

UNAPPROVED

July 21, 2008

A regular meeting of the City Council was held on Monday, July 21, 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 July 14, 2008 regular meeting was offered by Councilman McKeag and seconded by Councilman Rokosz. (Motion ADOPTED.)

MBS INTERNATIONAL AIRPORT PRESENTATION

MBS International Airport Manager Jeff Nagel provided a presentation on the MBS International Airport. The following resolution was then presented by Councilman McKeag and seconded by Councilman Rokosz:

RESOLVED, that the presentation given by Jeff Nagel, Airport Manager, providing the City Council with an update on the MBS International Airport is hereby accepted and ordered placed on file in the Office of the City Clerk. (Motion ADOPTED.)

PUBLIC COMMENTS

No public comments were made.

SEWERS AND SEWAGE DISPOSAL ORDINANCE AMENDMENT (1st reading)

Utilities Director Noel Bush presented information on an amendment to Section 28-102 and Section 28-129 of Division 1 of Article III of Chapter 28 of the Sewers and Sewage Disposal Ordinance. Introduction and first reading of the following ordinance amendment was offered by Councilman McKeag and seconded by Councilman Adams:

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MIDLAND, MICHIGAN, BY AMENDING SECTION 28-102 AND SECTION 28-129 OF DIVISION 1 OF ARTICLE III OF CHAPTER 28 THEREOF.

The City of Midland Ordains:

Section 1. Section 28-102 and Section 28-129 of Division 1 of Article III of Chapter 28 of the Code of Ordinances are hereby amended to read as follows:

Sec. 28-102. Definitions.

When used in this article, the following terms shall be construed as defined in this section, unless a different definition shall be adopted for any division of this chapter.

Act or "the act". The Federal Water Pollution Control Act (P.A. 92-500), also known as the Clean Water Act, as amended, 33 U. S.C. 1251, et seq.

Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)), as determined by "Standard Methods."

Board. Sewer board of appeals.

Building sewer. A sewer conveying wastewater from the premises of a user to the public sewer, and not owned or maintained by the City of Midland.

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Categorical standards. National categorical pretreatment standards or pretreatment standard.

City. The City of Midland or the city council of Midland.

Code. City of Midland Code of Ordinances.

Combined sewer. A sewer intended to serve as a sanitary sewer and a storm sewer.

Compatible pollutant. Materials of acceptable concentration designated by biochemical oxygen demand, pH, fecal coliform bacteria, suspended solids, phosphorus or other pollutants as designated by the director of utilities.

Cooling water. The water discharged from any use such as air conditioning, cooling or refrigeration, and to which the only pollutant added is heat.

Department. City of Midland utilities department generally and wastewater division specifically.

Direct discharge. The discharge of treated or untreated wastewater directly into the waters of the State of Michigan, without first having been treated by the POTW.

Director. The director of utilities for the City of Midland, or his duly authorized representative(s).

Director of utilities. The person designated by the city manager to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative(s).

Discharge. Spilling, leaking, seeping, pumping, pouring, emitting, emptying, dumping or depositing.

Domestic user. Those users that discharge normal domestic waste from residential living units and resulting from the day-to-day activities usually considered to be carried out in a domicile. Discharges from other users to be considered normal domestic waste shall be of the same nature and strength and have the same flow rate characteristics thereof.

Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of said agency.

FATS, OIL AND GREASES. ORGANIC COMPOUND DERIVED FROM ANIMAL AND / OR PLANT SOURCES THAT CONTAIN MULTIPLE CARBON CHAIN TRIGLYCERIDE MOLECULES. THESE SUBSTANCES ARE DETECTABLE AND MEASURABLE USING ANALYTICAL TEST PROCEDURES ESTABLISHED IN THE UNITED STATES CODE OF FEDERAL REGULATIONS 40 CFR 136 AS MAY BE AMENDED FROM TIME TO TIME. ALL ARE SOMETIMES REFERRED TO AS "GREASE" OR "GREASES".

Garbage. The wastes from the preparation, cooking and dispensing of food or from handling, storage and sale of produce.

Grab sample. A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

Ground water. The water beneath the surface of the ground, whether or not flowing through known or definite channels.

Holding tank waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

Incompatible pollutants. All pollutants not defined as compatible.

Indirect discharge. The discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the act (33 U.S.C. 1317), into and through the POTW.

