

OWOSSO CITY COUNCIL

SEPTEMBER 18, 2006

7:30 P.M.

PRESIDING OFFICER: MAYOR LINDA L. ROBERTSON

OPENING PRAYER: MAYOR LINDA L. ROBERTSON

PLEDGE OF ALLEGIANCE: FORMER MAYORS JAMES CAPITAN, JOHN C.M. DAVIS, MICHAEL DVORAK, AND CHRISTINE MITCHELL

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

ABSENT: Justin R. Horvath.

APPROVE AGENDA

Motion by Councilperson Harvey to approve the agenda as presented with the addition of Item of Business #4, Set Public Hearing.

Motion supported by Councilperson Cline and concurred in by unanimous vote.

APPROVAL OF THE MINUTES OF REGULAR MEETING OF SEPTEMBER 5, 2006

Motion by Councilperson Ford to approve the Minutes of the Regular Meeting of September 5, 2006 as presented.

Motion supported by Councilperson Harvey and concurred in by unanimous vote.

PUBLIC HEARINGS

NEIGHBORHOOD ENTERPRISE ZONE

Director of Community Development Philip B. Hathaway introduced project developer Scott Bosgraaf, described the purpose of the NEZ designation and the process for notifying the public and the affected taxing jurisdictions.

The proposed zone is based on the State of Michigan Public Act 147 of 1992 and is intended to induce homesteading in an older industrial area of Owosso through reduced homestead millage for the occupants. The area of the proposed zone is subject to public hearing and is described as:

- 621 Clinton Street W 1/2 LOT 8 BLK 22 A L & B O WILLIAMS ADD
- 615 Clinton Street E 1/2 OF LOT 8 BLK 22 A L & B O WILLIAMS ADD
- 601 Clinton Street N 56' OF LOT 1 BLK 22 A L & B O WILLIAMS ADD
- 216 South Elm Street THE S 10' OF LOT 1 & ALL OF LOTS 2 3 4 5 6 & 7 BLK 22 & ALL OF VACATED GENESEE ST LYING BETWEEN ELM AND HOWELL STREETS OF AL & BO WILLIAMS ADD TO THE CITY OF OWOSSO (EXCEPT THE S 115' THEREOF)
- 222 South Elm Street THE S 115' OF THE FOLLOWING DESC- THE S 10' OF LOT 1 & ALL OF LOTS 2 3 4 5 6 & 7 BLK 22 & ALL OF VACATED GENESEE ST LYING BETWEEN ELM AND HOWELL STS OF AL & BO WILLIAMS ADD TO THE CITY OF OWOSSO ALSO PART OF LOT 1 BLK 24 A L & B O WILLIAMS ADD TO CITY BEG AT PT ON N LN OF SD LOT 1 WHICH IS W 7.68' OF NE CORNER SD LOT 1 TH W 119.47' TH S 2.80' TH NE'LY 119.50' TO POB
- 312 -317 South Elm Street LOTS 16 & 17 INCL W 1/2 ADJ VAC HOWELL ST EXC W 7' OF LOT 16 BLK 23 ALSO LOTS 1 THRU 8 INCL ADJ N 20' VAC CASS & W 1/2 ELM & E 1/2 HOWELL STS EXC PRT OF LOT 1 DESCR AS BEG 7.68' W OF NE COR OF SD LOT 1 - W 119.47' - S 2.8' - NE'LY 119.5' TO POB BLK 24 ALSO LOTS 5 8 & 9 INCL W 1/2 VAC ALLEY ADJ TO LOT 5 & PRT OF LOT 4 DESCR AS BEG AT SW COR LOT 4 - E 40' - NW'LY TO A PT 33' N OF SW COR LOT 4 - S TO BEG INCL E 1/2 VAC ALLEY ADJ TO THIS PRT OF LOT 4 ALSO INCL N 20' ADJ VAC CASS ST & E 1/2 VAC ADJ S ELM ST ALL ON A L & B O WILLIAMS ADDN
- 229 South Cedar Street LOTS 10 THRU 15 & W 7' LOT 16 BLK 23 A L & B O WILLIAMS ADD

The following person addressed the City Council in writing.

James Griesen, president of Target Industries.

There was Council/Staff discussion regarding the similarities and differences of the NEZ designation and a historical district and the scope of the properties involved in the proposed NEZ and the proposed Brownfield.

There was no action required at this time. City Council will consider the matter again at the November 20, 2006 meeting.

