

AGENDA
CITY COUNCIL MEETING
Monday, June 20, 2011
7:30 P.M.

1. Call to Order
2. Minutes of April 18, 2011 and April 30, 2011 meetings

Old Business

3. New Madrid Power Plant 2012 Operating Budget Review

New Business

4. Visitors (All visitors wishing to address the Council must complete an information card and submit it to the City Clerk before the meeting begins)
5. Request for Package Liquor License: Eddie Lowrey, Slam Enterprises, LLC dba M & M Deli, 501 Main
6. CNM/MLP First Quarter 2011 Financial Reports
7. Resolution: Southwestern Power Administration Amendatory Agreement
8. Bill No. 11-1190: Discontinuance of Gas and Electric Service "Hot Weather Rule"
9. Bill No. 11-1191: Fireworks Ordinance
10. Update to Emergency Management Plan-Tornado Warning System
11. AECI Statement of Revenues and Expenditures: April and May 2011
12. Building Permits: 20' diameter round above ground pool-Glen Helmes-747 Kingshighway
26 X 26, 3-room addition-Jimmy McSpadden-931 Scott Street
15 X 30 above ground pool-Chris & Stephanie Kiser-510 St. Joseph
18 X 21 metal carport-Jackie Tanner-381 U.S. Highway 61
20 X 20 above ground pool-Ginger Jones-545 St. Paul
10 X 16 portable storage building-Bill Nance-950 St. Christopher
Single family home-William Long-871 St. John
27' diameter round above ground pool-Becky McKay-1201 Pinnell
13. Mayoral Appointments: Jim Harris-Emergency Management Coordinator
Shirley Nowell-New Madrid Housing Authority Board of Directors
14. City Administrator's Report-Equipment Purchases

CLOSED SESSION, if requested, relative to:

- A. Legal actions, causes of action, or litigation (RSMo 610.021.1)
- B. Leasing, purchase or sale of real estate where public knowledge of the transaction might adversely affect the legal consideration there for (RSMo 610.021.2)
- C. Hiring, firing, disciplining or promoting or particular employees when information relating to the performance or merit of individual employees is discussed or recorded (RSMo 610.021.3)
- D. Preparation, including any discussions or work product, on behalf of the Council or its representatives for negotiations with employee groups (RSMo 610.021.9)
- E. Sealed proposals and related documents or any documents related to a negotiated contract (RSMo 610.021.12)

15. Additional items, if requested.

AN ORDINANCE ESTABLISHING THE DISCONTINUANCE OF GAS AND ELECTRIC UTILITY SERVICE DURING HOT-WEATHER PERIODS IN THE CITY OF NEW MADRID, MISSOURI.

Whereas, the 94th General Assembly enacted SB 720 393.108, codified as Section 660.123 RSMo. By the Revisor of Statutes (“Hot weather rule”), establishing a state mandate prohibiting the discontinuance of gas and electric utility services during hot weather; and

Whereas, it is appropriate to protect the health and safety of residential customers receiving gas and electric utility service during extreme summer heat by controlling the process used for the discontinuation and refusal of utility service due to delinquent accounts of those customers; and

Whereas, the City further is authorized to adopt regulations herein applicable to extreme weather utility service pursuant to the City’s authority provided in Chapter 91 RSMo., granting cities the authority to erect and maintain gas and electric works and authorizing the City to prescribe and regulate the delivery of such service;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW MADRID, MISSOURI, AS FOLLOWS:

Section One: Hot Weather Rule, Prohibition of the Discontinuance of Electric and Gas Service During Hot Weather Periods. During the period between June first and September thirtieth, no residential customer shall be disconnected from electric or gas service for nonpayment of bills, including all residential users of apartment buildings, when gas or electricity is used as the source of cooling or to operate the only cooling equipment at the residence, during the following occurrences:

- (1) On any day when the National Weather Service local forecast between 6:00 a.m. and 9:00 p.m. for the following twenty-four hours predicts that the temperature shall rise above ninety-five degrees Fahrenheit or that the heat index shall rise above one hundred five degrees Fahrenheit;
- (2) On any day when utility personnel are not available to reconnect utility service during the immediately succeeding day or days and the National Weather Service local forecast between 6:00 a.m. and 9:00 p.m. predicts that the temperature during the period of unavailability shall rise above ninety-five degrees Fahrenheit or that the heat index shall rise above one hundred five degrees Fahrenheit; and
- (3) In any other hot weather situations as subsequently directed by the Board of Aldermen of the City of New Madrid and provided for in rules established and amended by the Missouri Public Service Commission.

