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June 23, 2008

A regular meeting of the City Council was held on Monday, June 23, 2008, at 7:00 p.m. in the Council Chambers of City Hall. Mayor Johnson presided. The Pledge of Allegiance to the Flag was recited in unison.

Councilmen present: Thomas Adams, Maureen Donker, Bruce Johnson, Hollis McKeag, Joseph Rokosz
Councilmen absent: None

MINUTES

Approval of the minutes of the June 9, 2008 special and regular meetings was offered by Councilman Adams and seconded by Councilman Rokosz. (Motion ADOPTED.)

RECOGNITION OF MICHIGAN NATIONAL GUARD 1460TH TRANSPORTATION COMPANY

Communications Coordinator Libby Richart introduced Captain Steve Prince from the Michigan Army National Guard's 1460th Transportation Company. The following resolution was offered by Councilman Rokosz and seconded by Councilman McKeag:

RESOLVED, that the Mayor is authorized to issue the attached Proclamation of Recognition thanking the Michigan Army National Guard's 1460th Transportation Company for their courageous and selfless service to our country, and wishing them a safe tour of duty and expedient return. (Motion ADOPTED.) Mayor Johnson presented Captain Steve Prince with the Proclamation of Recognition.

MCV TAX REFUND UPDATE

Fiscal Services Director David Keenan presented a report on the issuance of bonds to pay the unfunded portion of the City's refund to MCV for settlement of the tax appeal. The following resolution was then offered by Councilman McKeag and seconded by Councilman Rokosz:

RESOLVED, that the update on issuing bonds to pay the unfunded portion of the City's refund to the Midland Cogeneration Venture for settlement of the tax appeal between the City of Midland and the Midland Cogeneration Venture for years 2001 through 2007, is hereby acknowledged as being received by the Midland City Council on this date, and is ordered placed on file for public examination. (Motion ADOPTED.)

EVERGREEN SOLAR, INC. IFT APPLICATION

City Assessor Reid Duford presented a request from Evergreen Solar, Inc. for an Industrial Facilities Tax Exemption Certificate within the Eastwick Industrial Park Industrial Development District. Carl Stegerwald, Vice President of Construction and Facilities for Evergreen Solar, spoke regarding the project and the application. A public hearing opened at 7:39 p.m. Scott Walker, Executive Director of Midland Tomorrow, spoke in favor of the request. The hearing closed at 7:44 p.m. The following resolution was then offered by Councilman McKeag and seconded by Councilman Rokosz:

WHEREAS, the Eastwick Industrial Park Industrial Development District was established by resolution of the Midland City Council on December 18, 1989; and
WHEREAS, Evergreen Solar, Inc. made an application dated May 30, 2008, which was received by the City Clerk on June 4, 2008, for an Industrial Facilities Exemption Certificate relating to approval of a new facility within said District; and
WHEREAS, the application for the certificate is for approval of a new facility with a total project cost of \$37,030,000, which includes \$7,030,000 in new personal property and \$30,000,000 for

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land and building improvements with the same being located within the Eastwick Industrial Park Industrial Development District, to build and equip a new manufacturing facility for Evergreen Solar, Inc., consisting of an approximately 31,000 square foot building with outdoor chemical facilities; and

WHEREAS, the City Council, by written notice, afforded the applicant, the City Assessor, and representatives of each affected taxing unit an opportunity for a hearing on June 23, 2008, as required by Public Act 198 of Public Acts of the State of Michigan of 1974, as amended, and has given due consideration to all information presented; and

WHEREAS, the application appears to comply with the requirements set forth in Section 9 of said statute, as amended, in that the proposed facility is located within an industrial development district that was duly established within the City of Midland with the City of Midland being eligible under said statute to establish such a district and with the district having been established upon a request before the commencement of the restoration, replacement or construction of the facility described herein; that the commencement of this project did not occur earlier than six months before the filing of the application for the industrial facilities exemption certificate, that the application relates to a construction, restoration or replacement program that when completed constitutes a new or replacement facility within the meaning of said statute and is situated within a previously established industrial development district that was established in the City of Midland which was itself eligible under the statute to establish the district; that completion of the facility is calculated to, and will at the time of the issuance of the certificate, have the reasonable likelihood to create employment, retain employment, prevent a loss of employment or produce energy in the community; now therefore

RESOLVED, that the City Council of the City of Midland finds and determines that the granting of the industrial facilities exemption certificate requested by Evergreen Solar, Inc. considered together with the aggregate amount of industrial facilities exemption certificates previously granted and currently in force, shall not have the effect of substantially impeding the operation of the City of Midland or impairing the financial soundness of any other taxing unit which levies an ad valorem property tax in the City of Midland; and

RESOLVED FURTHER, that said application for an Industrial Facilities Exemption certificate from Evergreen Solar, Inc. for a new facility approval within the Industrial Development District be and the same is hereby approved for a period of 12 years "after completion"; and

RESOLVED FURTHER, that the Mayor and City Clerk are authorized to execute the Public Act 198 Agreement submitted between the City and Evergreen Solar, Inc. pursuant to P.A. 334 of Public Acts of the State of Michigan of 1993. (Motion ADOPTED.)