Interference. The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the act.

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National categorical pretreatment standard or pretreatment standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the act (33 U.S.C. 1347) which applies to a specific category of industrial users.

National pollutant discharge elimination system (NPDES). A national permit program established by the Federal Water Pollution Control Act Amendment of 1972 (Public Law 92-500) requiring all municipalities, industries and commercial enterprises that discharge to surface watercourses to have NPDES permits approved by the U.S. EPA and in Michigan the Water Resources Commission by December 31, 1974.

National prohibitive discharge standard or prohibitive discharge standard. Any regulation developed under the authority of Section 307(b) of the act and 40 CFR, Section 403.5.

Natural outlet. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

New sources. Any source, the construction of which is commenced after the publication of proposed regulations prescribing a new source performance standard which will be applicable to such source, if standard is thereafter promulgated in accordance with Section 306(a) of the Clean Water Act.

Nondomestic user. Those users discharging other than normal domestic waste.

Normal domestic waste. User discharges to the City of Midland POTW in which concentrations of suspended solids, five-day BOD, and phosphorus are three hundred (300), three hundred fifty (350), and thirteen (13), respectively, at the point of discharge to the POTW.

Oil. Oil of any kind, in any form including, but not limited to, petroleum, fuel oil, sludge and oil refuse, gasoline, grease, and oil mixed with waste.

Other waste. Garbage, refuse, decayed wood, bark and other wood debris, wastes from industrial processes, and other substances which are not included within the definition of pollutant.

Operation and maintenance. The labor, material, and other costs incurred by the performance of operation and maintenance of a sewer system.

Owner. The owners or owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or any other person, firm or corporation directly or indirectly in control of a building, structure or real property, or his duly authorized agent.

Party (person). Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

Permittee, permit holder. Any person who owns, operates, possesses or controls an establishment or plant being operated under a valid wastewater contribution permit to discharge waste in to the city POTW.

pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Phosphorus (total). As defined and determined by "Standard Methods."

Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, oils, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution. The placing of any noxious or deleterious substance in any waters of the state in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or aquatic life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

POTW treatment plant. That portion of the POTW designed to provide treatment to wastewater.

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Pretreatment or treatment. The reduction of the amount of pollutants, the elimination of pollutants, the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR, Section 403.6(d).

Pretreatment requirements. Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

Private sewage disposal system. A system for pretreatment of sewage by any means, designed to treat wastewater prior to discharge to the POTW.

Public sewer. A sewer that is owned and maintained by the City of Midland.

Publicly owned treatment works (POTW). A treatment works as defined by Section 212 of the act (33 U. S.C. 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, except those pipes, sewers or other conveyances connected to a facility providing pretreatment or a building sewer. For the purposes of this article, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

Readiness-to-serve charge. A charge approximately equal to the proportional fixed costs of the city's water system attributable to each user.

Sanitary sewer. A sewer intended to carry only sanitary or sanitary and industrial wastewaters from residential and commercial buildings, industrial plants, or institutions.

Shall is mandatory; *may* is permissive.

Standard methods. The most recent edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Association, a copy of which is on file in the office of the director.

Standard industrial classification (SIC). A classification pursuant to the "Standard Industrial Classification Manual," issued by the Executive Office of the President, Office of Management and Budget, 1972.

State. State of Michigan.

Storm sewer. A sewer intended to carry only storm waters, surface runoff, street wash water, sub-soil drainage, and noncontact cooling water.

Storm water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

Surcharge. As applies to this chapter, that charge levied on users of the POTW resulting from user contributions of nondomestic waste to the POTW or a charge to the user by the city to recover costs, of and by the city, for accepting and treating a user contribution in lieu of user pretreatment of nondomestic waste.

Surface waters. Water upon the surface of the earth, whether contained in bounds created naturally or artificially, or diffused.

Suspended solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering as determined by "Standard Methods."

Toxic pollutant. Any pollutant or combination of pollutants that are determined to be toxic or are listed as toxic in regulations promulgated by the administrator of the environmental protection agency under the provision of the CWA 307a) or other acts.

User. Any person, establishment, or owner who discharges any domestic or nondomestic sewage or waste into the POTW system of the city or any system connected thereto.

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User charge. A charge levied on the users of the POTW for the normal cost of operation, maintenance and replacement of such works.

