

CITY OF OWOSSO

JANUARY 17, 2006

7:30 P.M.

Mayor Robertson called the regular meeting to order at 7:30 p.m.

PRESIDING OFFICER: MAYOR LINDA L. ROBERTSON

OPENING PRAYER: CITY MANAGER GREGG G. GUETSCHOW

PLEDGE OF ALLEGIANCE: MAYOR LINDA L. ROBERTSON

PRESENT: Mayor Linda L. Robertson, Mayor Pro-Tem Mark D. Owen, Councilpersons Michael E. Bruff, Michael N. Cline, Joane E. Ford, Matthew B. Harvey, and Justin R. Horvath.

ABSENT: None.

APPROVE AGENDA

Motion by Councilperson Ford to approve the agenda as presented. Motion supported by Councilperson Harvey and concurred in by unanimous vote.

APPROVE MINUTES - REGULAR MEETING OF JANUARY 3, 2006

Motion by Councilperson Cline to approve the Minutes of the Regular Meeting of January 3, 2006 as presented. Motion supported by Councilperson Ford and concurred in by unanimous vote.

PROCLAMATIONS / SPECIAL PRESENTATIONS

Anne Kessler, Curwood Festival Treasurer, presented Mayor Robertson with a \$1,000 check to be used for the maintenance of Curwood Castle.

PUBLIC HEARINGS

SPECIAL ASSESSMENT DISTRICT NO. 2006-01

LANSING STREET FROM A POINT 66' SOUTH OF BRADLEY STREET TO NORTH END

City Manager Guetschow addressed the Council and audience regarding the special assessment project procedure. The public hearings tonight are for the determination of the necessity of the project.

The public hearing was conducted for the proposed project. There were no public comments.

Motion by Mayor Pro-Tem Owen to adopt the following resolution:

WHEREAS, the City Council, after due and legal notice, has met and there being no one to be heard regarding the proposed public improvement more particularly hereinafter described; and

WHEREAS, the City Council deems it advisable and necessary to proceed with said public improvement as more particularly hereinafter described.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council hereby determines to make and proceed with the following described public improvement and to defray a part or the whole cost, as more particularly hereinafter provided, by special assessment upon the property specially benefited: Lansing Street from a point 66' South of Bradley Street to North End.
2. The City Council hereby approves the plans for the aforesaid public improvement as prepared and presented by the City Manager and determines the estimated cost of said public improvement to be \$55,380.00 and approves said estimated cost and determines that the estimated life of said public improvement is twenty (20) years.
3. The City Council determines that of said total estimated cost, the sum of \$21,373.25 be paid by special assessment upon the property specially benefited, as more particularly hereinafter described.
4. The City Council hereby designates the following described property as the special assessment district upon which the special assessment shall be levied: Lansing Street from a point 66' South of Bradley Street to the North End for street reconstruction.
5. The City Assessor shall prepare a special assessment roll including all lots and parcels of land within the special assessment district herein designated, and the Assessor shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district.

When the Assessor shall have completed the assessment roll, he shall file the special assessment roll with the City Clerk for presentation to the City Council.

Motion supported by Mayor Pro-Tem Owen.

Roll Call Vote.

AYES: Mayor Pro-Tem Owen, Councilpersons Bruff, Cline, Harvey, Ford, Horvath, and Mayor Robertson.

NAYS: None.

SPECIAL ASSESSMENT DISTRICT NO. 2006-02
RIVER STREET FROM M-52 (SHIAWASSEE STREET) TO CEDAR STREET

The public hearing was conducted for the proposed project. There were no public comments.

Motion by Councilperson Ford to adopt the following resolution:

WHEREAS, the City Council, after due and legal notice, has met and there being no one to be heard regarding the proposed public improvement more particularly hereinafter described; and

WHEREAS, the City Council deems it advisable and necessary to proceed with said public improvement as more particularly hereinafter described.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council hereby determines to make and proceed with the following described public improvement and to defray a part or the whole cost, as more particularly hereinafter provided, by special assessment upon the property specially benefited: River Street from M-52 (Shiawassee Street) to Cedar Street.
2. The City Council hereby approves the plans for the aforesaid public improvement as prepared and presented by the City Manager and determines the estimated cost of said public improvement to be \$110,350.00 and approves said estimated cost and determines that the estimated life of said public improvement is twenty (20) years.
3. The City Council determines that of said total estimated cost, the sum of \$48,024.46 be paid by special assessment upon the property specially benefited, as more particularly hereinafter described.
4. The City Council hereby designates the following described property as the special assessment district upon which the special assessment shall be levied: River Street from M-52 (Shiawassee Street) to Cedar Street for street reconstruction.
5. The City Assessor shall prepare a special assessment roll including all lots and parcels of land within the special assessment district herein designated, and the Assessor shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district.

When the Assessor shall have completed the assessment roll, he shall file the special assessment roll with the City Clerk for presentation to the City Council.

Motion supported by Councilperson Harvey.

Roll Call Vote.

AYES: Councilpersons Bruff, Horvath, Cline, Harvey, Ford, Mayor Pro-Tem Owen, and Mayor Robertson.

NAYS: None.

SPECIAL ASSESSMENT DISTRICT NO. 2006-03
RIVER STREET FROM CEDAR STREET TO LANSING STREET

The public hearing was conducted for the proposed project. There were no public comments.

Motion by Councilperson Cline to adopt the following resolution:

WHEREAS, the City Council, after due and legal notice, has met and there being no one to be heard regarding the proposed public improvement more particularly hereinafter described; and

WHEREAS, the City Council deems it advisable and necessary to proceed with said public improvement as more particularly hereinafter described.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council hereby determines to make and proceed with the following described public improvement and to defray a part or the whole cost, as more particularly hereinafter provided, by special assessment upon the property specially benefited: River Street from Cedar Street to Lansing Street.
2. The City Council hereby approves the plans for the aforesaid public improvement as prepared and presented by the City Manager and determines the estimated cost of said public improvement to be \$12,500.00 and approves said estimated cost and determines that the estimated life of said public improvement is twenty (20) years.
3. The City Council determines that of said total estimated cost, the sum of \$7,276.00 be paid by special assessment upon the property specially benefited, as more particularly hereinafter described.
4. The City Council hereby designates the following described property as the special assessment district upon which the special assessment shall be levied: River Street from Cedar Street to Lansing Street for street reconstruction.
5. The City Assessor shall prepare a special assessment roll including all lots and parcels of land within the special assessment district herein designated, and the Assessor shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district.

When the Assessor shall have completed the assessment roll, he shall file the special assessment roll with the City Clerk for presentation to the City Council.

Motion supported by Councilperson Bruff.

Roll Call Vote.

AYES: Mayor Pro-Tem Owen, Councilpersons Horvath, Cline, Harvey, Ford, Bruff, and Mayor Robertson.

NAYS: None.

SPECIAL ASSESSMENT DISTRICT NO. 2006-04
SOUTH STREET FROM CHIPMAN STREET TO CHESTNUT STREET

The public hearing was conducted for the proposed project on South Street.

The following persons addressed the City Council regarding the proposed project:

Ralph Parkin, 1402 South Street, commented in opposition to the proposed project.

City Engineer Ronald Baker responded to Mr. Parkin's comments about narrowing the road, availability of a grant for this project, and paving the currently paved portion to match the other two portions.

City Manager Guetschow commented regarding the narrowing of the street and the need to control traffic.

Lee Allen, 1223 South Street, commented in opposition to the proposed narrowing of the street and the resulting location of the sidewalk.

City Engineer Baker commented regarding the sidewalk concerns. There was discussion regarding removal and replacement of the sidewalk.

Utilities Director Gary Burk commented regarding the installation of a water line behind the existing curb.

There was Council discussion regarding splitting the difference in the street narrowing, increased cost by moving two curbs instead of one, corner lot residents still paying for previous projects, and the amount of the Candlewick Court assessment.

Larry Latunski, 1420 South Street, commented regarding his concerns about currently paying special assessment for Nelson Street and Owosso Drain. He also commented in opposition to the amount being charged.

Ed Urban, 601 Glenwood Avenue, commented regarding installing a boulevard instead of narrowing the street.

Cal Allen, 1223 South Street, commented regarding it being long overdue to get gravel portion done. He also commented in opposition to the narrowing of the street.

John Sullivan, 1218 South Street, questioned whether a sidewalk would be installed on the north side. He commented further in opposition to the project.

There was Council and staff discussion regarding the affect changing the project scope would have the on grant receipts. There was further discussion regarding the project and the traffic speed.

Burton Fox, 216 East Oliver Street, commented regarding the project.

Councilperson Bruff commented regarding increases in property values and the possibility of losing the grant. There was further discussion regarding the real cost per foot for homeowners and narrowing of the street to save money.