BROWNFIELD REDEVELOPMENT PLAN – DISTRICT #12 – WOODARD STATION LOFTS, LLC

A Public Hearing was conducted to receive citizen comment regarding proposed Brownfield Redevelopment Plan--"District #12, Woodard Station Lofts, LLC."

Developer Scott Bosgraaf commented regarding the proposed district's purpose. He also commented regarding how the Neighborhood Enterprise Zone and the Brownfield Plan work together and the scope of the proposed project.

The following persons addressed the City Council regarding the proposed Brownfield Redevelopment Plan:

David Vaughn, 1210 West Oliver Street, inquired as to when the project would start. It was indicated that roof repairs have already started and depending on approval of various items work could start in 30-60 days.

John C. M Davis, 536 Randolph Street, commented on a similar project Bosgraaf had undertaken in Holland, MI.

Mayor Robertson inquired as to costs of the plan for the City. It was indicated the City would be reimbursed by the Brownfield Plan.

Motion by Mayor Pro-Tem Owen to adopt Brownfield Redevelopment Plan – District #12 – Woodard Station Lofts, LLC as follows:

RESOLUTION NO. 06-2006
RESOLUTION APPROVING A BROWNFIELD PLAN
"DISTRICT #12, WOODARD STATION LOFTS, LLC"
317 SOUTH ELM STREET
FOR THE CITY OF OWOSSO PURUSANT TO AND
IN ARRORDANCE WITH THE PROVISIONS OF ACT 381 OF THE
PUBLIC ACTS OF THE STATE OF MICHIGAN OF 1996, AS AMENDED

WHEREAS, the Brownfield Redevelopment Authority (the "Authority") of the City of Owosso, pursuant to and in accordance with the provisions of the Brownfield Redevelopment Financing Act, being Act 381 of the Public Acts of the State of Michigan of 1996, as amended (the "Act"), has prepared and recommended for approval by the City of Owosso Council, a Brownfield Plan entitled "District #12, Woodard Station Lofts, LLC" (the "Plan"), pursuant to and in accordance with Section 13 of the Act, to be carried out within the Brownfield Redevelopment Zone (the "Zone"), said zone being the entire City and with said District #12 described as:

City of Owosso, Shiawassee County, Michigan, A. L. & B. O. Williams Subdivision of Outlots 6 & 7, being...
Lots 16 & 17 including West ½ adjacent vacated Howell Street, Except West 7 feet of Lot 16, Block 23, Also Lots 1 thru 8 including adjacent North 20 feet vacated Cass and West ½ Elm and East ½ of Howell Streets, Except part of Lot 1 described as beginning 7.68 feet West of the Northeast corner of said Lot 1, West 119.47 feet, South 2.8 feet, Northeasterly 119. 5feet to point of beginning, Block 24, Also Lots 5, 8 and 9, including West ½ of vacated alley adjacent to Lot 5 and part of Lot 4 described as beginning at Southwest corner of Lot 4, East 40 feet, Northwesterly to a point 33 feet North of the Southwest corner of Lot 4, South to beginning including East ½ vacated alley adjacent to this part of Lot 4, Also including North 20 feet adjacent vacated Cass Street and East ½ vacated adjacent South Elm Street, all on A.L. & B. O. Williams Addition.
And,

WHEREAS, the Authority has, at least twenty (20) days before the meeting of the City Council at which this resolution has been considered, provided notice to and fully informed all taxing jurisdictions which are affected by the Financing Plan (the "Taxing Jurisdictions") about the fiscal and economic implications of the proposed Financing Plan, and the Council has previously provided to the Taxing Jurisdictions a reasonable opportunity to express their views and recommendations regarding the Financing Plan and in accordance with Sections 13 (10) and 14 (1) of the Act; and

WHEREAS, the Council has made the following determinations and findings:

- A. The Plan constitutes a public purpose under the Act;
- B. The Plan meets all of the requirements for a Brownfield Plan set forth in Section 13 of the Act;

- C. The proposed method of financing the costs of the eligible activities, as described in the Plan is feasible and the Authority has the ability to arrange the financing;
- D. The costs of the eligible activities proposed in the Plan are reasonable and necessary to carry out the purposes of the Act;
- E. The amount of captured taxable value estimated to result from the adoption of the Plan is reasonable; and