CABLE COMMUNICATIONS FUND BUDGET AMENDMENT

MCTV Director Ron Beacom presented information on an amendment to the Cable Communications Fund Budget. A public hearing opened at 8:02 p.m., recognizing no public comments, the hearing closed at 8:02 p.m. The following resolution was then offered by Councilman McKeag and seconded by Councilman Donker:

WHEREAS, in accord with Section 5.11, 11. 4, and 11.6 of the Charter of the City of Midland, and after having given proper legal notice, and having conducted a public hearing Monday, June 23, 2008 on the proposal to amend the 2007-08 Midland Community Television Fund Budget to increase expenditures by \$17,000 for separation pay for the unanticipated deferred retirement of an employee, and to increase revenues by \$17,000 for additional franchise fees that are expected to be received for the year; now therefore

RESOLVED, that the 2007-08 Midland Community Television Fund budget is hereby amended to increase expenditures by \$17,000 for separation pay for the unanticipated deferred retirement of an employee, and to increase revenues by \$17,000 for additional franchise fees that are expected to be received for the year. (Motion ADOPTED.)

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PUBLIC COMMENTS

No public comments were made.

UTILITIES ORDINANCE AMENDMENTS

Utilities Director Noel Bush presented information on the second reading of ordinance amendments to water, sewer, septage rates and discharge requirements. The following four ordinance amendments were then presented for consideration.

WATER RATES ORDINANCE AMENDMENT

The following ordinance amendment was offered by Councilman McKeag and seconded by Councilman Adams:

ORDINANCE NO. 1659

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MIDLAND, MICHIGAN, BY AMENDING SECTION 28-52 OF DIVISION 3 OF ARTICLE II OF CHAPTER 28 THEREOF.

The City of Midland Ordains:

Section 1. Section 28-52 of Division 3 of Article II of Chapter 28 of the Code of Ordinances is hereby amended to read as follows:

Sec. 28-52. Filtered water rate generally.

The city's methodology of adjusting water rates shall be in accordance with the cost of service water and sewer rate study prepared by the city's consultant, presented to and approved by the council in 1993 and shall be in conformity with the findings set forth in section 28-2 of this chapter.

All filtered water bills shall be calculated according to the following:

- (1) For each one thousand (1,000) gallons used per quarter: \$1.14
- (2) In addition to the rate set forth in this section for the use of water, there shall be a readiness-to-serve charge per quarter on each metered service as follows:

<u>Metered Service</u>	<u>AMOUNT</u>
5/8" – 3/4"	\$31.05
1"	\$40.37
1- 1/2"	\$49.68
2"	\$80.73
3"	\$310.50
4"	\$403.65
6"	\$589.95
8"	\$838.35

- (3) Gross rates shall be ten (10) percent greater than the above schedule of rates and shall be charged for water service paid for after the date shown on the bills.

Section 2. This ordinance shall take effect July 1, 2008. (Ordinance ADOPTED.)

SEWER RATES ORDINANCE AMENDMENT

The following ordinance amendment was offered by Councilman McKeag and seconded by Councilman Donker:

ORDINANCE NO. 1660

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MIDLAND, MICHIGAN, BY AMENDING SECTION 28-163 OF DIVISION 3 OF ARTICLE III OF CHAPTER 28 THEREOF.

The City of Midland Ordains:

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Section 1. Section 28-163 of Division 3 of Article III of Chapter 28 of the Code of Ordinances is hereby amended to read as follows:

Sec. 28-163. Amount of sewer charge.

The city's methodology of adjusting sewer rates shall be in accordance with the cost of service water and sewer rate study prepared by the city's consultant, presented to and approved by the council in 1993 and shall be in conformity with the findings set forth in Section 28-4 of this chapter.