There was no action taken on this proposed project to allow Staff time to obtain further information for Council consideration.

SPECIAL ASSESSMENT DISTRICT NO. 2006-05
WATER STREET FROM KING STREET TO GALUSHA STREET

The public hearing was conducted for the proposed project.

The following persons addressed the Council regarding the proposed project:

Erin Moore, 1016 North Water Street, commented in support of the project.

Frank Fear, 1109 North Water Street, commented in opposition to the cost of the project.

City Engineer Baker commented regarding spreading payment over 10 years.

There were further questions regarding the time when the first bill would be received and payment of special assessment when a home is sold.

Jacqueline Runyan, 301 Jennett Street, commented regarding the front footage and about being on a fixed income.

There was Council and staff discussion regarding payment deferment for qualifying persons, water service replacement, property taxes, and typical seller's payment of special assessments prior to sale of home.

Motion by Councilperson Cline to adopt the following resolution:

WHEREAS, the City Council, after due and legal notice, has met and heard all persons to be affected by the proposed public improvement more particularly hereinafter described; and

WHEREAS, the City Council deems it advisable and necessary to proceed with said public improvement as more particularly hereinafter described.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council hereby determines to make and proceed with the following described public improvement and to defray a part or the whole cost, as more particularly hereinafter provided, by special assessment upon the property specially benefited: Water Street from King Street to Galusha Street.
2. The City Council hereby approves the plans for the aforesaid public improvement as prepared and presented by the City Manager and determines the estimated cost of said public improvement to be \$121,880.00 and approves said estimated cost and determines that the estimated life of said public improvement is twenty (20) years.
3. The City Council determines that of said total estimated cost, the sum of \$55,663.30 be paid by special assessment upon the property specially benefited, as more particularly hereinafter described.
4. The City Council hereby designates the following described property as the special assessment district upon which the special assessment shall be levied: Water Street from King Street to Galusha Street for street reconstruction.
5. The City Assessor shall prepare a special assessment roll including all lots and parcels of land within the special assessment district herein designated, and the Assessor shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district.

When the Assessor shall have completed the assessment roll, he shall file the special assessment roll with the City Clerk for presentation to the City Council.

Motion supported by supported by Councilperson Horvath.

Roll Call Vote.

AYES: Mayor Pro-Tem Owen, Councilpersons Bruff, Ford, Cline, Horvath, Harvey, and Mayor Robertson.

NAYS: None.

ORDINANCE AMENDMENT

ORDINANCE NO. 671 CHAPTER 2, ADMINISTRATION, ARTICLE VII, MUNICIPAL EMPLOYEES' PENSIONS, SECTIONS 401-438

A public hearing was conducted to receive citizen comment regarding the proposed amendment to Chapter 2, Administration, Article VII, Municipal Employees' Pensions, Sections 401-438 of the Code of Ordinances of the City of Owosso.

Betty Coon, 1204 Palmer Street, asked for a summary of the proposed amendment and what it would cost.

Mayor Pro-Tem Owen responded to Mrs. Coon's inquiry. He commented that the amendment was needed to bring the pension system into compliance with federal law and to protect the employees' investment. He also commented that it would not affect the city's cost.

City Manager Guetschow requested that this amendment be considered an emergency and that it be adopted with immediate effect.

Whereas, the Council, after due and legal notice, has met and having heard all interested persons, motion by Mayor Pro-Tem Owen that the following ordinance be adopted:

ORDINANCE NO. 671

AN ORDINANCE TO AMEND CHAPTER 2, ADMINISTRATION, ARTICLE VII, MUNICIPAL EMPLOYEES' PENSIONS, SECTIONS 401-438, OF THE CODE OF ORDINANCES OF THE CITY OF OWOSSO, MICHIGAN.

THE CITY OF OWOSSO ORDAINS:

Section 1. That, Chapter 2, Administration, Article VII, Municipal Employees' Pensions, Sections 401-438, of the Owosso City Code shall be and the same is hereby amended to read as follows:

ARTICLE VII MUNICIPAL EMPLOYEES' PENSIONS

Section 2-401. Name and Establishment.

The City of Owosso Employees' Retirement System, hereinafter called the "Retirement System", is hereby established for the purpose of providing Retirement allowances and survivor benefits for the employees of the City and their eligible dependents. The Retirement System shall be maintained for the exclusive benefit of Members and is intended to comply with the requirements of Section 457(a) of the Internal Revenue Code of 1986, as amended from time to time (the "Code"), with the requirements of any regulations issued thereunder, and with the requirements of any other applicable law. The Trustees of the trust established as part of this Retirement System are defined in Section 2-403.

In accordance with the terms of the Retirement System, the Trustees have the ability at any time, and from time to time, to amend the Retirement System.

To be administered effective December 31, 2005, this Retirement System is amended and restated in its entirety to comply with the requirements of the Internal Revenue Code of 1986, as amended by the Uruguay Round Agreements Act, the Small Business Job Protection Act of 1996, the Taxpayer Relief Act of 1997, the Uniformed Services Employment and Reemployment Rights Act of 1996, the Internal Revenue Service Restructuring and Reform Act of 1998, the Community Renewal Tax Relief Act of 2000, the Economic Growth and Tax Relief Reconciliation Act of 2001 and all applicable rulings and regulations issued thereunder.

Section 2-402. Definitions.

The following words and phrases as used in this ordinance, unless a different meaning is clearly indicated by the context, shall have the following meanings:

- (1) "Accumulated Contributions" means the sum of all amounts deducted from the Compensation of a Member and credited to the member's individual account in the Members Savings Fund, together with Regular Interest thereon.
- (2) "Annual Benefit" means a retirement benefit under the Retirement System that is payable annually in the form of a straight life annuity.
 - (a) Actuarial Adjustments to Annual Benefit: Except as otherwise provided in subparagraph (2) below, a benefit payable in a form other than a straight life annuity must be adjusted to be the Actuarial Equivalent of a straight life annuity before applying the limitations of this Article as follows:
 - (1) For Limitation Years beginning before January 1, 1995, such Actuarial Equivalent shall be based on the mortality factors specified under the terms of the Retirement System as in effect before such date and is equal to the greater of the annuity benefit computed using an interest rate of 7% or the interest rate(s) specified for determining actuarial equivalence under the terms of the Retirement System in effect before such date.
 - (2) For Limitation Years beginning on or after January 1, 1995, such Actuarial Equivalent is equal to the greater of the annuity benefit computed using a 7% interest rate and the 1970 Group Annuity Mortality Table and the Annual Benefit computed using a 7% interest rate and 1970 Group Annuity Mortality Table. In determining such Actuarial Equivalent for a benefit form other than a non-decreasing annuity payment for a period of not less than the life of the Participant (or, in the case of a Qualified Preretirement Survivor Annuity, the life of the surviving spouse), or decreases during the life of the Participant merely because of (a) the death of the survivor annuitant (but only if the reduction is not below 50% of the annual benefit payable before the death of the survivor annuitant), or (b) the cessation or reduction of Social Security supplements of qualified disability payments as defined in Code §401(a)(11), "the applicable interest rate" will be substituted for "a 7% interest rate" in the preceding sentence.
 - (b) Circumstances in Which No Actuarial Adjustment Is Required: No actuarial adjustment to the Annual Benefit is required for (a) the value of a Qualified Joint and Survivor Annuity, (b) benefits that are not directly related to retirement benefits (such as the qualified disability benefit, pre-retirement death benefits, and post-retirement medical benefits), and (c) the value of post-retirement cost-of-living increases made in accordance with Code §415(d) and Treasury Regulation §1.415-3(c)(2)(iii). The Annual Benefit does not include any benefits attributable to Employee contributions or rollovers, or the assets transferred from a qualified plan that was not maintained by the City.
- (3) "Beneficiary" means any person, except a Retirant, who is in receipt of, or who is designated to receive, a Pension or other benefit payable by the Retirement System.
- (4) "Board" means the Board of Trustees of the Retirement System as defined in Section 2-403, which is responsible for the administration of the Retirement System.
- (5) "City Attorney" means the person or persons appointed by the City to the position of City Attorney.
- (6) "City Clerk" means the person appointed by the City to the position of City Clerk.
- (7) "City Manager" means the person or persons appointed by the City to the position of City Manager.
- (8) "City Treasurer" means the person or persons appointed by the City to the position of City Treasurer.
- (9) "City" means the City of Owosso.
- (10) "Code §401(a) (17) Limit" means that notwithstanding any provisions of this section to the contrary, Compensation for any calendar year will not exceed the Code §401(a) (17) Annual Compensation Limit. If a determination period consists of fewer than 12 months, the Code §401(a) (17) Annual Compensation Limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. If Compensation for any prior determination period is taken into account in determining a Participant's Retirement System benefits for the current Plan Year, the Compensation for such prior determination period is subject to the applicable Code §401(a)(17) Annual Compensation Limit as in effect for that prior period. As used herein, the Code §401(a) (17) Annual Compensation Limit means the following: (1) \$170,000 for 12-month determination periods which began on or after January 1, 2000. The \$170,000 will be adjusted for increases in the cost of living under Code §401(a) (17) at the same time and in the same manner as under Code §415. A cost of living adjustment in effect for a calendar year applies to any determination period beginning in such calendar year; (2) \$160,000 for 12-month determination periods which began

on or after January 1, 1997 and not later than December 31, 1999; (3) \$150,000 for 12-month determination periods which began prior to January 1, 1997.