WHEREAS, as a result of its review of the Plan and upon consideration of their views and recommendations of the Taxing Jurisdictions, the Council desires to proceed with approval of the Plan.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Plan Approved. Pursuant to the authority vested in the Council by the Act, and pursuant to and in accordance with the provisions of Section 14 of the Act, the Plan is hereby approved in the form considered by the Council on September 18, 2006 and maintained on file in the office of the City Clerk.
2. Severability. Should any section, clause or phrase of this Resolution be declared by the Courts to be invalid, the same shall not affect the validity of this Resolution as a whole nor any part thereof other than the part so declared to be invalid.
3. Repeals. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

Motion supported by Councilperson Bruff.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

DDA BOUNDARY AMENDMENT

The public hearing was held to receive citizen comment regarding proposed amendment to the District Boundary and the 2004 Downtown Development and Tax Increment Financing Plan Boundary. The boundary is generally described as incorporating the land and associated street right-of-way that includes the area planned for a bicycle loop trail from the Oakwood Avenue Bridge to the Washington Street Bridge. The boundary amendment is an ordinance amendment to the Owosso City Code in part and an amendment by resolution to the Development and Tax Increment Financing Plan Boundary.

Director of Community Development Philip B. Hathaway explained the proposed changes would allow the DDA to apply their resources to construction and improvement of the river trail and a possible upgrade of Jerome Street in the future.

There were no citizen comments.

No action was required. The City Council will consider the matter again at the meeting of November 20, 2006.

CITIZEN COMMENTS AND QUESTIONS

Mayor Robertson welcomed former Mayors and Mayors Pro-Tem to the meeting.

Gary Martenis, 705 Lingle Avenue, commented on cutting weeds on Lingle Avenue, installing a "No Left Turn" sign on Palmer Avenue, and conduct at the Council meeting of September 5, 2006.

Betty Coon, 1204 Palmer Avenue, commented on her desire for a "No Left Turn" sign on Palmer Avenue at the Baker College entrance and inquired as to who pays for improvements made to properties outside the City limits.

Shelva Cebulski, 1243 Marion Street, commented on mowing the former Vaungarde property.

William Owen, 1309 Herman Street, commented on his feelings regarding the Palmer Avenue reconstruction and his desire to have tonight's executive session open to the public.

David Vaughn, 1210 West Oliver Street, commented on his belief things had gone too far on the Palmer Avenue issue and should have been resolved previously.

Burton Fox, 216 East Oliver Street, commented on the handling of the Palmer Avenue reconstruction and the responsibilities of City Council members.

Ed Urban, 601 Glenwood Avenue, commented on cutting unmowed lots and bees at the football stadium.

John C.M. Davis, former Mayor, 536 Randolph Street, commented on his support for the City Manager and Staff.

David Pyke, 1401 North Hickory Street, inquired as to how many miles are put on the police cars each year. (Approximately 45,000-50,000 miles per year.)

Mayor Robertson read aloud a letter from Denise Bannan, president of Baker College of Owosso, regarding the reconstruction of Palmer Avenue.

Councilperson Ford pointed out that no City money had been spent on the reconstruction of Palmer Avenue.

There was general Council/Staff discussion regarding installing a "No Left Turn" sign at the Palmer Avenue entrance to Baker College.

Motion by Councilperson Cline to install a used "No Left Turn" sign on Palmer Avenue at the entrance to Baker College with review after 90 days.

Motion supported by Councilperson Bruff.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

Councilperson Cline commented on the current use of the building at 720 South Chipman Street.

CONSENT AGENDA

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

Set public hearing. Set a public hearing for October 2, 2006 to receive citizen comment regarding the proposed 2006 Parks and Recreation Master Plan.

Conduct First Reading and Set Public Hearing

The First Reading on the proposed ordinance amendment was held.

A public hearing was scheduled for October 2, 2006 to receive citizen comment regarding proposed changes to Sections 38-501 through 38-502, of Article XXI, *Board of Appeals*, of Chapter 38, Zoning, of the Code of Ordinances of the City of Owosso as follows:

AN ORDINANCE TO AMEND CHAPTER 38, ZONING, ARTICLE XXI, *BOARD OF APPEALS*, SECTIONS 38-501 THROUGH 38-503, OF THE CODE OF ORDINANCES OF THE CITY OF OWOSSO, MICHIGAN.

THE CITY OF OWOSSO ORDAINS:

Section 1. That, Chapter 38, Zoning, Article XXI, *Board of Appeals*, Sections 38-501 through 38-503, of the Code of Ordinances of the City of Owosso, Michigan shall be and the same is hereby amended to read as follows:

Sec. 38-501. Creation and membership.