The charges for sewer service shall be calculated according to the following schedule:

- (1) There shall be a readiness-to-serve charge per quarter on each metered water service as follows:

<u>Metered Service</u>	<u>AMOUNT</u>
5/8" – 3/4"	\$37.12
1"	\$48.26
1 – 1/2"	\$59.39
2"	\$96.51
3"	\$371.20
4"	\$482.56
6"	\$705.28
8"	\$1,002.24

- (2) In addition to the readiness-to-serve charge set forth in subsection (1) of this section, there will be an additional charge for sewer service, which will be calculated as follows:

For each 1,000 gallons of water used per quarter: \$1.77

However, bills for sewer services for two (2) summer quarters for domestic customers, schools and churches shall be based on the average consumption during two (2) winter quarters. In cases where there is no previous consumption upon which to base bills for sewer services in the summer quarters, twenty-five thousand (25,000) gallons or actual consumption, whichever is the least, shall be used.

Section 2. This ordinance shall take effect July 1, 2008. (Ordinance ADOPTED.)

SEPTAGE RATES ORDINANCE AMENDMENT

The following resolution was offered by Councilman Rokosz and seconded by Councilman Donker:

ORDINANCE NO. 1661

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MIDLAND, MICHIGAN, BY AMENDING SECTION 28-124 OF DIVISION 1 OF ARTICLE III OF CHAPTER 28 THEREOF.

The City of Midland Ordains:

Section 1. Section 28-124 of Division 1 of Article III of Chapter 28 of the Code of Ordinances is hereby amended to read as follows:

Sec. 28-124. Collected and transported waste disposal; permit and fee required.

Before wastes from any septic tank or any other waste collection device are transported for disposal at the city waste disposal site, the person cleaning or having such tank or device cleaned shall apply for and receive a disposal permit (waste disposal ticket). The permit shall be issued upon the payment of a fee, in the amount of seventy-eight dollars (\$78.00) minimum per truckload or seventy-eight dollars (\$78.00) per one thousand (1,000) gallons of waste or part thereof, whichever is greater, for each such load transported to the waste disposal site. Before

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unloading, each permit shall be presented to the city employee on duty at the waste disposal site.

Section 2. This ordinance shall take effect July 1, 2008. (Ordinance ADOPTED.)

DISCHARGE REQUIREMENTS ORDINANCE AMENDMENT

The following resolution was offered by Councilman McKeag and seconded by Councilman Rokosz:

ORDINANCE NO. 1662

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MIDLAND, MICHIGAN, BY AMENDING SECTION 28-216 OF DIVISION 5 OF ARTICLE III OF CHAPTER 28 THEREOF.

The City of Midland Ordains:

Section 1. Section 28-216 of Division 5 of Article III of Chapter 28 of the Code of Ordinances is hereby amended to read as follows:

Sec. 28-216. Supplemental limitations (discharge requirements).

No user shall discharge wastewater containing concentrations of toxic pollutants found to interfere with or pass through the POTW operation or interfere with the recycling or disposal of the wastewater bio-solids product (sludge). The following is a list of toxic pollutants of concern and the maximum allowable discharge limits for those pollutants, which is applicable to all users of the POTW:

<i>Toxic Pollutant Name</i>	<i>Maximum Allowable User Discharge Concentration</i>
Arsenic	1.4 mg/l
Cadmium	0.1 mg/l
Chromium (total)	2.1 mg/l
Copper	1.4 mg/l
Cyanide	1.1 mg/l
Lead	1.1 mg/l
Mercury	1.3 ng/l
Molybdenum	1.0 mg/l
Nickel	0.8 mg/l
Zinc	0.5 mg/l

The city reserves the right to amend the foregoing list as appropriate to protect the public health, safety and welfare of the citizens of the City of Midland.

Any discharge of mercury at or above 1.3 ng/l may require that a user develop, submit, and implement a Mercury Reduction Plan as approved by the City. Such plan shall include a written commitment by the user to reduce the concentration of mercury in the user's wastewater discharge. The user must submit to the City of Midland utilities department a semiannual report on the status of the mercury reduction effort. The mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring shall be in accordance with EPA method 1631.

Section 2. This ordinance shall take effect July 1, 2008. (Ordinance ADOPTED.)

SITE PLAN NO. 280

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

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WHEREAS, the City Council has received the recommendation of the City Planning Commission for approval of Site Plan No. 280, the request of North-Point Construction, Inc. for a 27,524 square foot mixed commercial shopping center located at 211 East Wackerly Street on 4.15 acres; and

WHEREAS, the City Council has reviewed the proposed Site Plan No. 280 in accord with the provisions set forth in Sections 27.02(A) and 27.06(A) of the Zoning Ordinance of the City of Midland; now therefore

RESOLVED, that the City Council does hereby approve Site Plan No. 280, contingent upon the following:

1. The stormwater detention system is designed and constructed in accordance with the City of Midland Engineering Department specifications.
2. All landscaping shall comply with Article 6 of the Zoning Ordinance.
3. All exterior lighting shall comply with Section 3.12 of the Zoning Ordinance and the lighting shall be adjusted at the north and west property lines to meet the Zoning Ordinance requirements.
4. All signage shall comply with Article 8 of the Zoning Ordinance.
5. All parking spaces shall comply with Section 5.01D3 of the Zoning Ordinance and shall be delineated by the "box" style striping pattern.
6. All exterior mechanical equipment shall be screened in accordance with Section 6.02(E)2 of the Zoning Ordinance.
7. All required landscape screening and berming shall be constructed prior to building construction commencing per Section 6.02(E)2 of the Zoning Ordinance.
8. The driveway, loading/emergency vehicle access areas, public sidewalks, street frontage landscaping, and stormwater facilities are constructed as part of phase one of this project.
9. That a detailed landscaping plan be provided prior to the issuance of a building permit which adheres to Article 6 of the Zoning Ordinance. This plan should show all berm construct details and number and types of plants being provided.
10. That a maintenance easement is provided to the city to maintain the public water main on site.

(Motion ADOPTED.)

SITE PLAN NO. 281

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, the City Council has received the recommendation of the City Planning Commission for approval of Site Plan No. 281, the request of Evergreen Solar for a 30,000 square foot building located at 2820 Schuette Road on 4.76 acres; and

WHEREAS, the City Council has reviewed the proposed Site Plan No. 281 in accord with the provisions set forth in Sections 27.02(A) and 27.06(A) of the Zoning Ordinance of the City of Midland; now therefore

RESOLVED, that the City Council does hereby approve Site Plan No. 281, contingent upon the following:

1. The stormwater detention system is designed and constructed in accordance with the City of Midland Engineering Department specifications.
2. All landscaping shall comply with Article 6 of the Zoning Ordinance including the addition of forty-five (45) shrubs.
3. All exterior lighting shall comply with Section 3.12 of the Zoning Ordinance.
4. All exterior signage shall comply with Article 8 of the Zoning Ordinance.
5. All parking spaces shall comply with Section 5.01D of the Zoning Ordinance and be delineated by the "box" style striping.

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6. The Planning Commission authorizes the justification of the second (west) drive approach.

(Motion ADOPTED.)

SCENIC ESTATES NO. 7 – TENTATIVE APPROVAL OF PRELIMINARY PLAT EXTENSION

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, the City Council has received a request from John Rapanos, President of Prodo, Inc., proprietor of Scenic Estates No. 7, for a two-year time extension for the Tentative Approval of the Preliminary Plat of Scenic Estates No. 7; and

WHEREAS, the current approval of the Tentative Preliminary Plat expired October 25, 2006; and

WHEREAS, the City Council has reviewed the request for the time extension of the Tentative Approval of the Preliminary Plat of Scenic Estates No. 7; now therefore

RESOLVED, that the City Council does hereby approve a two-year time extension effective from October 25, 2006 until October 25, 2008, for the Tentative Preliminary Plat of Scenic Estates No. 7. (Motion ADOPTED.)

SCENIC ESTATES NO. 7 – FINAL APPROVAL OF PRELIMINARY PLAT

Planning and Community Development Director Keith Baker presented information on the final approval of the Preliminary Plat of Scenic Estates No. 7, a residential subdivision of 29 lots on 15 acres east of Jefferson Avenue and south of Wackerly Street. The following resolution was then offered by Councilman McKeag and seconded by Councilman Donker:

WHEREAS, the City Council did give tentative approval to the Preliminary Plat of Scenic Estates No. 7 on October 25, 2004; and

WHEREAS, the City Council did grant an extension of the tentative approval to the Preliminary Plat of Scenic Estates No. 7 to October 25, 2008; and

WHEREAS, the approval of the Midland County Drain Commission has been received; now therefore

RESOLVED, that the Midland City Council hereby gives final approval to the Preliminary Plat of Scenic Estates No. 7, in accordance with Section 23-15 of the Code of Ordinances of the City of Midland; and

RESOLVED FURTHER, conditions of City Council tentative approval of the Preliminary Plat specified in the October 25, 2004 resolution shall also apply to final approval of the Preliminary Plat. (Motion ADOPTED.)

TRAFFIC CONTROL ORDER NO. P-08-12

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

RESOLVED, that Traffic Control Order No. P-08-12 filed April 18, 2008 pursuant to Chapter 24 of the Code of Ordinances to establish traffic control as follows:

That parking shall be prohibited on the southeast side of Rodd Street from 60 feet to 115 feet northeast of the centerline of Main Street to accommodate a bus loading and tow zone and for the next 25 feet to accommodate a loading and tow zone; and

That Traffic Control Orders P-76-06, P-80-04, P-89-03, P-89-07, P-92-01, and P-92-05 shall be rescinded.

is hereby made permanent. (Motion ADOPTED.)