- (11) "Compensation" means all cash compensation for services to the City, including salary, wages, fees, commissions, bonuses and overtime pay, that is includible in a Member's gross income for the calendar year, plus amounts that would be cash compensation for services to the City includible in the Member's gross income for the calendar year but for a compensation reduction election under Code §125, 132(f), 401(k), 403(b) or 457(b). In case a Member's Compensation is not all paid in money, the Board shall fix the value of the portion which is not paid in money.
- (12) "Council" means the person or persons elected to the City Council.
- (13) "Covered Member" means any Member who is covered under the Federal social security old-age, survivor's and disability insurance program on account of Member's City employment.
- (14) "Credited Service" means the number of years and months of Service standing to a Member's credit as provided in this ordinance.
- (15) "Disability Pension" means the Disability Pension as established in accordance with the provisions of Section 2-422.
- (16) "Disability Retirement" means the Disability Retirement of a Member as established in accordance with the provisions of Section 2-421.
- (17) "Expense Fund" means the fund established in accordance with the provisions of Section 2-432.
- (18) "Final Average Compensation" means the average of the highest annual Compensation received by a Member during a period of three (3) consecutive years of Credited Service contained within the Member's ten (10) years of Credited Service immediately preceding the date the Member's employment with the City last terminates. If Member has less than three (3) years of Credited Service Member's Final Average Compensation shall be the average of Member's annual Compensation for Member's total period of Service.
- (19) "Fiscal Year" means the City's accounting year beginning July 1 and ending the following June 30.
- (20) "Gender and Number" means words used in the masculine gender will be construed as though they were also used in the feminine or neuter gender where applicable, and words used in the singular will be construed as though they were also used in the plural where applicable.
- (21) "General City Member" means any Member, except a Police Officer or Fire Fighter Member.
- (22) "Income Fund" means the fund established in accordance with the provisions of Section 2-434.
- (23) "Medical Director" means the person or persons appointed in accordance with the provisions of Section 2-408(5).
- (24) "Member" means any person who is included in the membership of the Retirement System.
- (25) "Members Savings Fund" means the fund established in accordance with the provisions of Section 2-429.
- (26) "Non-Covered Member" means any Member who is not covered under the Federal social security old-age, survivors' and disability insurance program on account of Member's employment with the City.
- (27) "Normal Retirement Age" means the provisions as defined in Section 2-416.
- (28) "Pension" means an annual amount payable in equal monthly installments, by the Retirement System, for the life of a person, or for a shorter period, as provided in this ordinance.
- (29) "Pension Reserve" means the present value of all payments to be made on account of any Pension which shall be computed upon the basis of such mortality and other tables of experience with Regular Interest, as the Board shall from time to time adopt.
- (30) "Pension Reserve Fund" means the fund established in accordance with the provisions of Section 2-431.
- (31) "Plan Year" means the Retirement System's accounting year which is the calendar year.
- (32) "Police Officer or Fire Fighter Member" in the case of a Police Officer means any officer or employee in the police department of the City holding the rank of patrolman, including probationary patrolman, or higher rank; and in the case of a Fire Fighter, any officer or employee in the fire department of the City holding the rank of fire-fighter, including probationary fire-fighter, or higher rank: but shall not include (1) any civilian employee in the police or fire department, nor

- (2) any person who is temporarily employed as a Police Officer or Fire Fighter for an emergency, nor (3) any person who is privately employed as a Police Officer or Fire Fighter.
- (33) "Regular Interest" means such rate or rates of interest per annum, compounded annually, as the Board shall from time to time adopt.
- (34) "Retirant" means any Member who retires with a Pension payable by the Retirement System.
- (35) "Retirement Reserve Fund" means the fund established in accordance with the provisions of Section 2-430.
- (36) "Retirement" means a Member's severance from employment with the City with a Pension payable by the Retirement System.
- (37) "Service" means personal Service rendered to the City by an officer or employee of the City.
- (38) "Spouse" means the person to whom a Member is legally married.
- (39) "Trustees" means the Board of Trustees of the Retirement System as defined in Section 2-403, duly appointed and currently serving under the trust agreement.
- (40) "Trust Fund" means all amounts of assets attributed to the Members Savings Fund, the Retirement Reserve Fund, the Pension Reserve Fund, the Expense Fund and the Income Fund of the Retirement System, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights, whether or not held in trust in the custody of the Trustee. The Trust Fund shall be held and invested in accordance with the provisions of Section 2-433.
- (41) "Voluntary Retirement Age" means fifty-five (55) years of age for Police Officer and Fire Fighter Members, and sixty (60) years of age for General City Members.
- (42) "Worker's Compensation Period" means the period a person is in receipt of worker's compensation on account of a Member's disability or death arising out of and in the course of Member's City employment. If a Member is paid a single sum in lieu of future weekly worker's compensation, Member's Worker's Compensation Period shall be the period, if any, Member was in receipt of weekly worker's compensation plus the period arrived at by dividing the said single sum by Member's weekly worker's compensation award.

Section 2-403. Board of Trustees.

- (1) There is hereby created a Board of Trustees (the "Board") in whom is vested the general administration, management, and responsibility for the proper operation of the Retirement System and for making effective the provisions of this ordinance. The Board shall consist of seven (7) Trustees as follows:
- (a) The Mayor;
 - (b) A councilman who is not eligible to participate in the Retirement System as a Member or Retirant;
 - (c) A citizen who has the qualifications required by the charter for holding an elective City office and who is not eligible to participate in the Retirement System as a Member or Retirant, to be appointed by the Council;
 - (d) A Police Officer Member to be chosen by the Police Officer Members;
 - (e) A Fire Fighter Member to be chosen by the Fire Fighter Members, and
 - (f) Two (2) General City Members: One (1) General City Member to be chosen by non-unionized General City Members and one (1) General City Member to be chosen by the unionized General City Members.
- (2) The choosing of the Trustees provided for in paragraphs (d), (e), and (f), above, shall be held in the month of May in each year under such rules and regulations as the Board shall, from time to time, adopt.

Section 2-404. Trustees' Terms of Office-Oath.

The regular term of office of the Trustees provided for in Section 2-403 sub-paragraphs (c), (d), (e), and (f) shall be for four (4) years. The term of office shall expire at the end of each four (4) year period subsequent to July 1, 1965, for the Police Officer Member Trustee; July 1, 1966, for the first General City Member Trustee; July 1, 1967, for the Fire Fighter Member Trustee; and July 1, 1968 for the second General City Member Trustee. The citizen (non-employee) Trustee shall serve at the pleasure of

the Council. Each Trustee shall, within ten (10) days after Trustee has been appointed or chosen, as the case may be, take the oath of office which shall be administered by the City Clerk.

Section 2-405. Vacancy on Board-How Filled.

If a vacancy occurs on the Board, the vacancy shall be filled, within sixty (60) days from and after the date of the vacancy, in the same manner as required for making appointments or choices to position of Trustee.

Section 2-406. Board Meetings.

The Board shall hold meetings regularly, at least one (1) in each quarter in each year, and shall designate the time and place thereof, by rule. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings. Such rules shall become effective when a copy thereof is filed with the City Clerk. A copy of such rules shall also be placed in the Owosso Public Library. All meetings of the Board shall be public. The Trustees shall serve without compensation for their service as such.

Section 2-407. Quorum-Each Trustee Entitled to Vote.

Five (5) Trustees shall constitute a quorum at any meeting of the Board. Each Trustee shall be entitled to one (1) vote on each question before the Board, at least five (5) concurring votes shall be necessary for a decision by the Trustees.

Section 2-408. Retirement System Officers.

- (1) The officers of the Board shall be a chairman and a vice-chairman, elected by the Board from the current Trustees.
- (2) The City Clerk shall serve as secretary to the Board, and the City Clerk shall be the administrative officer of the Retirement System.
- (3) The City Treasurer shall be treasurer of the Retirement System and the custodian of its assets. All payments from moneys of the Retirement System shall be made by the City Treasurer according to charter provisions and any ordinance relating thereto which is adopted by the Council. No payment shall be made unless it shall have been previously authorized by a specific or continuing resolution of the Board.
- (4) The Board shall appoint an actuary who shall be the technical advisor to the Board on matters regarding the operation of the Retirement System, and the actuary chosen shall perform such other duties as are required of the actuary under this ordinance.
- (5) The Board shall appoint as Medical Director a physician who is not eligible to participate in the Retirement System as a Member or Retirant. The Medical Director shall be responsible to and shall hold office at the pleasure of the Board. The Medical Director shall arrange for and pass upon all medical examinations required under this ordinance.