Wastewater. The liquid and water-carried wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any ground water, surface water, and storm water that may be present, whether treated or untreated, which is discharged into the POTW.

Wastewater contribution permit. As set forth in this chapter, a permit issued by the city to nondomestic users of the POTW.

Watercourse. A channel in which a flow of water occurs, either continuously or intermittently.

Waters of the state. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(Ord. No. 1087, § 1, 6-3-85; Ord. No. 1514, § 1, 7-23-01)

Sec. 28-129. General discharge prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of the POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state or local pretreatment standards or requirements. A user may not contribute the following substances to the POTW:

- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW, or a hazard to public health. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than five (5) percent nor any single reading over twenty (20) percent of the lower explosive limit (LEL). Prohibited materials include, but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
- (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.
- (3) Any wastewater having a pH less than 5.0 or greater than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- (4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW due to pass-through, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the act.
- (5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard

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- to life, or are sufficient to prevent entry into the sewers for maintenance and repair.
- (6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for discharge, disposal, reclamation, and/or reuse or to interfere with the treatment or reclamation process.
 - (7) Any substances which will cause the POTW to violate its NPDES and/or state disposal system permit (PERM).
 - (8) Any wastewater with objectionable color not removed in the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions.
 - (9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds forty (40) degrees centigrade (one hundred and four (104) degrees Fahrenheit).
 - (10) Any pollutants, including oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which will cause or is deemed to cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes, more than five (5) times the average twenty-four-hour concentration, quantities, or flow during normal operation.
 - (11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the director in compliance with applicable state or federal regulations.
 - (12) Any wastewater which causes a hazard to human health or life or creates a public nuisance. When the director determines that a user(s) is contributing to the POTW any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the director shall:
 - (a) Advise the user(s) of the impact of the contribution on the POTW; and
 - (b) Require the user to obtain, maintain and comply with a wastewater contribution permit.
 - (13) NO USER SHALL ALLOW WASTEWATER DISCHARGE CONCENTRATION OF GREASE TO EXCEED 100 MILLIGRAMS PER LITER AS DEFINED BY EPA TEST METHOD 1664. REQUEST TO USE ANY OTHER ANALYTICAL METHOD MUST BE APPROVED BY THE WASTEWATER SUPERINTENDENT.

Section 2. This ordinance shall take effect upon publication. (Motion ADOPTED. Considered first reading.)

PUBLIC INPUT PROCESS - 2009-10 CITY OF MIDLAND BUDGET

City Manager Jon Lynch presented a resolution authorizing the City Manager to take the necessary steps to implement the Public Improvement Process for the 2009-10 City of Midland Budget and enter into a contract with Kezziah Watkins to facilitate said process. The following resolution was then offered by Councilman McKeag and seconded by Councilman Rokosz:

WHEREAS, the City Manager has presented a public input process designed to obtain citizen and employee feedback on issues and priorities for the 2009-10 budget preparation process; and

WHEREAS, the staff recommends that the firm of Kezziah Watkins be retained to conduct the process; and

WHEREAS, sufficient funding exists in the General Fund budget; now therefore

RESOLVED, that the City Manager is hereby authorized and instructed to take the necessary steps to implement the process presented to City Council in a report dated July 21, 2008; and

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RESOLVED FURTHER, that in accord with Section 2-19 of the City of Midland Code of Ordinances the City Manager is authorized to enter into a contract with Kezziah Watkins to facilitate the public input process at a cost not to exceed \$49,700. (Motion ADOPTED.)

FREEDOM OF INFORMATION ACT DENIAL APPEAL

Withdrawn by Petitioner.

TRAFFIC CONTROL ORDER NO. P-08-14

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

RESOLVED, that Traffic Control Order No. P-08-14 filed May 19, 2008 pursuant to Chapter 24 of the Code of Ordinances to establish traffic control as follows:

That parking shall be prohibited on the south side of Wackerly Street from Perrine Road to Sturgeon Avenue.
is hereby made permanent. (Motion ADOPTED.)

ECONOMIC DEVELOPMENT SERVICES AGREEMENT

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

RESOLVED, that the Mayor and the City Clerk are authorized to execute an agreement for the years July 1, 2008 through June 30, 2011, with Midland Tomorrow for economic development services. (Motion ADOPTED.)