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TRAFFIC CONTROL ORDER NO. P-08-13

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

RESOLVED, that Traffic Control Order No. P-08-13 filed April 18, 2008 pursuant to Chapter 24 of the Code of Ordinances to establish traffic control as follows:

That parking shall be prohibited on the southeast side of McDonald Street from 60 feet to 130 feet northeast of the centerline of Main Street to accommodate a bus loading and tow zone.

is hereby made permanent. (Motion ADOPTED.)

ALPINE MIDLAND, L.L.C. LIQUOR LICENSE

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

RESOLVED, that the request to: TRANSFER OWNERSHIP OF 2007 CLASS C LICENSED BUSINESS WITH DANCE-ENTERTAINMENT PERMIT FROM K&D ESPRESSO, INC. LOCATED AT 6201 JEFFERSON, MIDLAND, MI 48640, MIDLAND COUNTY TO ALPINE MIDLAND, L.L.C.; AND TRANSFER LOCATION TO 520 JOE MANN, MIDLAND, MI 48640, MIDLAND COUNTY; AN RECLASSIFY THE CLASS C LICENSE TO A B-HOTEL LICENSE WITH 96 RENTAL ROOMS be considered for approval.

It is the consensus of this legislative body that the application be: Recommended for issuance. (Motion ADOPTED.)

ARTFUL DODGER BREWING COMPANY – LIQUOR LICENSE

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

RESOLVED, that the request submitted by Artful Dodger Brewing Company, to be located at 114 – 120 E. Main St., Midland, MI, for an on-premise Class C liquor license issued pursuant to Section 501 a (1) (b) of PA 501 of 2006 be considered for approval above all others.

It is the consensus of this legislative body that the application be: Recommended for issuance. (Motion ADOPTED.)

ARTFUL DODGER CERTIFICATION

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, the Artful Dodger Brewing Company has submitted an application to the Michigan Liquor Control Commission for a Class C liquor license issued under Public Act 501 of 2006; and

WHEREAS, it is necessary that the Artful Dodger Brewing Company be located within a development district as defined in Public Act 501 of 2006; and

WHEREAS, the Michigan Liquor Control Commission has determined that in addition to being located in a development district as defined in Public Act 501 of 2006, it is also necessary to certify that the development district is a redevelopment project area; now therefore

RESOLVED, that the City Council hereby certifies that the Downtown Development Authority of the City of Midland is a redevelopment project area and that the Artful Dodger Brewing Company, to be located at 114 – 120 E. Main St., Midland, Michigan, is within the Downtown Development Authority and the redevelopment project area. (Motion ADOPTED.)

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DEIBERT - RESIGNATION FROM CABLE ACCESS ADVISORY COMMISSION

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

RESOLVED, that the resignation of Donald Deibert as a member of the Cable Access Advisory Commission is hereby accepted and the Administration is directed to convey the Council's appreciation to Mr. Deibert for his service on this important Commission. (Motion ADOPTED.)

CIVIC ARENA MAINTENANCE – ARNOLD CENTER PO INCREASE

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, the cost of janitorial services at the Civic Arena has exceeded the original purchase order limit of \$20,000; and

WHEREAS, sufficient funds are included in the Building Maintenance line item in the FY07/08 Civic Arena budget and the total amount of payments will not exceed the funding; now therefore RESOLVED, that the Purchasing Agent is authorized to increase the existing purchase order #24113 to Arnold Center, Inc. of Midland, Michigan up to the amount of \$29,000 for the payment of maintenance services provided to the Civic Arena. (Motion ADOPTED.)

CIVIC ARENA MAINTENANCE – J.E. JOHNSON PO INCREASE

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, the cost of utilities maintenance at the Civic Arena has exceeded the original purchase order limit of \$20,000; and

WHEREAS, sufficient funds are included in the Utilities Maintenance line item in the FY07/08 Civic Arena budget and the total amount of payments will not exceed the funding; now therefore RESOLVED, that the Purchasing Agent is authorized to increase the existing purchase order #24649 to J.E. Johnson, Inc. of Midland, Michigan up to the amount of \$25,000 for the payment of utilities maintenance services provided to the Civic Arena. (Motion ADOPTED.)

DUST CONTROL BRINE – PO INCREASE

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, the Department of Public Services regularly purchases brine for use in winter salting operations and gravel street maintenance; and

WHEREAS, sufficient funding for such purchases is included in the Local Street operating budget for the remainder of FY 2007-08; now therefore RESOLVED, that the Purchasing Agent is authorized to increase existing purchase order #24676 to Liquid Calcium Chloride Sales of Kawkawlin, Michigan up to the amount of \$25,000 for the purchase of brine for street maintenance activities. (Motion ADOPTED.)