Section Two. Effective Date. This ordinance shall take full force and effect from and after the date of its passage by the Board of Aldermen and approval of the Mayor.

Passed and approved this _____ day of June, 2011, by the Board of Aldermen of the City of New Madrid, Missouri, after having been read by title or in full two times prior to passage.

Donnie Brown, Mayor

ATTEST:

City Clerk

Approved as to Form:

City Attorney

AN ORDINANCE REPEALING SECTION 34-78 OF THE MUNICIPAL CODE OF THE CITY OF NEW MADRID, MISSOURI AND REPLACING IT WITH A NEW SECTION 34-78 REGULATING THE USE AND SALE OF FIREWORKS WITHIN THE CORPORATE LIMITS OF THE CITY OF NEW MADRID, MISSOURI AND PROVIDING PENALTIES THEREFORE

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW MADRID, MISSOURI AS FOLLOWS:

1. That Section 34-78 of the Municipal Code of the City of New Madrid, Missouri is hereby repealed.
2. That a new Section 34-78, as follows, is hereby adopted.

SECTION 34--78 FIREWORKS

I.- Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Common fireworks means the following articles of fireworks which are classified as common fireworks under Class C fireworks in the regulations:

(1)

Ground and hand-held sparkling devices:

a.

Wire sparkler, dipped stick. Stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition may not exceed one hundred (100) grams per item. Those devices containing any chlorate or perchlorate salts are not to exceed five (5) grams in total composition per item. Wire sparklers which contain no magnesium and which contain less than one hundred (100) grams of composition per item are not included in this category, in accordance with the Regulations of the U.S. Department of Transportation.

b.

Cylindrical fountain. Cylindrical tube not exceeding three-fourths inch in inside diameter containing up to seventy-five (75) grams of pyrotechnic composition. Fountains produce a shower of color and sparks upon ignition, and sometimes a whistling effect. Cylindrical fountains may

contain a spike to be inserted in the ground (spike fountain), a wooden or plastic base to be placed on the ground (base fountain), or a wooden handle or cardboard handle for items designed to be hand-held (handle fountain).

c.

Cone fountain. Cardboard or heavy paper cone containing up to fifty (50) grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain.

d.

Illuminating torch. Cylindrical tube containing up to one hundred (100) grams of pyrotechnic composition. Upon ignition, colored fire is produced. These may be either spike, base, or handle-type devices.

e.

Wheel. Pyrotechnic device attached to a post or tree by means of a nail or string. Wheel contains up to six (6) "driver" units—tubes not exceeding one-half inch in inside diameter that may contain up to sixty (60) grams of composition per drive unit. Upon ignition, the wheel revolves, producing a shower of color and sparks and sometimes a whistling effect.

f.

Ground spinner. Small device similar to wheels in design and effect placed on the ground and ignited. A shower of sparks and color is produced by the rapidly spinning device.

g.

Flitter sparkler. Narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. These devices do not use a fuse for ignition. The paper at one (1) end of the tube is ignited to make the device function.

(2)

Aerial devices:

a.

Sky rocket. Sky rockets contain a wooden stick for guidance and stability and rise into the air upon ignition. A burst of color or noise or both is produced at the height of flight. Total charge alone may not be less than three and one-half (3.5) grams nor more than twenty (20) grams of chemical composition. Tube casing size may not be less than one-half (") inch for the outside diameter and may not be less than three and one-half (3") inches in length. Overall rocket length, including the stick, may not be less than fifteen (15) inches and the rocket stick must be securely fastened to the casing.

b.

Bottle rocket. Device similar to a sky rocket in design, but smaller with a cylindrical tube containing not less than three and one-half (3.5) grams nor more than twenty (20) grams of chemical composition. A wooden stick is attached for guidance and stability. Rockets rise into the air upon

ignition. A burst of color and/or sound may be produced at the height of flight.

c.

Missile-type rocket. Device similar to a sky rocket in size, composition, and effect that uses fins rather than a stick for guidance and stability.

d.

Helicopter, aerial spinner. A tube not exceeding one-half (") inch in inside diameter that may contain up to twenty (20) grams of pyrotechnic composition. Some type of propeller or blade device is attached, and upon ignition the rapidly spinning device lifts into the air. A visible or audible effect is produced at the height of flight.

e.

Roman candle. Heavy paper or cardboard tube not exceeding three-eighths ($\frac{3}{8}$) inch in inside diameter that contains up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) "stars" (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several-second intervals.

f.

