

OWOSSO CITY COUNCIL

MARCH 20, 2006

7:30 P.M.

PRESIDING OFFICER: MAYOR LINDA L. ROBERTSON

OPENING PRAYER: PASTOR CAL EMERSON
NORTHGATE WESLEYAN CHURCH

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 Mayor Pro-Tem Owen to approve the Agenda as presented with the following addition: Item of Business #3 – Environmental Services Contract for Robbins Loft and Authorization of an Access Agreement with Raymond J. Rau. Motion supported by Councilperson Harvey and concurred by unanimous vote.

APPROVE MINUTES – MARCH 6, 2006

Motion by Councilperson Ford to approve the Minutes of the Regular Meeting of March 6, 2006 as presented. Motion supported by Councilperson Harvey and concurred by unanimous vote.

PROCLAMATIONS/SPECIAL PRESENTATIONS

Public Safety Director Michael T. Compeau introduced the new Fire Division Chief Michael Bradley.

CITIZEN COMMENTS/QUESTIONS

County Commissioner Wayne Roszman gave an update on County Commission proceedings.

Gary Martenis, 705 Lingle Avenue, read a statement regarding Holman Pool.

James Griesen of Target Industries, 222 South Elm Street, commented on the condition of the building adjoining his company, safety issues, and the cost to rehabilitate the building.

There was general Council and staff discussion regarding the status of the closing on the sale, the structural security of the building, plans the current purchaser may have for the building, the procedure and requirements for condemnation, the purchase price of the building, who would bear the cost of condemnation and demolition, a possible Brownfield designation for the site, whether Target Industries would be interested in buying the building, whether or not the building could be rehabilitated, the manner in which the building was constructed, construction of the firewall between the two buildings, and taxes related to the property.

There was further discussion regarding revisiting the subject at a later time, looking for safety concerns in regard to Target Industries and its employees, not jeopardizing the sale of the building, updating Council as the sale progresses, and a timeline for assessing the physical condition of the building.

The 30-minute time limit was reached.

CONSENT AGENDA

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

Set Public Hearing – Brownfield Redevelopment Plan. A Public Hearing was set for April 17, 2006 to receive citizen comment regarding proposed Brownfield Redevelopment Plan--"District #11, 219 South Washington Street."

Discharge of Mortgage. Authorized Discharge of Mortgage, subject to payoff of the outstanding balance, as it relates to 114 West Main Street (David W. Sheets – Burlington Sofa and Mattress Company) and further authorized the Mayor and City Clerk to execute appropriate documents.

Warrant No. 323. Accepted Warrant No. 323 as presented.

| Vendor | Description | Fund | Amount |
|--------------------|--|-------------|---------------|
| Brown & Stewart PC | Professional services covering the period from February 15, 2006 to March 14, 2006 | General | \$11,586.84 |

Motion supported by Mayor Pro-Tem Owen.

Roll Call Vote.

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

NAYS: None.

ITEMS OF BUSINESS

SANITARY SEWER OVERFLOW CONTROL PROGRAM – ENGINEERING CONSULTANT

There was brief Council discussion regarding the scope of work performed by City employees, the scope of work performed by the Consultant and the costs involved.

Motion by Mayor Pro-Tem Owen to approve staff recommendation of Orchard, Hiltz, & McCliment, Inc. for consulting engineering services for the Sanitary Sewer Overflow Control Program.

Motion supported by Councilperson Bruff.

Roll Call Vote.

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

NAYS: None.

INDEMNITY AGREEMENT – GREENWOOD LIMITED

Motion by Councilperson Ford to authorize Mayor and City Clerk to execute the following indemnity agreement with Greenwood Limited Dividend Housing Association Limited Partnership in regard to releasing utility easements at Sites 43 and 44 of the Woodland Trails Condominium Project;

INDEMNITY AGREEMENT

THIS INDEMNITY AGREEMENT is entered into this _____ day of _____ 2006, between Greenwood Limited Dividend Housing Association Limited Partnership of 21400 Ridgetop Circle, Suite 250, Sterling, Virginia 20166 (“Indemnitee”), the City of Owosso, a Michigan municipal corporation, of 301 West Main Street, Owosso, Michigan 48867 (“City”) and Woodside West L.L.C., a Michigan limited liability company, of 5432 Morrish Road, Swartz Creek, Michigan 48473 (“Developer”).

This Indemnity Agreement is based upon the following facts:

- A. The City sold certain real property to Developer that was burdened with an access easement for the benefit of contiguous real property owned by Indemnitee recorded in Liber 661, Pages 260-264 of the Shiawassee County Records;
- B. In order to accommodate Developer’s planned condominiums on the property, Indemnitee entered into a Partial Release of Easement recorded in Liber 1080, Page 805 of the Shiawassee County Records which terminated the access rights of Indemnitee but reserved the right to maintain utilities in the entire area of the original easement.
- C. The City and Developer have subsequently requested that Indemnitee enter into a Quit Claim Deed which reduces the size of the easement for utilities to that area actually occupied by existing utilities, and
- D. Indemnitee has asked that the City and Developer hold it harmless from any loss of utility services suffered by Indemnitee or its tenants resulting from development of the condominiums on the property to be quit claimed.

