes. Motion carried.

Motion by Council Member Jungman, supported by Council Member Novak to authorize Invoice #6379 to Shull Transport in the amount of \$7,600.00 for Clendening Road Improvements. All ayes. Motion carried.

Motion by Council Member Smith, supported by Council Member Hindman to authorize \$500.00 for the Gladwin Parks Summer Program. An end of year report will be requested from Terri VanHorn for the 2010 season. All ayes. Motion carried.

Motion by Council Member Jungman, supported by Council Member Alward to authorize the proposal from Gallihugh and Sons, Inc. for the sidewalk, catch basin/installation, highway traffic control and curb cutting from Pizza Hut to James Robertson Drive in the amount of \$55,407.50 to come from major streets. All ayes. Motion carried.

Motion by Council Member Crawford, supported by Council Member Hindman to authorize the proposal from Gallihugh and Sons, Inc. for the Center and Quarter Street sidewalks in the amount of \$19,267.50. All ayes. Motion carried.

Motion by Council Member Jungman, supported by Council Member Smith to approve the request to close South Antler Street adjacent to the Hotel Bar from Cedar Avenue to the alley directly behind the business. This will take place on July 17, 2010 from approximately 10:00 a.m. to 12:00 p.m. All ayes. Motion carried.

Motion by Council Member Alward, supported by Council Member Hindman to approve invoice #12865 from Central Asphalt, Inc. in the amount of \$3,179.00 for patches to come from the water and sewer fund. All ayes. Motion carried.

Motion by Council Member Alward, supported by Council Member Hindman to approve a portion of invoice #12864 from Central Asphalt, Inc. in the amount of \$77,412.00 to come from local and major streets. All ayes. Motion carried.

Motion by Council Member Alward, supported by Council Member Hindman to approve the remaining portion of invoice #12864 from Central Asphalt, Inc. in the amount of \$21,200.00 for paving of the City Hall parking lot. Monies for this project will be taken from and replaced back to the funds that are designated for City Hall improvements. All ayes. Motion carried.

### Comments

Mayor Pro Tem Mienk stated that Treasurer Barnebee had received the award for financial excellence for 2009.

Council Member Jungman stated that City Hall and the other streets that were newly paved look really good.

Council Member Novak stated that Clean Up Day was enjoyable.

Administrator Moffit thanked the volunteers from Clean Up Day, Ray from Save-A-Lot and Josh from Flynn Lumber for all their help and donations.

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

Meeting ended at 5:42 p.m.

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Thomas Mienk, Mayor Pro Tem

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Shannon Greaves, City Clerk