Mine, shell. Heavy cardboard or paper tube up to two and one-half (2") inches in inside diameter with a wooden or plastic base attached, containing up to forty (40) grams of pyrotechnic composition. Upon ignition, stars, firecrackers, whistles, parachutes or a combination of these effects are propelled into the air, with the tube remaining on the ground.

(3)

Ground audible devices or salute firecrackers: Small paper-wrapped or cardboard tube that may not contain more than fifty (50) mg of pyrotechnic composition. Noise, accompanied by a flash of light, is produced upon ignition.

(4)

Combination items: Fireworks devices containing combinations of two (2) or more of the effects described in the preceding categories.

Explosive composition means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited.

Fireworks means any combustible or explosive composition, or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation.

Fireworks stand means a temporary structure used exclusively for the sale of fireworks and related items.

Novelties includes the following devices:

(1)

Snake, glow worm. Pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices may not contain mercuric thiocyanate.

- (2) *Smoke device.* Tube or sphere containing pyrotechnic composition that produces white or colored smoke upon ignition as the primary effect.
- (3) *Wire sparkler.* Wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. These items may not contain magnesium and must not exceed one hundred (100) grams of composition per item. Devices containing any chlorate or perchlorate salts may not exceed five (5) grams of composition per item.

Permissible fireworks mean those fireworks permissible for sale to and use by the general public and described in this division as:

- (1) Common fireworks;
- (2) Novelties; and
- (3) Trick noisemakers.

Pyrotechnic composition means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. Pyrotechnic compositions will not explode upon ignition unless severely confined.

Regulations means the regulations heretofore issued by the Interstate Commerce Commission and published in 49 CFR Part 173.

Special fireworks means all articles of fireworks that are classified as special fireworks under Class B explosives in the regulations.

Trick noisemakers means items that produce a small report intended to surprise the user. These devices include:

- (1) *Party popper.* Small plastic or paper item containing not in excess of sixteen (16) mg of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.
- (2) *Booby trap.* Small tube with string protruding from both ends, similar to a party popper in design. The ends of the string are pulled to ignite the friction sensitive composition, producing a small report.
- (3) *Snapper.* Small, paper-wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the devices explodes.

(4)

Trick match. Kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

(5)

Cigarette load. Small wooden peg that has been coated with a small quantity of explosive composition. Upon ignition of a cigarette containing one (1) of the pegs, a small report is produced.

(6)

Auto burglar alarm. Tube which contains pyrotechnic composition that produces a loud whistle or smoke when ignited. A small quantity of explosive, not exceeding fifty (50) mg, may also be used to ignite the device.

II. - General restrictions.

Except as provided in this article, it shall be unlawful for any person to possess for sale within the city, sell or offer for sale at retail, or use, within the city any fireworks other than permissible fireworks.

III.- License required.

Each dealer in fireworks, at wholesale or retail, before selling any article of fireworks, shall obtain from the city collector a license to sell fireworks for each location at which fireworks are to be offered for sale. Each license shall bear the date of expiration on the face thereof, shall designate the location for which it is granted, shall not be transferable, and shall only be issued after inspection and approval of the premises by the fire inspector. Each license for a wholesale location shall be for a period of not more than one (1) year. Each license for a retail location shall be for not more than one (1) week.

IV. - Common nomenclature.

No article of common fireworks shall be sold or offered for sale at retail unless it shall comply with RSMo 320.106(2) and shall be properly named to conform to the nomenclature in sub-section I, and unless its classification as common fireworks is certified to by imprinting on the article or retail container "I.C.C. Class C common consumer fireworks," such imprinting to be of sufficient size and so positioned as to be readily recognized.

V.- Permit for public display of fireworks.

Notwithstanding any other provision of this article to the contrary, the fire chief may issue a permit for a maximum period of twenty-four (24) consecutive hours for the possession and use of fireworks, including special fireworks, for the purpose of organized public fireworks exhibitions, provided that the permit holder takes adequate safety precautions to protect the public from injury or property damage, and provided that the exhibition is conducted by skilled, qualified persons.