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

- 1. As an inducement for and in consideration for Indemnitee entering into a Quit Claim Deed to reduce the area of its utility easement, the City and Developer agree to jointly and severally indemnify, defend and hold harmless the Indemnitee from all loss of utility services suffered by it or its tenants as a result of the development of condominiums on the property to be quit claimed.
- 2. This Agreement and all rights created under it shall be governed by the laws of the State of Michigan.

3. This Agreement contains the entire understanding of the parties as to its subject matter and may only be amended by a writing signed by all parties.

Motion supported by Councilperson Horvath.

Roll Call Vote.

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

NAYS: None.

ENVIRONMENTAL SERVICES CONTRACT FOR ROBBINS LOFT AND AUTHORIZATION OF AN ACCESS AGREEMENT WITH RAY RAU

There was general discussion regarding the need to proceed with this item to avoid delays, the selection of the contractor, and the loan amount.

Motion by Mayor Pro-Tem Owen to approve an environmental services contract with AKT Peerless Environmental Services, subject to the following requirements and review by the City Attorney, and approve access agreement with pertinent terms from the following requirements:

1. The \$750 Determination of Adequacy fee shall be removed from the proposal because it is not an eligible expense.
2. The proposal cost shall be capped at \$85,000 unless approved by prior Council amendment.
3. Because the proposal is subject to public disclosure, all references to confidentiality shall be removed.
4. The proposal must reference an access agreement with the current owner and the owner's acceptance of the liability terms.
5. The contract must remove all references to indemnity from negligence.
6. The time to inform AKT of defaults in performance shall be extended from 3 days to 4 days.
7. The utility markings shall not be the City's responsibility. AKT shall employ the Miss Dig process. Marking utility lines on the property shall be the responsibility of the owner of the property.
8. Repair of property damage on-site shall be the responsibility of the property owner. Property damage in the right-of-way that is required for environmental site investigation or due care responses shall be corrected by the property owner but as a compensable expense in the brownfield plan. Other property damage in the right-of-way shall be at AKT expense.
9. References to right of AKT to impose a lien under the Construction Lien Act shall be removed from the proposal.

Motion supported by Councilperson Harvey.

Roll Call Vote.

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

NAYS: None.

COMMUNICATIONS

Governor Jennifer M. Granholm. 2006 Cool Cities Program update.
John F. Archer, Building Official. February 2006 Building Department Report.
John F. Archer, Building Official. February 2006 Code Violations Report.
Michael T. Compeau, Public Safety Director. February 2006 Police Department Report.

CITIZEN COMMENTS/QUESTIONS

Kim Staples, 501 South Shiawassee Street, gave an update on fund raising for Holman Pool and inquired about matching funds.

There was Council and staff discussion regarding City funding for Holman Pool, the recent millage vote, a shortened schedule for Holman Pool, and the amount of money required to operate the pool.
Gary Martenis, 705 Lingle Avenue, commented on asking Council for matching funds for the pool.

Daniel Vargas, 709 Lynn Street, commented on a tree cut down in front of a property he owns and moving a telephone pole.

There was general Council and staff discussion regarding the parties responsible for cutting down trees, Consumers Energy tree trimming projects in recent years, tree trimming in Buckley subdivision, and why City crews cut down trees.

Diane Scharnowske, 1101 North Shiawassee Street, commented on the recent millage request for Holman Pool.

Betty Coon, 1204 Palmer Avenue, commented on the Consumers Energy tree trimming program.

Burton Fox, 216 East Oliver Street, commented on adding last minute items to the agenda.

Eddie Urban, 601 Glenwood Avenue, commented on donations for Holman Pool, the proposed SATA millage, and selling City properties.

There was general Council and staff discussion regarding the amount of money needed to operate Holman Pool for one year, shortening the pool schedule, continuing the fund raising effort for Holman Pool, and reasons for the funding deadline.

There was also Council and staff discussion regarding parking issues by Central School, handicap parking in Westown, the status of approval of wording for a millage petition for Holman Pool, and paving alleys.

THE CITY COUNCIL RECESSED TO EXECUTIVE SESSION FOR COLLECTIVE BARGAINING PURPOSES AT 8:48 P.M.

THE CITY COUNCIL RETURNED FROM EXECUTIVE SESSION AT 9:36 P.M.

EXECUTIVE SESSION MINUTES – FEBRUARY 6, 2006

Motion by Councilperson Ford to approve the February 6, 2006 Executive Session Minutes as presented.

Motion supported by Mayor Pro-Tem Owen and concurred in by unanimous vote.

ADJOURNMENT

Motion by Councilperson Ford, supported by Councilperson Harvey for adjournment at 9:37 p.m. and concurred in by unanimous vote.

Linda L. Robertson, Mayor

Amy K. Kohagen, Deputy City Clerk