DIESEL FUEL PURCHASE

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, City Council adopted a resolution on December 17, 2007 that allows the Purchasing Agent to purchase full tankers of unleaded gasoline and diesel fuel exceeding \$20,000, and seek approval for the purchase at the next City Council meeting; and

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WHEREAS, the volatility of the fuel market does not allow for staff to follow the usual sealed bid process for purchases exceeding \$20,000; and

WHEREAS, staff instead uses a competitive bid process whereby fuel vendors fax in prices that are valid for a particular day with the bid awarded to the lowest priced vendor; now therefore

RESOLVED, that the requirements for sealed proposals for the purchase of fuel are waived due to the volatility of the fuel market; and

RESOLVED FURTHER, that the purchase of 13,401 gallons of diesel fuel from Karbowski Oil of Bay City, Michigan for \$49,845.02 executed by the Purchasing Agent on June 4, 2008, is hereby approved. (Motion ADOPTED.)

UNLEADED FUEL PURCHASE

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, City Council adopted a resolution on December 17, 2007 that allows the Purchasing Agent to purchase full tankers of unleaded gasoline and diesel fuel exceeding \$20,000, and seek approval for the purchase at the next City Council meeting; and

WHEREAS, the volatility of the fuel market does not allow for staff to follow the usual sealed bid process for purchases exceeding \$20,000; and

WHEREAS, staff instead uses a competitive bid process whereby fuel vendors fax in prices that are valid for a particular day with the bid awarded to the lowest priced vendor; now therefore

RESOLVED, that the requirements for sealed proposals for the purchase of fuel are waived due to the volatility of the fuel market; and

RESOLVED FURTHER, that the purchase of 12,500 gallons of unleaded fuel from Hirschman Oil of Reese, Michigan for \$40,225 executed by the Purchasing Agent on June 11, 2008, is hereby approved. (Motion ADOPTED.)

FERRIC CHLORIDE PURCHASE – WATER & WASTEWATER PLANTS

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, sealed bids for the contract of Water Treatment Chemicals - Ferric Chloride, Bid No. 3115, for a period of six months beginning July 1, 2008, have been advertised and received in accord with Section 2-18 of the Midland Code of Ordinances; and

WHEREAS, funding for the purchase of Ferric Chloride is available in Water Fund Inventory Account #591-0000-091.13-30 and in Wastewater Fund Inventory Account #590-0000-091.13-30; now therefore

RESOLVED, that the low sealed proposal submitted by PVS Technologies of Detroit, Michigan for the indicated price per ton of \$417.00 for up to 500 tons (250 each for the Water and Wastewater Treatment Plants), at a total aggregate contract amount not to exceed \$208,500.00, for a period of six months beginning July 1, 2008, including a six-month price extension, is hereby accepted and purchase orders are authorized; and

RESOLVED FURTHER, that the City Manager is authorized to approve change orders in an aggregate amount not to exceed \$5,000.00. (Motion ADOPTED.)

CALCIUM OXIDE PURCHASE – WATER PLANT

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, sealed bids for the contract of Water Treatment Chemicals - Calcium Oxide, Bid No. 3115, for a period of one year beginning July 1, 2008, have been advertised and received in accord with Section 2-18 of the Midland Code of Ordinances; and

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WHEREAS, funding for the purchase of Calcium Oxide is available in Water Fund Inventory Account #591-0000-091.13-30; now therefore

RESOLVED, that the low sealed proposal submitted by Carmeuse Lime of Pittsburgh, PA for the indicated price per ton of \$127.22 for up to 1,200 tons of Calcium Oxide for a period of one year beginning July 1, 2008, with the option of up to two, one-year price extensions, at an annual amount of \$152,664.00, is hereby accepted and a purchase order is authorized; and RESOLVED FURTHER, that the City Manager is authorized to approve change orders in an aggregate amount not to exceed \$5,000.00. (Motion ADOPTED.)

HYDROFLUOSILICIC ACID PURCHASE – WATER PLANT

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, sealed bids for the contract of Water Treatment Chemicals - Hydrofluosilicic Acid, Bid No. 3115, for a period of one year beginning July 1, 2008, have been advertised and received in accord with Section 2-18 of the Midland Code of Ordinances; and

WHEREAS, funding for the purchase of Hydrofluosilicic Acid is available in Water Fund Inventory Account #591-0000-091.13-30; now therefore

RESOLVED, that the low sealed proposal submitted by LCI Ltd, of Jacksonville Beach, Florida for the indicated price per ton of \$600.00 for up to 92 tons per year, at a total contract amount of \$55,200.00, is hereby accepted and a purchase order is authorized; and

RESOLVED FURTHER, the City Manager has the authority to approve changes modifying or altering this purchase order in an aggregate amount not to exceed \$5,000.00. (Motion ADOPTED.)