PERIODICAL AND NEWSPAPER SUBSCRIPTION SERVICES - LIBRARY

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

WHEREAS, sealed proposals have been advertised and received in accord with Article II of Chapter 2 of the Midland Code of Ordinances for periodical and newspaper subscription services for the Grace A. Dow Memorial Library; and

WHEREAS, the proposal submitted by Magazine Subscription Service Agency is the lowest bid; and

WHEREAS, funding is available in the 2008/2009 Grace A. Dow Memorial Library budget; now therefore

RESOLVED, that the sealed proposal for Bid No. 3126 submitted by Magazine Subscription Service Agency for periodical and newspaper subscription services for the Grace A. Dow Memorial Library in an amount not to exceed \$21,000 is hereby accepted and the necessary purchase order authorized. (Motion ADOPTED.)

LAND APPLICATION OF BIOSOLIDS – WASTEWATER

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

WHEREAS, in 1985, the City began utilizing the biosolids disposal technique of Land Application as the most cost effective and environmentally sound alternative available; and

WHEREAS, the lone sealed bid for Wastewater - Land Application of Biosolids, Bid No. 3124, for a three-year period July 1, 2008 to June 30, 2011, has been advertised and received in accord with Section 2-18 of the Midland Code of Ordinances; and

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WHEREAS, funding has been budgeted in the 2008/09 Wastewater Fund account #590-8144-811.81-92 - Sludge Hauling; now therefore

RESOLVED, that the lone sealed proposal submitted by Synagro Central of Baltimore, Maryland for the indicated price per gallon of biosolids of \$0.0309, for up to 3,000,000 gallons per year for three years, at a total annual amount of \$92,700.00, is hereby accepted and purchase orders are authorized; and

RESOLVED FURTHER, that the City Manager is authorized to approve change orders modifying or altering the purchase orders in an amount not to exceed \$10,000 in each year of the agreement. (Motion ADOPTED.)

GROUNDS MAINTENANCE EQUIPMENT

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

WHEREAS, bids for grounds maintenance equipment are solicited by the State of Michigan and the City of Midland is authorized to make purchases from this program; and

WHEREAS, sufficient funding for the purchase of three utility vehicles, two front mowers, two rotary mowers, a bunker rake and a sprayer is included in the 2008-09 Equipment Revolving Fund for Capital Outlay - Equipment as replacements for existing equipment; now therefore

RESOLVED, that the Purchasing Agent is authorized to issue purchase orders to the State of Michigan's selected vendors, Bader and Sons of St. Louis, Michigan in the amount of \$53,052.88, and Spartan Distributors of Sparta, Michigan in the amount of \$128,269.03, for the purchase of the aforementioned equipment, all in accordance with the State of Michigan Extended Purchasing Program proposal and specifications. (Motion ADOPTED.)

2008-09 SIDEWALK REPLACEMENT PROGRAM

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

WHEREAS, sealed proposals were advertised and received in accord with Article II of Chapter 2 of the Midland Code of Ordinances for the 2008 Sidewalk Replacement Program, Bid No. 3127; and

WHEREAS, funding for this project in the amount of \$40,000 is included in the 2008-09 Fiscal Year General Fund budget for Sidewalk Maintenance, "Contracted Sidewalk Construction"; now therefore

RESOLVED, that the Purchasing Agent is authorized to issue a purchase order to Steve Krotzer Contracting of Midland, Michigan, not to exceed the amount of \$40,000 for sidewalk replacement work to take place between July 1 - December 31, 2008, in accordance with the proposal and city specifications; and

RESOLVED FURTHER, that the City Manager is authorized to approve change orders in aggregate up to \$20,000 should additional funding become available. (Motion ADOPTED.)

PROPOSED 2008-09 LANDFILL BUDGET AMENDMENT

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

RESOLVED, that in accord with Section 11.6 of the Charter of the City of Midland, a public hearing shall be conducted at 7:00 p.m. on Monday, August 11, 2008, in the Council Chambers of City Hall on the proposal to amend the 2008/09 Landfill Fund budget to increase appropriations by \$84,553.00 from working capital to expand the scope of the Type III cell

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Hydrogeologic study in accordance with a request made by the Michigan Department of Environmental Quality. (Motion ADOPTED.)

Being no further business the meeting adjourned at 8:15 p.m.

Selina Tisdale, City Clerk