The Medical Director shall investigate all essential statements and certificates of a medical nature made by or on behalf of a Member or Retirant, and the Medical Director shall report in writing to the Board the conclusions on medical matters referred to the Medical Director by the Board.

- (6) The Board may employ such professional and other services as are required for the proper operation of the Retirement System. The compensation for such services shall be fixed by the Board subject to the approval of the Council.
- (7) The City Attorney shall be the legal advisor to the Board. A copy of all written opinions rendered by the City Attorney to the Board shall be filed with the City Clerk.

Section 2-409. Records of Retirement System-Annual Report.

- (1) The City Clerk shall keep, or cause to be kept, in convenient form, such data as shall be necessary for an actuarial valuation of the assets and liabilities of the Retirement System. The Board shall render a report to the City Manager and the Council or their designee within ninety (90) days after the close of each fiscal year of the City showing the fiscal transactions of the Retirement System for the year ending the preceding June 30th, and the last balance sheet showing the financial condition of the Retirement System by means of an actuarial valuation of the assets and liabilities of the Retirement System.
- (2) The Board shall from time to time adopt such mortality, service, and other tables of experience, and a rate or rates of Regular Interest, as are necessary to maintain the operation of the Retirement System on an actuarial basis.

Section 2-410. Membership Consists Of.

- (1) The Members of the Retirement System shall include all persons who are now and who hereafter become employed by the City. Such persons shall be eligible to participate in the Retirement

System immediately upon becoming Members and shall commence participation as soon as administratively practicable. The Members shall not include:

- (a) Any person whose services are compensated for on a contractual, professional, or on a fee basis, unless considered to be a Member on July 1, 1964; nor
 - (b) Any person, except an elected City official, who is employed in a position normally requiring less than one thousand six hundred and sixty-four (1664) hours of work per annum; nor
 - (c) The Medical Director.
- (2) In all cases of doubt, the Board shall decide who is a Member of the Retirement System within the meaning of the provisions of this Retirement System ordinance.

Section 2-411. Termination of Member(s).

- (1) The accrued financial benefits of the Retirement System shall be a contractual obligation of the City and shall not be diminished or impaired by the City. The terms of this ordinance shall constitute the only basis upon which each such contractual obligation shall arise and accrue, and no benefits shall arise or accrue to any Member or Retirant except those specifically provided in this ordinance and in accordance with the terms thereof. Any Member who, in the performance of Member's duties, commits a felony or uses Member's official or employment status with the City as a means for the commission of a felony shall thereby bring about a forfeiture of Member's right to any Pension or benefits under authority of this ordinance and shall be entitled only to a refund of Member's Accumulated Contributions.
- (2) Except as otherwise provided in this ordinance, should any Member have separated or become separated from the Service of the City for any reason except Member's Retirement or death, Member shall thereupon cease to be a Member and Member's Credited Service at that time shall be forfeited. Should Member be re-employed by the City, the re-employed former Member shall again become a Member.
- (3) If a former Member's re-employment occurs within a period of three (3) years from and after the date the former Member last separated from City Service, the former Member's forfeited Credited Service shall be restored to Member's credit subject to Section 2-429(4). Upon Member's Retirement or death Member shall thereupon cease to be a Member.

Section 2-412. Service Credentials.

The Service rendered by a Member shall be credited to Member by the Board in accordance with such rules and regulations, consistent with the provisions of this ordinance, as the Board shall from time to time adopt, but in no case shall less than ten (10) days of Service rendered by a Member in any calendar month be credited Member as a month of Service, nor shall less than nine (9) months of Service rendered in any calendar year be credited as a year of Service, nor shall more than one (1) year of Service be credited any Member for all Service rendered by Member in any calendar year.

Section 2-413. Military Service Credit.

In accordance with Code §414(u), a Member who, while employed by the City, has entered or enters any armed service of the United States, and has been or shall be on active duty in such armed service during any period of compulsory military service shall have such armed service actually required of Member credited as City Service: Provided that (1) Member reentered or reenters the employ of the City within ninety (90) days from and after termination of such armed service actually required of Member, and (2) Member returns to the Members Savings Fund all amounts Member withdrew therefrom at the time Member entered or while Member was in such armed service, together with Regular Interest thereon from the date of withdrawal to the date of repayment, and (3) in no case shall any Member be credited with more than five (5) years of City Service for all such armed service rendered by Member. In any case of doubt as to the period to be so credited, the Board shall have final power to determine such period. During the period of such armed service, and until Member's return to City Service, Member's contributions to the Retirement System shall be suspended and Member's balance, if any, in the Members Saving Fund shall be accumulated at Regular Interest.

Section 2-414. Eligible Domestic Relations Orders.

An Eligible Domestic Relations Order ("EDRO") is a signed domestic relations order issued by a state court which creates, recognizes or assigns to an alternate payee(s) the right to receive all or part of a Member's Retirement System benefit that is or will become payable to the Member. An alternate payee is a Spouse, former spouse, child, or other dependent of a Member who is treated as a Beneficiary under the Retirement System as a result of the EDRO. The Board may establish EDRO procedures, but in the absence of such procedures, the Board will determine if a domestic relations order is an EDRO in accordance with the following:

- (a) Board of Trustees' Determination: Promptly upon receipt of a domestic relations order, the Board will notify the Participant and any alternate payee(s) named in the order of

such receipt and will include a copy of this section. Within a reasonable time after receipt of the order, the Board will make a determination as to whether or not the order is a EDRO as defined in MCL 38.1701 et seq. and will promptly notify the Member and any alternate payee(s) in writing of the determination. If the order is determined to be an EDRO, the Retirement System shall begin the payment of the benefit with the next monthly payment or upon retirement of the Participant.

- (b) **Specific Requirements of an EDRO:** In order for a domestic relations order to be an EDRO, it must specifically state all of the following: (1) the name, last known mailing address (if any) and the social security number of the Member and each alternate payee(s) covered by the order; (2) the dollar amount or percentage of the benefit to be paid to each alternate payee, or the manner in which the amount or percentage is to be determined; (3) the number of payments or period to which such order applies; and (4) the name of the plan to which the order applies. The domestic relations order will not be deemed an EDRO if it requires the Retirement System to provide any type or form of benefit, or any option not already provided for in the Retirement System, or increased benefits determined on the basis of the actuarial value, or benefits in excess of the Member's Retirement System benefit, or payment of benefits to an alternate payee(s) required to be paid to another alternate payee under another EDRO.
- (c) **Disputed Orders:** If there is a question as to whether or not a domestic relations order is a EDRO, there will be a delay in any payout to any payee(s) including the Member, until the status is resolved. If the Retirement System determines that the order is not an EDRO, the Retirement System shall promptly notify the alternate payee(s) of this determination. The notification shall specify the reasons the order was not determined to be an EDRO. This determination does not prohibit the alternate payee(s) or the court from filing an amended order with the Retirement System for redetermination.
- (d) **Death of Alternate Payee(s).** If an alternate payee(s) dies before receiving any payment of a benefit pursuant to an EDRO, that interest reverts to the Member.

Section 2-415. Voluntary Retirement.

Any Member, with ten (10) or more years of Credited Service, who has attained the Member's applicable Voluntary Retirement Age, may retire upon written application to the Board setting forth at what time, not less than thirty (30) days nor more than ninety (90) days subsequent to the execution and filing thereof, Member desires to be retired. Upon Retirement, a Covered Member shall receive a Pension provided in Section 2-417, and a Non-Covered Member shall receive a Pension provided in Section 2-418.

Section 2-416. Normal Retirement Age.

- (1) Any Police Officer or Fire Fighter Member who has attained or attains age sixty (60) years, and any General City Member, except an elected officer of the City or an officer appointed directly by the Council, who has attained or attains age sixty-five (65) years.
- (2) Any Member, who continues in City Service beyond the Member's Normal Retirement Age, as provided in subsection (1) of this section, shall continue to accrue benefits under this ordinance.
- (3) If, at the time of member's separation from City Service, as provided in this section, a Member has ten (10) or more years of Credited Service Member shall be retired and Member shall receive a Pension provided in Section 2-417 if Member is a Covered Member, or as provided in Section 2-418 if Member is a Non-Covered Member.

Section 2-417. Pension-Covered Member.