(a) *Establishment.* There is hereby established a city zoning board of appeals in accordance with Act No. 110 of the Public Acts of Michigan of 2006 (MCL125.3101 et seq., as amended. The board of appeals shall perform its duties and exercise its powers as provided by Section 603 of the Act, as amended, and in such a way that the objectives of this chapter may be equitably achieved; that there shall be provided a means for competent interpretation and controlled flexibility in the application of this chapter; that the health, safety and welfare of the public be secured, and that substantial justice be secured.

(b) *Membership, terms of office.* The board shall consist of five (5) members: One (1) member being a member of the planning commission; the remaining regular members and any alternate members shall be selected from the electors of the City of Owosso residing within the City who shall be representative of the population distribution and of the various interests present in the local unit of government. One regular member may be a member of the City Council but shall not serve as chairman of the zoning board of appeals. An employee or contractor of the City may not serve as member of the zoning board of appeals. Except for the planning commissioner or Council appointments that are not term limited. Appointments for the first year to be made for a period of one (1), two (2), and three (3) years respectively, two (2) of which shall be appointed for three (3) years, so as nearly as may be to provide for the appointment of an equal number each year, thereafter each member to hold office for the full three-year term. Two (2) alternate members shall be appointed. Appointments for the first year are to be made for two (2) and three (3)

years respectively, thereafter each alternate to hold office for the full three-year term. A successor shall be appointed not more than 1 month after the term of the preceding member has expired. The alternate members may sit as regular members of the board of appeals in the absence of a regular member if a regular member is absent from or unable to attend one (1) or more meetings of the board of appeals or for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been selected shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the board of appeals. All members of the board shall serve without compensation. Board vacancies shall be filled by council appointment for the unexpired terms remaining. The board shall annually elect a chairman, vice-chairman and secretary. Members of the board of appeals shall be removable by the council for nonfeasance, malfeasance and misfeasance in office upon written charges and after public hearing.

(c) *Training for board of appeals members.* It shall be the duty of the building inspector to carefully review with each new member of the board of appeals the provisions of this chapter, most importantly the provisions of Article XXI as they regard the duties, powers and scope of responsibility that each board member will assume while a member of the board of appeals. Furthermore, once each year the city building inspector may, at the board's request, review with the entire board of appeals their duties, powers, scope of responsibilities and the procedures and policies set forth for the board of appeals in the chapter.

Sec. 38-502. Organization and procedures.

(a) *Rules of procedure.* The board of appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The board shall choose its own chairperson, and in his or her absence, an acting chairperson. The rules of procedure shall contain compliance requirements consistent with Section 601 PA 110 of 2006 as amended and that is a member must disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

(b) *Meetings.* Meetings shall be held at the call of the chairperson and at such times as the board of appeals may determine. All meetings by the board shall be open to the public. The board may declare any meeting, or part of any meeting, a study meeting to pursue matters of business without comment or interruption from the public in attendance. A writing prepared, owned, used, in the possession of, or retained as required by this act shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) *Records.* Minutes shall be recorded of all proceedings which shall contain the evidence received, the findings of fact and data relevant to every case considered, together with the votes of the members and the final disposition of each case. Such minutes shall be filed in the office of the city clerk and shall be made available to the general public.

(d) *Counsel.* The city attorney shall act as legal counsel for the board and shall be present at all meetings upon request of the board.

(e) *Hearings and notice.* The board of appeals shall fix a reasonable time for the public hearing of the appeal and give due notice thereof to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all single- and two-family dwellings within three hundred (300) feet regardless of whether the property or occupant is located in the zoning jurisdiction, such notice to be published in a newspaper of general circulation and to be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll at least 15 days in advance of the public hearing and shall decide the same within a reasonable time. If the tenant's name is not known, the term "occupant" may be issued. The board may require any party applying to the board for relief to give such notice to other interested parties as it shall prescribe. Upon the hearing, any party may appear in person or by agent or by attorney. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, the board of appeals may in passing upon appeals vary or modify any of its rules, regulations or provisions relating to the construction, or structural changes in equipment, or alteration of buildings or structures, or the use of land, buildings, or structures, so that the spirit of the ordinance shall be observed, public safety secured and substantial justice done. The board may recess such hearing from time to time and, if the time and place of the continued hearing is publicly announced at the time of adjournment of the board hearing, no further notice shall be required.