WATER METERS & ACCESSORIES PURCHASE

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, the City standardized water meters in 1987, selecting Sensus Metering Systems through competitive bid, thus eliminating the need to duplicate meter reading equipment; and WHEREAS, sealed bids for purchase of Sensus water meters and accessories, Bid 3106, have been advertised and received in accord with Section 2-18 of the Midland Code of Ordinances; and

WHEREAS, funding for meters and accessories is provided in Water Fund Inventory Account #591-0000-091.13-31; now therefore

RESOLVED, that the bid submitted by ETNA Supply Company of Grand Rapids, for the indicated prices, is accepted and a purchase order is hereby authorized in an amount not to exceed \$137,000.00 for purchases of meters and accessories through December 2008.

(Motion ADOPTED.)

TRENCHLESS SEWER LINE REPAIR

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, on August 28, 2007, sealed bids for Trenchless Sewer Repairs, Bid No. 3046, were advertised and received in accord with section 2-18 of the Midland Code of Ordinances; and

WHEREAS, the low bid rates accepted from Lanzo Lining Service, Inc. of Roseville are structured whereby the larger the diameter of the pipe, the higher the cost per lineal foot for the installation of the liner; and

WHEREAS, through the use of video, two stretches of sanitary sewer were identified as prime candidates for lining; 1) Rodd Street from East Grove to East Indian Streets (304 feet of 12-

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inch) and 2) West Sugnet Road between Eastman Avenue and North Saginaw Road (604 feet of 10-inch) was shown to have cracks and water/sand infiltration along much of the pipe; and WHEREAS, total cost to repair the faulty sanitary sewer pipe is \$33,304.00 (304 feet of 12 inch x \$42.00 + 604 feet of 10 inch x \$34.00); and WHEREAS, funding is available in the 2007/08 Wastewater Fund, account #590-9120-912.97-50 - Capital Outlay / Sewer System; now therefore RESOLVED, that a purchase order to Lanzo Lining Service, Inc. of Roseville in the amount of \$33,304.00 based on previously bid rates for the lining of 1) Rodd Street from East Grove to East Indian Streets (304 feet of 12-inch) and 2) West Sugnet Road between Eastman Avenue and North Saginaw Road (604 feet of 10-inch) is hereby authorized; and RESOLVED FURTHER, that the City Manager is authorized to approve changes to the purchase order in an aggregate amount not to exceed \$5,000.00. (Motion ADOPTED.)

SENIOR HOUSING FACILITIES – AGREEMENT FOR MEDICAL & PERSONAL SERVICES

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, a bid to provide optional services to the regular residents of Washington Woods and Riverside Place and Assisted Living services to those enrolled residents of Riverside Place was awarded to HEARTLAND HOME HEALTH CARE on May 20, 2005, who has since successfully met the terms of the expired three year agreement; and WHEREAS, the city's senior living communities would like to extend the existing agreement with HEARTLAND HOME HEALTH CARE, 401 Center Avenue, Bay City, Michigan, to provide optional services to the regular residents of Washington Woods and Riverside Place and Assisted Living services to those enrolled residents of Riverside Place; and WHEREAS, the agreement is for a three (3) year period beginning June 1, 2008 during which the cost may be adjusted annually by no more than the CPI percentage for Medical Care Services, North Central Region; and WHEREAS, Heartland Home Health Care has submitted a letter stating that there would be no increase for the first year of the contract running from June 1, 2008 to May 31, 2009; and WHEREAS, the Senior Housing residents will pay for these services on a User Fee basis; and WHEREAS, the contract has been reviewed by the City Attorney and Heartland Home Health Care; now therefore RESOLVED, that the agreement between Heartland Home Health Care and the City of Midland is hereby approved and accepted as most favorable to the City; and RESOLVED FURTHER, that the Mayor and City Clerk are authorized to sign the contract drafted and approved by the City Attorney in accord with the proposal and the City's specifications. (Motion ADOPTED.)