- (1) Upon a Covered Member's Retirement, as provided in this ordinance, Covered Member shall receive a straight life pension equal to two and one-half percent (2.5%) of Covered Member's Final Average Compensation multiplied by the number of years, and fraction of a year, of Covered Member's Credited Service. Prior to the date of Covered Member's Retirement, Covered Member may elect to receive Covered member's Pension under an option provided in Section 2-420 in lieu of a straight life pension.
- (2) According to such rules and regulations as the Board shall from time to time adopt, any Covered Member who retires under Section 2-415 prior to attainment of age sixty-five (65) years may elect to have such Covered Member's straight life pension actuarially equated to provide an increased Pension payable until Covered Member's attainment of age sixty-five (65) years and a reduced Pension payable thereafter. Covered Member's increased Pension payable until such Covered Member's attainment of age sixty (65) years shall approximate the sum of Covered Member's reduced Pension to be payable after Covered Member's attainment of age sixty-five (65) years and Covered Member's estimated social security primary insurance amount. This subsection shall not be applicable to a Member who elects an option provided in Section 2-420.
- (3) In the event a Covered Member dies before the Covered Member has received in straight life pension payments an aggregate amount equal to the Covered Member's Accumulated

Contributions standing to the Covered Member's credit in the Members Savings Fund at the time of the Covered Member's Retirement, the difference between the Covered Member's said Accumulated Contributions and the said aggregate amount of Pension payments received by the Covered Member shall be paid from the Retirement Reserve Fund to such person or persons as the Covered Member shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person surviving the Covered Member such difference, if any, shall be paid to the Covered Member's legal representative. No benefits shall be paid under this subsection on account of the death of a Covered Member if the Covered Member elected an option provided in Section 2-420.

Section 2-418. Pension-Non-Covered Member.

- (1) Upon a Non-Covered Member's Retirement, as provided in this ordinance, Non-Covered Member shall receive a straight life pension equal to the sum of two percent (2%) of Non-Covered Member's Final Average Compensation multiplied by the number of years, and fraction of a year, of Non-Covered Member's Credited Service, not to exceed twenty-five (25) years, plus one percent (1%) of Non-Covered Member's Final Average Compensation multiplied by the number of years, and fraction of a year, of Non-Covered Member's Credited Service in excess of twenty-five (25) years. Prior to the date of Non-Covered Member's Retirement Non-Covered Member may elect to receive Non-Covered Member's Pension under an option provided in Section 2-420 in lieu of a straight life pension.
- (2) In the event a Non-Covered Member dies before the Non-Covered Member has received in straight life pension payments an aggregate amount equal to the Non-Covered Member's Accumulated Contributions standing to the Non-Covered Member's credit in the Members Savings Fund at the time of the Non-Covered Member's Retirement, the difference between the Non-Covered Member's said Accumulated Contributions and the said aggregate amount of Pension payments received by the Non-Covered Member shall be paid from the Retirement Reserve Fund to such person or persons as the Non-Covered Member shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person surviving the Non-Covered Member, such difference, if any, shall be paid to the Non-Covered Member's legal representative. No benefit shall be paid under this subsection on account of the death of a Non-Covered Member if the Non-Covered Member elected an option provided in Section 2-420.

Section 2-419. Deferred Retirement.

Should any Member who has ten (10) or more years of Credited Service leave the employ of the City prior to Member's attainment of Member's applicable Voluntary Retirement Age for any reason except Member's Retirement or death, Member shall be entitled to a Pension provided in Section 2-417 if Member is a Covered Member, or as provided in Section 2-418, if Member is a Non-Covered Member, as the applicable section was in effect at the time Member left City Service. If Member withdraws Member's Accumulated Contributions from the Members Savings Fund, Member shall thereupon forfeit such Member's right to a deferred Pension provided in this section. Member's said Pension shall begin thirty (30) days after the date Member's application for same is filed with the Board on or after Member's attainment of age sixty (60) years. During the period of Member's absence from City Service, (1) Member shall not be given Credited Service for such period, unless otherwise provided in the ordinance, and (2) Member's balance in the Members Savings Fund shall be accumulated at Regular Interest.

Section 2-420. Pension Options.

- (1) Prior to the date of Member's Retirement, but not thereafter, a Member may elect to receive Member's Pension as a straight life pension payable throughout Member's life, or Member may elect to receive the actuarial equivalent, at that time, of Member's straight life pension in a reduced Pension payable throughout Member's life, and nominate a Beneficiary, in accordance with the provisions of Option A, B, or C set forth below, subject to subsection (2) of this section. Any election made hereunder may be revoked at any time prior to the date of Member's Retirement.
 - (a) *Option A - Pension Payable 10 Years Certain and Life Thereafter.* Under Option A, a Retirant shall receive a reduced Pension payable throughout such Retirant's life with the provision that if the Retirant dies before Retirant has received one hundred twenty (120) monthly Pension payments the payment shall be continued for the remainder of the period of one hundred twenty (120) months to such Beneficiary or Beneficiaries, in equal shares, as the Retirant shall have nominated by written designation duly executed and filed with the Board. If no such designated Beneficiary or Beneficiaries survives the Retirant such remaining monthly Pension payments, if any, shall be paid to the Retirant's estate.
 - (b) *Option B - 100% Survivor Pension.* Under Option B, also called Option II, upon the death of a Retirant such Retirant's reduced Pension shall be continued throughout the life of and paid to such person, having an insurable interest in Retirant's life, Retirant shall have nominated by written designation duly executed and filed with the Board prior to the date of such Retirant's Retirement.

- (c) *Option C - 50% Survivor Pension.* Under Option C, also called Option III, upon the death of a Retirant one-half (1/2) of such Retirant's reduced Pension shall be continued throughout the life of and paid to such person, having an insurable interest in Retirant's life, as Retirant shall have nominated by written designation duly executed and filed with the Board prior to the date of such Retirant's Retirement.
- (2) If any benefits become payable under Section 2-425 on account of the death of a Retirant, (1) no Pension shall be paid to Retirant's designated Beneficiary under Option A, B or C above, and (2) if Retirant's death occurs before Retirant has received in Pension payments an aggregate amount equal to Retirant's Accumulated Contributions standing to Retirant's credit in the Members Savings Fund at the time of Retirant's Retirement, the difference, if any, between Retirant's said Accumulated Contributions and the said aggregate amount of Pension payments received by Retirant shall be paid to Retirant's designated Beneficiary, if living, otherwise to Retirant's legal representative.
- (3) In the event a Retirant, who elected Option B or C, provided in subsection (1) of this section, and Retirant's Beneficiary both die before they have received in Pensions a total amount equal to the Retirant's Accumulated Contributions standing to Retirant's credit in the Members Savings Fund at the time of Retirant's Retirement, the difference between Retirant's said Accumulated Contributions and the said total amount of Pension received by Retirant and Retirant's Beneficiary shall be paid to such person or persons as the Retirant shall have nominated by written designation duly executed and filed with the Board. If no such designated person survives the Retirant and Retirant's Beneficiary such difference, if any, shall be paid to the estate of the survivor of the Retirant and Retirant's Beneficiary.
- (4) In no event shall any Pension payable under the Retirement System begin later than the later of (1) April 1 of the year following the calendar year in which Member attains age seventy and one-half (70-½) or (2) April 1 of the year following the year in which Member retires or otherwise has a severance from employment.

Section 2-421. Disability Retirement.

- (1) Upon the application of a Member, or Member's department head, a Member who (1) is in the employ of the City, and (2) has ten (10) or more years of Credited Service, and (3) becomes totally and permanently disabled for duty in the employ of the City, by reason of a personal injury or disease, may be retired by the Board; provided that after a medical examination of the Member, made by or under the direction of the Medical Director, the Medical Director certifies to the Board (1) that the Member is mentally or physically totally disabled for duty in the employ of the City, (2) that Member's disability will probably be permanent, and (3) that the Member should be retired; provided further, that the report of the Medical Director is concurred in by the Board. Upon Member's Retirement the Member shall receive a Disability Pension provided in Section 2-422.
- (2) The Service requirement contained in subsection (1) of this section shall be waived in the case of a Member whom the Board finds to be totally and permanently disabled as the natural and proximate result of a personal injury or disease arising out of and in the course of Member's actual performance of duty in the employ of the City, and is granted worker's compensation on account of Member's total and permanent disability.

Section 2-422. Disability Pension.

Upon a Member's Retirement on account of disability, as provided in Section 2-421, a Member shall receive a Disability Pension computed according to Section 2-417, exclusive of subsection (2), if Member is a Covered Member, or according to Section 2-418 if Member is a Non-Covered Member. Member's Disability Pension, payable to Member's attainment of age sixty-five (65) years (1) shall in no case be less than twenty percent (20%) of Member's Final Average Compensation, and (2) shall be subject to Section 2-427. Upon Retirement a Member may elect to receive Member's Pension under Option A, B or C provided in Section 2-420 in lieu of a straight life pension.