VI. Safety requirements.

- (a) No permissible fireworks may be sold at retail without a retail license. The license must be on display at the location where the retail sale takes place.
- (b) No license shall be issued for any location where paints, oils or varnishes are manufactured or kept for use or sale nor where rosin, turpentine, gasoline or other similar inflammable substances or any substance which may generate inflammable vapors is used, stored or offered for sale or where the fire inspector shall determine that any condition exists which makes the storage or sale of fireworks at such location unusually hazardous.
- (c) No fireworks shall be stored, kept, sold or discharged within one hundred (100) feet of any gasoline pump, gasoline filling station, gasoline bulk station or any building in which gasoline or volatile liquids are sold in quantities in excess of one (1) gallon.
- (d) Each licensee shall keep and maintain at least two (2), five (5) pounds each, A.B.C. dry chemical fire extinguishers with a 2-A rating or over, mounted in plain view, per location.
- (e) The smoking or carrying of a lighted pipe, cigar, cigarette or tobacco in any form is prohibited in all places where fireworks are sold or displayed within fifty (50) feet thereof.
- (f) No fireworks shall be discharged within three hundred (300) feet of any fireworks retail sales location.
- (g) No fireworks shall be sold or discharged within six hundred (600) feet of any hospital building.
- (h) No fireworks shall be sold within six hundred (600) feet of any church or school building.
- (i) No fireworks shall be sold or discharged on the real property of any church or school unless such person shall first obtain the consent in writing of the board of directors of the school or the consent in writing of the majority of the managing board of the church or place of worship.
- (j) It shall be unlawful to offer for sale or to sell any fireworks to any intoxicated or irresponsible person.
- (k) No person shall expose fireworks in any location where the sun may shine through glass on the fireworks displayed.

- (l) No person shall ignite or discharge any fireworks within, or throw the same from, a motor vehicle while within; nor shall any person place or throw any ignited article of fireworks into or at a motor vehicle.
- (m) No person shall ignite or discharge any fireworks at or near any person or group of people.
- (n) It shall be unlawful to discharge fireworks from the roof or from the inside of any building.
- (o) No person shall knowingly ignite or discharge any fireworks at or onto the property of another without first obtaining consent of the owner, lessee or occupant of such property.
- (p) No fireworks shall be sold other than at a licensed fireworks stand. No fireworks stand shall be located within twenty-five (25) feet of any building of masonry construction or within fifty (50) feet of any building not of masonry construction.
- (q) No bottle rockets may be sold, distributed or discharged within the city limits of New Madrid after the adoption of this Section. However, the prohibition of discharging bottle rockets shall not apply to city employees acting in the scope of their official duties.
- (r) It shall be unlawful for any individual under seventeen (17) years of age to purchase or attempt to purchase any of the fireworks described in this division, or to present or offer to any person purported proof of age which is false, fraudulent or not actually his or her own for purpose of purchasing any such fireworks.
- (s) It shall be unlawful for any individual under seventeen (17) years of age to possess or discharge any of the fireworks described in this division unless under the direct supervision of a parent or guardian.
- (t) No "aerial devices" as defined in this division that utilize a straight and rigid stick of wood, plastic or other material attached to a propellant tube or driver to stabilize or direct flight may be sold, distributed, possessed or discharged within the city limits of New Madrid, except as otherwise authorized in this section. However, this prohibition shall not apply to public fireworks displays for which a permit has been issued pursuant to sub-section V. of this Section

VII. Dates and hours of sale and use.

- (a) No fireworks may be sold except between the hours of 8:00 a.m. and 10:00 p.m. each day during the period from June 27 to July 4 of each year.
- (b) No person shall discharge, ignite or explode any article of fireworks except between the hours of 10:00 a.m. and 10:00 p.m. during the period from June 27 to July 3 of each year, between the hours of 10:00 a.m. on July 4 and 12:00 a.m. on July 5 of each year, and between the hours of 11:30 p.m. on December 31, and 12:30 a.m. on January 1, of each year.

VIII. Exclusions.

Nothing in this article shall be construed as applying to toy paper caps containing not more than an average of twenty-five hundredths of a grain of explosive composition per cap, and packed in conformance with the regulations, or as prohibiting the storage of fireworks for public display as provided in sub-section V. Nothing in this article shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or public transportation or of illuminating devices for photographic use, nor as applying to the military or naval forces of the United States, or of this state, or to peace officers, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical or athletic events.

IX. Penalties.

Violation of any of the provisions of this article shall be punishable as provided in Section 1-16. Violation of any of the provisions of this article shall also cause an immediate and automatic revocation of all licenses or permits issued pursuant to this chapter, and the violator shall be prohibited from selling fireworks within the city for a period of two (2) years. Furthermore, any violation which involves the sale or use of fireworks other than permissible fireworks shall cause an automatic forfeiture of that merchandise to the city.

READ TWO TIMES AND DULY PASSED AND APPROVED THIS _____ DAY OF JUNE, 2011.

APPROVED:

Donnie Brown, Mayor

ATTEST:

City Clerk

Approved as to Form:

City Attorney