DNR COOPERATIVE MUTUAL AID FIRE CONTROL AGREEMENT

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, the control of timber, grass, and wildland fires is essential to an effective wildland fire control program; and WHEREAS, the Midland Fire Department is actively engaged in the prevention and suppression of all fires; and WHEREAS, it has been determined to be advantageous to the Midland Fire Department, in the proper discharge of its responsibilities, to make certain equipment available to the department for rural fire control; now therefore RESOLVED, that in order to maximize the prompt, full and effective use of resources of all participating governments in providing reasonable protection from uncontrolled fires occurring in

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natural cover fuels, we hereby adopt the Cooperative Mutual Aid Fire Control Agreement which is attached hereto and fully incorporated herein by reference; and
RESOLVED FURTHER, that the City Manager, or his designee, shall be the authorized representative of the City of Midland of the Cooperative Mutual Aid Fire Control Agreement. (Motion ADOPTED.)

GOLF COURSE CHEMICALS – PO INCREASE

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, the cost of chemicals purchased from Turfgrass, Inc. for the Golf Course has exceeded the original purchase order limit of \$90,000; and
WHEREAS, the cost of chemicals purchased from the other two low-bid chemical companies has not exceeded their original estimated levels; and
WHEREAS, sufficient funds are included in the Horticultural Supplies line item in the FY07/08 Golf Course budget and the total amount of payments will not exceed the funding; now therefore
RESOLVED, that the Purchasing Agent is authorized to increase the existing purchase order #23600 to Turfgrass, Inc. of South Lyon, Michigan up to the amount of \$110,000 for the purchase of chemicals to maintain the Golf Course. (Motion ADOPTED.)

MECHANICAL JOINT FITTINGS PURCHASE

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, sealed bids for Bid No. 3116, Mechanical Joint Fittings, have been advertised and received in accord with Section 2-18 of the Midland Code of Ordinances; and
WHEREAS, the bid received from H.D. Supply Waterworks is not being recommended because 9 of the 66 items indicated "no bid"; and
WHEREAS, the bid received from East Jordan Iron Works is not being recommended because 7 of the 66 items indicated "no bid"; and
WHEREAS, staff considers the Etna Supply Company bid to be acceptable, and recommends award for the 2008/09 fiscal year purchases of mechanical joint fittings; and
WHEREAS, funds are available in the Water Fund Inventory Account; now therefore
RESOLVED, that a purchase order is hereby authorized to Etna Supply Company of Grand Rapids, MI, in an amount not to exceed \$58,381.33; and
RESOLVED FURTHER, that the City Manager is hereby authorized to approve change orders in an aggregate amount not to exceed \$10,000.00. (Motion ADOPTED.)

PROPOSED 2008-09 BUDGET AMENDMENTS (MCV REFUND)

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

RESOLVED, that in accordance with Section 11.6 of the Charter of the City of Midland, a public hearing shall be conducted at 7:00 p.m., Monday, July 14, 2008, in the Council Chambers of City Hall on the proposal to amend the General Fund's 2008-09 budget to include the receipt of \$17,677,757 in Tax Limited General Obligation Judgment Bond issue proceeds, the related bond issue costs of \$121,743, and the subsequent tax refund payment of \$34,139,227 to the Midland Cogeneration Venture (MCV) as ordered by the *Consent Judgment* from the Michigan Tax Tribunal dated April 18, 2008 as final resolution of the tax appeal for the tax years 2001 through 2007. (Motion ADOPTED.)

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ATTORNEY & MANAGER JOB REVIEWS

Mayor Bruce Johnson introduced a discussion on the City Council's job performance reviews for the City Attorney and City Manager. The following two resolutions were then presented for consideration.

SALARY INCREASE FOR CITY ATTORNEY

The following resolution was offered by Councilman Adams and seconded by Councilman Donker:

RESOLVED, that the salary of James O. Branson III, City Attorney, is amended to recognize a salary increase from \$117,342 annually to \$122,035 effective July 1, 2008; and
RESOLVED FURTHER, that all other terms and conditions of the employment agreement shall remain in effect. (Motion ADOPTED. Yeas: Adams, Donker, Johnson, McKeag Nays: Rokosz)

SALARY INCREASE FOR CITY MANAGER

The following resolution was offered by Councilman Adams and seconded by Councilman Donker:

RESOLVED, that the salary of Jon Lynch, City Manager, is amended to recognize a salary increase from \$124,550 annually to \$129,532 effective July 1, 2008; and
RESOLVED FURTHER, that the City's contribution to his retirement plan in the ICMA Retirement Corporation (ICMA-RC) be increased from 4.5% to 5%; and
RESOLVED FURTHER, that all other terms and conditions of the employment agreement shall remain in effect. (Motion ADOPTED. Yeas: Adams, Donker, Johnson, McKeag Nays: Rokosz)

Being no further business the meeting adjourned at 9:18 p.m.

Selina Tisdale, City Clerk