Section 2-423. Duty Disability-Re-Computation of Pension.

If a Disability Retirant is granted worker's compensation on account of Retirant's disability arising out of and in the course of Retirant's employment with the City, upon termination of Disability Retirant's Worker's Compensation Period, Retirant shall be given Credited Service for such period, and Disability Retirant's Pension shall be recomputed to include such additional Credited Service. In no case shall Disability Retirant's recomputed Disability Pension, payable to Disability Retirant's attainment of age sixty-five (65) years, be less than the amount Disability Retirant was receiving in weekly worker's compensation, if, any, converted to an annual basis.

Section 2-424. Member's Non-Duty Death.

- (1) Any Member who continues in the employ of the City after the date Member has ten (10) or more years of Credited Service, may, by written declaration duly executed and filed with the Board, elect Option B provided in Section 2-420 and nominate a Beneficiary whom the Board finds to be

dependent of the Member, as defined by Code §152. Prior to the date of Member's Retirement the Member may revoke Member's election of Option B and nomination of Beneficiary and Member may again, prior to the date of Member's Retirement, elect the said Option B and nominate a Beneficiary as provided in this subsection. Upon the death of a Member, who has an Option B election in force, Member's Beneficiary, if living, shall immediately receive a Pension computed in the same manner in all respects as if the Member had retired the day preceding the date of Member's death, notwithstanding that Member might not have attained the member's applicable Voluntary Retirement Age. The said Option B shall be applied to a Pension computed according to Section 2-417 for a Beneficiary of a Covered Member, and according to Section 2-418 for a Beneficiary of a Non-Covered Member. If a Member has an Option B election in force at the time of Member's Retirement, Member's said Option election and nomination of Beneficiary shall thereafter continue in force, unless prior to the date of Member's Retirement Member elects to receive Member's Pension as a straight life pension or according to another Option provided in Section 2-420. No Pension shall be paid under this subsection on account of the death of a Member if any benefits, except children's Pensions, are paid or payable under Section 2-425 on account of Member's death.

- (2) Any Member who continues in the employ of the City after the date Member has ten (10) or more years of Credited Service and does not have an Option B election in force as provided in subsection (1) of this section, and (1) dies while in City employment, and (2) leaves a Spouse whom the Board finds to be a dependent of the member as defined by Code §152, the Spouse shall immediately receive a Pension computed in the same manner in all respects as if the Member had (1) retired the day preceding the date of Member's death, notwithstanding that Member might not have attained Member's applicable Voluntary Retirement Age, (2) elected Option B provided in Section 2-420, and (3) nominated Member's Spouse as Beneficiary. The said Option B shall be applied to a Pension computed according to Section 2-417 for a Beneficiary of a Covered Member, and according to Section 2-418 for a Beneficiary of a Non-Covered Member. No Pension shall be paid under this subsection on account of the death of a Member if any benefits, except children's Pensions, are paid or payable under Section 2-425 on account of Member's death.

Section 2-425. Member's Duty Death.

- (1) In the event (1) a Member dies as a result of a personal injury or disease arising solely and exclusively out of and in the course of Member's employment with the City, or (2) a Disability Retirant who, while in receipt of worker's compensation on account of Member's City Service, dies prior to Member's applicable Voluntary Retirement Age as the result of the same injury or disease for which Member was retired, and in either case (1) or (2) such death, injury or disease resulting in death, be found by the Board to have been the result of Member's actual performance of duty in the employ of the City, the applicable benefits provided in paragraphs (a), (b), (c), and (d) of this subsection shall be paid, subject to the condition that the Beneficiary or Beneficiaries eligible to receive a Pension apply for and are granted worker's compensation on account of the death of the Member or Retirant.
 - (a) In the case of the death of a Member, the Accumulated Contributions standing to Member's credit in the Members Savings Fund at the time of Member's death shall be paid according to Section 2-428; provided, that no Pension becomes payable under Section 2-424 on account of Member's death.
 - (b) Spouse's Pension. Member's Spouse shall receive a Pension equal to the Spouse's weekly worker's compensation converted to an annual basis. The said Pension shall begin upon termination of the Spouse's Worker's Compensation Period and shall terminate upon Spouse's remarriage or death.
 - (c) Children's Pension. Member's unmarried child or children under age eighteen (18) years shall each receive a Pension equal to such child's weekly worker's compensation converted to an annual basis. A child's Pension shall begin upon termination of the child's Worker's Compensation Period and shall terminate upon child's adoption, marriage, attainment of age eighteen (18) years, or death, whichever occurs first. If the Spouse's Pension is terminated, as provided in paragraph (b) of this subsection, each such child's Pension shall be increased by an equal share of the Spouse's Pension.
 - (d) Member's parents shall each receive a Pension equal to such parent's weekly worker's compensation converted to an annual basis. A parent's Pension shall begin upon termination of the parent's Worker's Compensation Period and shall terminate upon such parent's remarriage or death.
- (2) Should a claim be made for benefits to be paid under this section and Section 2-420 or 2-424 on account of the death of a Member or Retirant the Board shall have final power to decide under which section benefits are to be paid.

Section 2-426. Subrogation.

In the event an individual becomes entitled to a Pension payable from funds of the Retirement System as the result of an accident or injury caused by the act of a third party, the City shall be

subrogated to the rights of the said individual against such third party to the extent of benefits the City pays or becomes liable to pay.

Section 2-427. Re-Examination of Disability Retirants.

- (1) At least once during the first five (5) years following the Retirement of a Member with a Disability Pension, and at least once in the five (5) year period thereafter, the Board shall require any Disability Retirant, who has not attained the Disability Retirant's Voluntary Retirement Age, to undergo a medical examination to be made by or under the direction of the Medical Director. Should the Disability Retirant refuse to submit to such medical examination in any such period the Board may suspend payment of Disability Retirant's Pension until Disability Retirant's withdrawal of such refusal. If such refusal continues for one (1) year the Board may terminate Disability Retirant's Pension. If, upon such medical examination of the Retirant, the Medical Director reports to the Board that the Retirant is physically able and capable of resuming employment with the City Retirant shall be returned to the employ of the City, if a position is available, and Retirant's Disability Pension shall terminate: Provided, that the report of the Medical Director is concurred in by the Board. In returning a Retirant to City Service reasonable latitude shall be allowed the City in placing Retirant in a position commensurate to Retirant's type of work and rate of Compensation at the time of Retirant's Retirement.
- (2) A Disability Retirant who has been or shall be returned to the employ of the City, as provided in this section, shall again become a Member of the Retirement System. A Disability Retirant's Credited Service in force at the time of such Disability Retirant's Retirement shall be restored to such Disability Retirant's credit. A Disability Retirant shall be given Credited Service for the period Disability Retirant was receiving a Disability Pension if within such period Disability Retirant was in receipt of worker's compensation on account of Disability Retirant's total and permanent disability arising out of and in the course of Disability Retirant's City employment; otherwise Disability Retirant shall not be given Credited Service for such period.

Section 2-427A. Post-Retirement Benefit Increase.

For a monthly benefit after December 31, 1976, beginning with January 1, which is at least twelve (12) full months after the effective date of the benefit, the amount of benefit shall be re-determined effective each January 1 and such re-determined benefit shall be payable for the ensuing year. Such re-determined amount shall be the amount of benefit otherwise payable multiplied by the following percent: One hundred percent (100%) plus one and four-tenths percent (1.4%) for each full year, to a maximum of ten (10) years, in the period from the effective date of the benefit to the current January 1.

(The amount of benefit otherwise payable means the monthly amount of benefit which would be payable disregarding the provisions re-determining benefit amounts after Retirement.)

Section 2-428. Refund of Member's Accumulated Contributions.

- (1) Should any Member, who has not satisfied the age and Service requirements for Retirement provided in Section 2-415, cease to be employed by the City, for any reason except Member's Disability Retirement, Member shall be paid such Member's Accumulated Contributions standing to Member's credit in the Members Savings Fund upon Member's request in writing filed with the Board.
- (2) Upon the death of a Member Member's Accumulated Contributions standing to Member's credit in the Members Savings Fund at the time of Member's death shall be paid to such person or persons as Member shall have nominated by written designation duly executed and filed with the Board; provided that no Pension becomes payable by the Retirement System on account of Member's death, except as provided in Section 2-425. If no such designated person survives the Member, or if Member made no such nomination of Beneficiary, Member's said Accumulated Contributions shall be paid to Member's estate.
- (3) A former Member, who has not satisfied vesting requirements but has thirty (30) or more months of credited service, may leave Member's Accumulated Contributions in Member's credit for provisions of the Reciprocal Retirement Act to be effective until the timely election of option of payment. If by April 1 of the calendar year in which the former Member attains the age of seventy and one-half (70-½) there has been no election of option of payment, any balance standing to Member's credit in Member's Savings Fund shall be transferred to the Income Fund.
- (4) Payment of Accumulated Contributions, as provided in this section, may be made in a single sum or in installments as the Board shall determine.
- (5) Code §401(a)(31) Direct Rollovers. A Member may elect to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the Member in a direct rollover, which is a payment by the Retirement System to the eligible retirement plan specified by the Member.
 - (a) Eligible Rollover Distribution. An eligible rollover distribution is any distribution of all or any portion of the refund of Accumulated Contributions paid to a Member under this section, except that an eligible rollover distribution does not include (1) any distribution

that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Member or for the joint lives (or joint life expectancies) of the Member and the Member's Beneficiary, or for a specified period of ten (10) years or more; (2) any distribution to the extent such distribution is required under Code §401(a)(9); (3) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation on City securities); and (4) the portion of any distribution made on or after January 1, 2000 which is attributable to a hardship distribution described in Code §401(k)(2)(B)(i)(IV).

