

August 6, 2012
Gladwin, Michigan

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

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

Absent: None

Staff Present: Bob Moffit, Shannon Greaves

Also Present: Mayor Thomas Winarski, Nancy Bodnar, James Coon, Emily Coon, Commissioner Bill Rhode, Attorney Doug Jacobson

The Pledge of Allegiance was led by Mayor Winarski and the invocation was given by Mayor Winarski.

Minutes from the July 16, 2012 meeting were approved as presented.

Motion by Council Member Jungman, supported by Council Member Alward to approve Warrant #13-003 in the amount of \$306,509.89, Warrant #13-004 in the amount of \$335,535.44 and payroll for pay period ending July 22, 2012 in the amount of \$53,601.65. All ayes. Motion carried.

Hearing of Delegations

Commissioner Rhode stated Gladwin County issues.

Motion by Council Member Jungman, supported by Council Member Alward to establish the agenda with the following additions: (d) Hach Quote for Dipper Sampler at the Waste Water Treatment Plant, (e) Progress Payment for Police Department Project, (f) Larger Emergency Fund. All ayes. Motion carried.

Motion by Council Member Crawford, supported by Council Member Alward to approve the consent agenda as follows: Communications – (i) Investment Report for the Quarter Ending June 30, 2012 – City Council, (ii) Investment Report for the Quarter Ending June 30, 2012 – DDA, (iii) Consumers Energy Notice of Hearing, (iv) Letter from Sarah Kile; Meetings – Fair Board – June 19, 2012, Fire Board – July 5, 2012, Board of Review – July 17, 2012, Safety Committee – July 18, 2012, Parks Commission – July 23, 2012. All ayes. Motion carried.

Old Business

Motion by Council Member Jungman, supported by Council Member Jungman to approve the Planning Commission recommendation for a Memorandum of Understanding between the City of Gladwin and Mack's Menu for seating outside of the restaurant at 101 West Cedar Avenue.

ORDINANCE #322

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF GLADWIN, MICHIGAN BY ADDING SECTION 92.23 CHAPTER 90 THEREOF, #2012-2

The City of Gladwin Ordains:

Section 1. Section 92.23 hereby added to read as follows:

Sec. 92.23. Fireworks.

(a) Definitions.

Consumer fireworks means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR parts 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5.

Display fireworks means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.

Firework or fireworks means any composition or device, except for a starting pistol, a flare, designated for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, articles pyrotechnic, display fireworks, and special effects.

Novelties means that term as defined under APA standard 87-1,3.2, 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:

(1) Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cup.

(2) Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in subparagraph (1) are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.

(3) Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.

(b) Prohibition on use of consumer fireworks.

(i) No person shall ignite, discharge or use consumer fireworks within the city, except this prohibition shall not preclude any person from the ignition, discharge, and use of consumer fireworks on the day preceding, the day of, or the day after a national holiday consistent with Section 7(2) of Public Act 256 of 2011 and all other applicable local, state, or federal regulations. A person shall not ignite, discharge, or use consumer fireworks on public property, school property, church property, or the property of another person without that organization's or person's express permission, nor ignite, discharge or use consumer fireworks such that litter is created or placed on public property or the property of another unless specifically authorized.

(ii) National Holiday as used in this article shall mean:
New Year's Day, January 1;
Birthday of Martin Luther King, Jr., the third Monday in January;
George Washington's Birthday, the third Monday in February;
Memorial Day, the last Monday in May;
Independence Day, the last Monday in May;
Labor Day, the first Monday in September;
Columbus Day, the second Monday in October;
Veteran's Day, November 11;
Thanksgiving Day, the fourth Thursday in November; and
Christmas Day, December 25,

And any holidays as may be from time to time added, removed or changed under 5 USC Section 6103, or any replacement or amended legislation.

(c) General Restrictions on exempted Holidays (day preceding holiday, day of holiday, and day after holiday).

(2) Fireworks, including Consumer fireworks, shall not be ignited within 30 feet of an open flame, a burner, gasoline or similar petroleum products or ignited gas or electric grill, or in any enclosed structure, garage, tent, or shed, or under any canopy or overhanging cover, of any nature.