(f) *Decisions.* The board of appeals shall return a decision on a case within sixty (60) days after a request or appeal has been filed, unless a further time is agreed upon with the parties concerned. Any decision of the board shall not become final until expiration thereof five (5) days from the date of entry of such order, unless the board shall find the immediate effect of such order is necessary for the preservation of property or personal rights and shall so certify on the record.

(g) *Quorum and vote.* The presence of three (3) members shall be necessary to constitute a quorum. A vote of a majority vote of the full board shall be necessary to reverse any order, requirement,

decision, or determination of the city building official or to decide in favor of the applicant on any matter upon which they are required to pass under this chapter or to effect any variation in this chapter.

(j) *Reports to council.* At intervals of not greater than one (1) year, the board of appeals shall, by written report to the council, list all applications and appeals made to it since its last report, and shall summarize its decisions on such applications and appeals.

Sec. 38-503. Appeals.

(a) *Filing of appeals.* Appeals to the board of appeals may be made by any person aggrieved, or by any officer, department, board or bureau of the city. Any appeal from the ruling of the building inspector concerning the enforcement of the provisions of the chapter shall be made to the board of appeals within ten (10) days after the date of the notice of the building inspector's decision. Such appeal shall be filed with the secretary of the board of appeals and with the city building inspector, and shall specify the grounds for the appeal. The city building inspector shall immediately transmit to the secretary of the board all papers constituting the record upon which the action appealed from was taken.

(b) *Stay.* An appeal shall stay all proceedings in furtherance of the action appealed from unless the city building inspector certifies to the board of appeals after notice of appeal has been filed with her/him that by reason of facts stated in the certificate a stay would, in the inspector's opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of appeals, or, on application, by court of record.

(c) *Fees.* A fee, as established by the city council, shall be paid to the City at the time the petitioner files an application with the board. The purpose of such fee is to cover, in part, the necessary advertisements, investigations, hearing records and other expenses incurred by the board in connection with the appeal; No fee shall be charged if the city or any official body of the city is the moving party.

(d) *Review by circuit court.* Any party aggrieved by any order, determination or decision of any officer, agency, board, commission, board of appeals or the council which has acted pursuant to the provisions of Act No. 110 of the Public Acts of Michigan 2006, as amended, and Act No. 285 of the Public Acts of Michigan of 1931 (MCL 125.31 et seq., MSA 5.2991 et seq.), as amended may obtain a review thereof both on the facts and the law, in the circuit court of the county; provided, that application is made to the court within thirty (30) days after the board of appeals certifies its decision in writing or approves the minutes of the decision; and further provided, that all other means of local appeal and review as provided in this chapter have first been exhausted. The circuit court shall review the record and decision of the board of appeals to ensure that the decision:

- (1) Complies with the constitution and laws of the state;
- (2) Is based upon proper procedure;
- (3) Is supported by competent, material, and substantial evidence on the record;
- (4) Represents the reasonable exercise of discretion granted by law to the board of appeals.

If the circuit court finds the record of the board of appeals inadequate to make the review required by this section, or that there is additional evidence which is material and with good reason was not presented to the board of appeals on conditions which the court considers proper, the board of appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. The supplementary record and decisions shall be filed with the courts. As a result of this review the circuit may affirm, reverse, or modify the decision of the board of appeals.

Section 2. This Ordinance shall become effective 20 days following its adoption.

Section 3. 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.

Conduct First Reading and Set Public Hearing

The First Reading on the proposed ordinance amendment was held.

A public hearing was scheduled for October 2, 2006 to receive citizen comment regarding proposed changes to Section 2-411 (d), of Article VII, Municipal Employees' Pensions, of Chapter 2, Administration, of the Code of Ordinances of the City of Owosso as follows:

AN ORDINANCE TO AMEND CHAPTER 2, ADMINISTRATION, ARTICLE VII, *MUNICIPAL EMPLOYEES' PENSIONS*, SECTION 2-411 (d), 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*, Section 2-411 (d), of the Code of Ordinances of the City of Owosso, Michigan shall be and the same is hereby amended to read as follows:

Sec. 2-411. Termination of Membership.

(d) If a former member has at least thirty (30) months previous credited service and his or her re-employment with the City occurs after three (3) years but within a period of fifteen (15) years from and after the date the former member last separated from the City service, the former member's forfeited credited service may be restored to the member's credit, provided the member deposits his or her withdrawn contributions accumulated and interest pursuant to Section 2-429(d) within five (5) years after the member becomes re-employed with the City. If a member deposits his or her withdrawn contributions and interest, the service credit for the first period of employment shall be calculated based upon the factor and final average compensation in effect on the date of first separation from employment with the City. Upon a member's retirement or death, the member shall thereupon cease to be a member.