- (b) Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), an annuity plan described in Code §403(a), or a qualified trust described in Code §401(a), that accepts the Member's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving Spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

Section 2-429. Members Savings Fund.

- (1) The Members Savings Fund, formerly called annuity savings fund, shall be the fund in which shall be accumulated, at Regular Interest, the contributions deducted from the Compensation of Members, and from which shall be made refunds and transfers of Accumulated Contributions, as provided in this ordinance.
- (2) The contributions of a Member shall be five percent (5%) of the Compensation paid Member by the City prior to January 1, 1977 and six percent (6%) of the Compensation paid Member by the City after December 31, 1976.
- (3) The officer or officers responsible for preparing the payroll shall cause the contributions provided for in this section to be deducted from the Compensation of each Member on each and every payroll, for each and every payroll period, so long as Member continues as a Member of the Retirement System. The Members' contributions provided for herein shall be made notwithstanding that the minimum Compensation provided by law for any Member shall be changed thereby. Every Member shall be deemed to consent and agree to the deductions made and provided for herein and payment of Member's Compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the Services rendered by the Member during the period covered by such payment, except as to benefits provided by this ordinance. The officer or officers responsible for preparing the payroll shall certify to the City Treasurer the amount of contribution to be deducted from the Compensation of each Member for each calendar quarter. Each of said amounts shall be deducted by the City Treasurer and shall be paid to the Retirement System and shall be credited to the Member's individual account in the Members Savings Fund.
- (4) In addition to the contributions deducted from the Compensation of a Member, as hereinbefore provided, the officer shall deposit in the Members Savings Fund, by a single contribution or by an increased rate of contribution as approved by the Board the amount, if any, Member withdrew from the Members Savings Fund, together with Regular Interest from the date of withdrawal to the date of repayment. In no case shall any Member be given credit for Service rendered prior to the date Member withdrew Member's Accumulated Contributions until Member repays to the Members Savings Fund all amounts due withdrawn by the Member.
- (5) Upon the Retirement of any Member, the Members Accumulated Contributions shall be transferred from the Member's Savings Fund to the Retirement Reserve Fund. At the expiration of a period of three (3) years from the date an employee who has fewer than thirty (30) months of credited service ceases to be a Member any balance standing to Member's credit in the Members Savings Fund, unclaimed by the Member or Member's legal representative, shall be transferred to the Income Fund.

Section 2-430. Retirement Reserve Fund.

The Retirement Reserve Fund shall be the fund from which shall be paid all Pensions payable as provided in this ordinance. Should a Disability Retirant return to the employ of the City, the Pension Reserve credited to the Disability Retirant, as of that time, shall be transferred from the Retirement Reserve Fund to the Members Savings Fund and Pension Reserve Fund in the same proportion as Disability Retirant's Pension Reserve was originally transferred from the said funds to the Retirement Reserve Fund. The amount transferred to the Members Savings Fund shall be credited to Disability Retirant's individual account therein.

Section 2-431. Pension Reserve Fund.

- (1) The Pension Reserve Fund shall be the fund to which shall be credited contributions made by the City to the Retirement System, and from which shall be made transfers as provided in this section. Upon the basis of such mortality and other experience tables, and Regular Interest, as the Board shall from time to time adopt, the actuary shall annually compute the Pension Reserves (1) for Pensions being paid Retirants and beneficiaries, and (2) covering Service rendered and to be rendered by Members. The said Pension Reserves shall be financed by annual

appropriations, to be made by the Council, determined according to paragraphs (a), (b) and (c) of this subsection.

- (a) The City's annual appropriation for Members' current Service shall be a percent of their annual Compensation which will be an amount which, if paid annually by the City during their future Service, will be sufficient to provide the Pension Reserves at the time of their Retirements for the City-financed portions of the Pensions to be paid them based upon their future Service; and
 - (b) The City's annual appropriation for Members' accrued Service shall be a percent of their annual Compensations which will be an amount which, if paid annually by the City over a period of years to be determined by the Board, will amortize at Regular Interest the unfunded Pension Reserves, if any, for the accrued Service portions of the Pensions to be paid them upon Retirement; and
 - (c) The City's annual appropriations for Pensions being paid Retirants and Beneficiaries shall be a percent of the annual Compensations of Members which will be an amount which, if paid annually by the City over a period of years to be determined by the Board, will amortize at Regular Interest the unfunded Pension Reserves, if any, for Pensions being paid Retirants and Beneficiaries.
- (2) Upon the Retirement of a Member, or at the time of Member's death, the difference between the Pension Reserve for the Pension payable and Member's Accumulated Contributions shall be transferred from the Pension Reserve Fund to the Retirement Reserve Fund. The Board may from time to time transfer from the Pension Reserve Fund to the Retirement Reserve Fund such additional amounts as it determines to be necessary for the proper maintenance of the Retirement Reserve Fund.

Section 2-432. Expense Fund.

The Expense Fund shall be the fund to which shall be credited all money provided by the City to pay the administration expense of the Retirement System, and from which shall be paid all expenses necessary in connection with the administration of the Retirement System. The Board shall, annually, certify to the Council, according to budget procedure, the amount of appropriation necessary to administer the Retirement System during the ensuing fiscal year. The Council shall appropriate such amount to the credit of the Expense Fund.

Section 2-433. Investment of Assets.

- (1) The Board shall be the Trustees of the assets of the Retirement System, which shall be invested in a trust. The Trustees shall have full power to invest and reinvest such assets subject to the provisions of Act No. 314 of the Public Acts of 1965, as amended, and as it might from time to time be amended or replaced by successor acts.
- (2) The Board shall have full power to hold, purchase, sell, assign, transfer, and dispose of any investments in which any of the moneys of the Retirement System have been invested as well as the proceeds of such investments and any moneys belonging to the system. There shall be kept on deposit available cash not exceeding five percent (5%) of the total assets of the Retirement System. The Trustees shall ensure that all investments, amounts, property and rights held under the Trust Fund are held for the exclusive benefit of Members and their Beneficiaries. The Trust Fund shall be held in trust pursuant to the trust agreement for the exclusive benefit of Members and their Beneficiaries and defraying reasonable expenses of the Retirement System and of the Trust Fund. It shall be impossible, prior to the satisfaction of all liabilities with respect to Members and their Beneficiaries, for any part of the assets and income of the Trust Fund to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.
- (3) The description of the various funds of the Retirement System shall be interpreted to refer to the accounting records of the Retirement System and not to the segregation of assets in the funds of the Retirement System.

Section 2-434. Income Fund; Crediting of Regular Interest.

- (1) The Income Fund shall be the fund to which shall be credited all Regular Interest, dividends and other income derived from investments of the Retirement System, all gifts and bequests received by the system, all unclaimed Accumulated Contributions as provided in this ordinance, and all other moneys received by the Retirement System the disposition of which is not specifically provided in this ordinance. There shall be transferred from the Income Fund all amounts required to credit Regular Interest to the Members Savings Fund, Retirement Reserve Fund and Pension Reserve Fund, as provided in this ordinance. Whenever the Board determines the balance in the Income Fund is more than sufficient to cover current charges to the fund such excess, or any part thereof, may be used to provide contingency reserves or to meet special requirements of the other funds of the Retirement System. Whenever the balance in the Income Fund is insufficient to meet the charges to the fund the amount of the insufficiency shall be transferred from the Pension Reserve Fund to the Income Fund. A Member's Accumulated Contributions transferred

from the Members Savings Fund to the Income Fund may be paid from the Income Fund upon claim for same approved by the Board.

- (2) The Board shall, at the end of each fiscal year, allow and credit Regular Interest on the Members' individual balances in the Members Savings Fund, computed on the individual balances at the beginning of the fiscal year; and on the mean balances during the fiscal year in the Pension Reserve Fund and Retirement Reserve Fund.

Section 2-435. Assignments Prohibited.