(3) No Consumer Fireworks may be ignited, launched, or discharged within thirty (30) feet of any house, structure, building or vehicle.

(4) Fireworks may not be discharged during the hours of 11:00 p.m. and 11 a.m., and may not otherwise be discharged in violation of this article or the Act, or any other ordinance.

(d) It shall be unlawful for any person, firm, partnership or corporation to offer for sale, expose for sale, keep with the intent to sell at retail, or sell at retail to any person who has not yet attained the age of eighteen (18) years of age any blank cartridge, toy pistol, toy cannon, toy cane or toy gun in which explosives are used/ the type of unmanned balloon which requires fire underneath to propel the same; firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs or other fireworks of like construction; or any fireworks containing any explosive or inflammable compound or any tablets or other devices commonly used and sold as fireworks, containing nitrates, chlorates, oxolates, sulfides of lead, barium, antimony, arsenic, mercury, nitroglycerin, phosphorous or any compound containing any of the same or other modern explosives.

(e) Not included within the foregoing prohibition are model rockets and model rocket engines designed, sold and used for the purpose of propelling recoverable aero models. Also not included are sparklers containing not more than one hundred twenty-five ten thousandths (.0125) pounds of burning portion per sparkler, flitter sparklers in paper tubes not exceeding one-eighth (1/8) inch in diameter, toy snakes not containing mercury, if packed in cardboard boxes with not more than twelve (12) pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed thereon, toy pistols, toy canes, toy guns or other devices manufactured to utilize paper and/or plastic caps containing not more than twenty-five hundredths (.25) of a grain of explosive content per cap, or said paper and/or plastic caps themselves, the sale of which shall be permitted at all times. Also not included is general display of fireworks for community purposes as approved by City Council.

(f) Enforcement.

The Chief of Police, his designees and/or sworn law enforcement officers are authorized to enforce the provisions of this ordinance.

(g) Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of the ordinance shall not be affected.

(h) Penalty: As provided in Section 92.99

(i) Repeal.

All regulatory fireworks provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance are repealed.

Section 2. This ordinance shall take effect on publication.

First Reading

Dated: July 16, 2012

Second Reading

Dated: August 6, 2012

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

Roll Call Vote:

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

Nays: None

Absent: None

Abstain: None

New Business

Motion by Council Member Alward, supported by Council Member Jungman to authorize the invoice from Central Asphalt, In. for 2012 street paving in the amount of \$181,885.00. All ayes. Motion carried.

Motion by Council Member Caffrey, supported by Council Member Alward to authorize the broken Western snow plow bid to Larry Eagleson in the amount of \$150.00. All ayes. Motion carried.

Motion by Council Member Jungman, supported by Council Member Caffrey to authorize the request from Jim and Emily Coon at 320 West Cedar Avenue to increase their steps up to a foot off the front of their building due to a safety issue. All ayes. Motion carried.

Motion by Council Member Alward, supported by Council Member Rowley to approve the proposal from Hach Company in the amount of \$5574.95 for a 1600 dipper sampler for the Waste Water Treatment Plant. All ayes. Motion carried.

Motion by Council Member Jungman, supported by Council Member Hindman to approve partial payment #4 to Sugar Construction, Inc. in the amount of \$47,629.99 upon approval by USDA. All ayes. Motion carried.

Motion by Council Member Smith, supported by Council Member Alward to authorize a larger emergency fund for the City of Gladwin in the amount of \$100,000.00. All ayes. Motion carried.

Comments

Council Member Jungman gave updates on the Community Arena.

Council Member Caffrey stated that everything is going well at the Airport.

Council Member Rowley stated that on August 22nd at 11:00 a.m. at Community Building, there will be a highway dedication for Trooper Werda.

Mayor Winarski turned the meeting over to Mayor Pro Tem Mienk at 5:30 p.m.

Administrator Moffit gave an update on the Cemetery Street project.

Household Hazardous Waste is scheduled for August 25th.

Motion by Council Member Jungman, supported by Council Member Caffrey to adjourn.

Meeting ended at 6:05 p.m.

Thomas L. Winarski, Mayor

Shannon Greaves, City Clerk