The right of a person to a Pension, to the return of Accumulated Contributions, the Pension itself, any option benefit, any other right accrued or accruing to any person under the provisions of this ordinance, and any moneys belonging to the Retirement System shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, and shall be unassignable, except as is specifically provided in this ordinance. If a Member is covered by a group insurance or prepayment plan participated in by the City, and should Member be permitted to, and elect to, continue such coverage as a Retirant, Member may authorize the Board to have deducted from Member's Pension the payments required of Member to continue coverage under such group insurance or prepayment plan. The City shall have the right of set off for any claim arising from embezzlement by or fraud of a Member, Retirant or Beneficiary.

Section 2-436. Amendment, Termination and Merger.

- (a) Amendment of the Retirement System. The City will have the right to amend the Retirement System at any time subject to the following provisions:
 - (1) General Requirements: Amendments (including a change in the actuarial basis for determining optional or early retirement benefits) must be in writing and cannot (1) increase the responsibilities of the City without written consent; (2) deprive any Member or Beneficiary of Retirement System benefits to which Member is entitled; (3) decrease the amount of any Member's Accrued Benefit except as permitted under Code §412(c)(8); (4) permit any part of the Trust Fund to be used for or diverted to purposes other than the exclusive benefit of the Members or their Beneficiaries except as required to pay taxes and administration expenses, or cause or permit any portion of the Trust Fund to revert to or become the property of the City; or (5) eliminate or reduce a retirement-type subsidy, or an early retirement benefit, or an optional form of benefit with respect to benefits attributable to service before the amendment. In the case of a retirement-type subsidy, this provision will apply only to a Member who satisfies the pre-amendment conditions for the subsidy either before or after the amendment. In general, a retirement-type subsidy is a subsidy that continues after retirement, but does not include a qualified disability benefit, a medical benefit, a social security supplement, or a death benefit (including life insurance).
 - (2) Certain Corrective Amendments: To satisfy the minimum coverage requirements of Code §410(b), the nondiscriminatory amount requirement of Regulation §1.401(a)(4)-1(b)(2), or the nondiscriminatory plan amendment requirement of Regulation §1.401(a)(4)-1(b)(4), a corrective amendment may retroactively increase accrued benefits for Members who benefited under the Retirement System during the Plan Year being corrected, or may grant Accrued Benefits to Members who did not benefit under the Retirement System during the Plan Year being corrected. To satisfy the nondiscriminatory current availability requirement of regulation §1.401(a)(4)-4(b) for benefits, rights or features, a corrective amendment may make a benefit, right or feature available to Members to whom it was previously not available. A corrective amendment will not be effective prior to the date of adoption unless it satisfies the applicable requirements of regulation §1.401(a)(4)-11(g)(3)(ii) through (vii), including the requirement that, in order to be effective for the preceding Plan Year, such amendment must be adopted by the 15th day of the 10th month after the close of the preceding Plan Year.
- (b) Termination of Retirement System By City. The City at any time can terminate the Retirement System and Trust Fund in whole or in part in accordance with, and subject to, the following provisions:
 - (1) Termination of Retirement System: The City can terminate the Retirement System and Trust Fund by filing written notice of any such termination with the City. If required by law, such written notice will be provided at least 60 days (or any other period as may be required by law or regulation) prior to the date of termination.
 - (2) Vesting Requirement: Upon complete termination of the Retirement System, all Members will have a 100% Vested Interest in Member's unpaid accrued benefit to the date of complete termination.

- (3) Continued Administration of Retirement System Pending Distribution: Upon complete termination of the Retirement System the City will continue to administer the Retirement System until distribution has been made to the Members (which distribution must occur within a reasonable time after the termination of the Retirement System) with full settlement of all such benefits made by lump sum payments of the Actuarial Equivalent of benefits and/or through the purchase of a group annuity contract or individual annuity contracts to the extent of Trust Fund assets.
- (4) Allocation of Trust Fund Assets to Members, Spouses and Beneficiaries: If the Retirement System is terminated, the Trust Fund will be allocated on the basis of the costs of benefits due Covered Members and Non-Covered Members as referenced in Sections 2-417 and 2-418.
- (c) Retirement System Merger or Consolidation. The Retirement System and Trust Fund may not be merged or consolidated with, nor may any of its assets or liabilities be transferred to, any other plan, unless the benefits payable to each Member if the Retirement System was terminated immediately after such merger, consolidation or transfer would be equal to or greater than the benefits to which such Member would have been entitled if this Retirement System had been terminated immediately before such merger, consolidation or transfer.

Section 2-437. This amended and restated ordinance shall become effective immediately.

Section 2-438. This ordinance may be purchased or inspected in the City Clerk's office Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

Motion supported by Councilperson Ford.

Roll Call Vote.

AYES: Councilpersons Harvey, Horvath, Ford, Mayor Pro-Tem Owen, Councilpersons Cline, Bruff, and Mayor Robertson.

NAYS: None.

CITIZEN COMMENTS AND QUESTIONS

Wayne Roszman, District 6 County Commissioner, commented regarding the newly appointed Community Corrections Director Linda Spencer. He also commented on the Community Corrections program and the project to increase security at the county courts.

Gary Martenis, 705 Lingle Avenue, commented regarding Holman Pool.

Ed Urban, 601 Glenwood Avenue, commented that he was glad to hear that security will be provided at the county courts.

Lee Allen, 1223 South Street, commented regarding the South Street project and that she "doesn't want to see something that isn't broken fixed".

Burton Fox, 216 East Oliver Street, commented regarding Habitat for Humanity and the need for affordable property.

There was Council comments regarding City involvement in a Habitat project. Councilman Harvey asked that staff provide a list of city-owned lots that could be used for this purpose.

Councilman Cline asked about the clean up status of the two houses that had recently burned. Staff is to report at the next meeting.

CONSENT AGENDA

Motion by Councilperson Ford to approve the Consent Agenda as follows:

Traffic Control Order No. 1157. Authorized Traffic Control No. 1157 to allow 2-hour parking from 9:00am to 5:00pm on the north side of Mason Street between Park Street and Saginaw Street, rescinding TCO # 754.

Warrant No. 321. Accepted Warrant No. 321 as follows:

Vendor	Description	Fund	Amount
Huron & Eastern Railway Company, Inc.	Annual maintenance of active traffic control devices	General	\$5,690.00
Brown & Stewart, PC	Professional Services covering the period from December 14, 2005 to January 10, 2006.	General	\$13,305.44

Motion supported by Councilperson Harvey.

Roll Call Vote.

AYES: Councilpersons Bruff, Ford, Cline, Horvath, Harvey, Mayor Pro-Tem Owen, and Mayor Robertson.

NAYS: None.

ITEMS OF BUSINESS

SANITARY SEWER OVERFLOW CONTROL PROGRAM

Utilities Director Gary Burk addressed the City Council regarding the proposed Sanitary Sewer Overflow Control Program and requested a public hearing be scheduled to allow for citizen comment on the proposed rules for addressing this matter.

Motion by Councilperson Ford to set a public hearing for February 6, 2006 to receive citizen comment regarding proposed rules addressing private sector sources of storm water or groundwater entering the Sanitary Sewer system through illicit connections.

Motion supported by Councilperson Harvey.

Roll Call Vote.

AYES: Councilpersons Ford, Cline, Bruff, Horvath, Mayor Pro-Tem Owen, Councilperson Harvey, and Mayor Robertson.

NAYS: None.

COMMUNICATIONS

Jack Foland. Congratulations on clean audit report.

Gregg G. Guetschow, City Manager. Costs for Holman Pool Operation.

Gregg G. Guetschow, City Manager. Response regarding the removal of abandoned signs.

John F. Archer, Building Official. December 2005 Building Department Report.

John F. Archer, Building Official. December 2005 Code Violations Report.

Michael T. Compeau, Public Safety Director. December 2005 Police Department Report.

Michael T. Compeau, Public Safety Director. December 2005 Fire Department Report.

Downtown Development Authority. Minutes of Meeting of January 4, 2006.

Councilperson Cline commented regarding Holman Pool funding. There was general discussion regarding the funding and budgetary concerns.

Councilperson Bruff commented regarding proposed sandwich board sign project.

CITIZEN COMMENTS AND QUESTIONS

Lee Allen, 1223 South Street, commented regarding commercial pool maintenance.

Gary Martenis, 705 Lingle Avenue, commented further regarding Holman Pool and funding.

Burton Fox, 216 East Oliver Street, commented that time is available on his television program for a program on the sanitary sewer overflow issue.

Ed Urban, 601 Glenwood Avenue, commented regarding children needing to know how to swim and save people.

ADJOURNMENT

Motion by Mayor Pro-Tem Owen for adjournment at 10:03 p.m., supported by Councilperson Ford and concurred in by unanimous vote.

Linda L. Robertson, Mayor

Gail L. Schultz, City Clerk