Section 2. This Ordinance shall become effective 20 days following its adoption.

Section 3. 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.

Bid Award. Approved low bid of Berger Chevrolet for four police cars in the amount of \$19,977.00 each.

Bid Award. Approved low bid of Schictells Nursery for the purchase of 100 trees for the 2006 Fall Tree Planting Project in the amount of \$6,600.00.

Payment Authorization. Authorized Progress Payment No. 1 to Aerocon Photogrammetric Services Inc. for aerial photography services in the amount of \$2,210.00 for work completed prior to June 30, 2006.

Payment Authorization. Authorized Progress Payment No. 1 to Michigan Pavement Solutions LLC for the 2006 Seal Coat and Slurry Seal Program in the amount of \$56,757.86.

Boards and Commissions Appointment. Approved mayoral appointment of April Treen to the Owosso Downtown Development Authority to fill the position vacated by Jamie Irish for a term expiring June 30, 2009.

Warrant No. 332. Accept Warrant No. 332 as follows:

Vendor	Description	Fund	Amount
Mid-Michigan Area Group Narcotics Enforcement Team	Annual Commitment	General	\$15,700.00
Brown & Stewart, PC	Professional services covering the period from August 1, 2006 to September 12, 2006	General	\$13,784.16

Motion supported by Councilperson Bruff.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

ITEMS OF BUSINESS

PROPERTY SALE

Motion by Mayor Pro-Tem Owen to authorize the sale of property described as:

PART OF THE NORTHEAST 1/4 OF SECTION 24, T7N, R2E, CITY OF OWOSSO, SHIAWASSEE COUNTY, MICHIGAN, AND BEING PART OF BLOCK 28 OF THE ORIGINAL FLAT OF OWOSSO, AS RECORDED IN LIBER B, PAGE 411, SHIAWASSEE COUNTY RECORDS, DESCRIBED AS: BEGINNING ON THE WEST LINE OF LOT 6, BLOCK 28, AT A POINT WHICH IS 132 FEET SOUTH OF THE NORTHWEST CORNER, THENCE CONTINUING SOUTH ALONG SAID WEST LINE 4 FEET, THENCE EAST 16 FEET, THENCE NORTH 4 FEET, THENCE WEST 16 FEET TO THE POINT OF BEGINNING to Trecha Enterprises DPHU, LLC, 1115 Dowling Place, Owosso, Michigan 48867 for \$1.00.

Motion supported by Councilperson Ford.

Roll Call Vote.

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

NAYS: Councilperson Cline.

ABSENT: Councilperson Horvath.

ESTABLISH DEFINED CONTRIBUTION RETIREMENT PLAN

There was some discussion regarding the vesting requirements and how those requirements were determined.

Motion by Mayor Pro-Tem Owen to adopt the following resolution establishing a defined contribution retirement plan:

RESOLUTION NO. 07-2006

WHEREAS, the City of Owosso has employees rendering valuable services; and

WHEREAS, the establishment of a money purchase retirement plan benefits employees by providing funds for retirement and funds for their beneficiaries in the event of death; and

WHEREAS, the City of Owosso desires that its money purchase retirement plan be administered by the ICMA Retirement Corporation and that the funds held in such plan be invested in the Vantage Trust, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plans.

NOW, THEREFORE, BE IT RESOLVED, that the City of Owosso hereby establishes a money purchase retirement plan (the "Plan") in the form of the ICMA Retirement Corporation Governmental Money Purchase Plan & Trust, pursuant to the specific provisions of the Adoption Agreement (executed copy attached hereto).

The Plan shall be maintained for the exclusive benefit of eligible employees and their beneficiaries; and

BE IT FURTHER RESOLVED that the City of Owosso hereby executes the Declaration of Trust of the Vantage Trust, and attached hereto as Appendix B, intending this execution to be operative with respect to any retirement or deferred compensation plan subsequently established by the City, if the assets of the plan are to be invested in the Vantage Trust; and

BE IT FURTHER RESOLVED that the City of Owosso hereby agrees to serve as trustee under the Plan and to invest funds held under the Plan in the Vantage Trust; and

BE IT FURTHER RESOLVED that the City Manager shall be the coordinator for the Plan; shall receive reports, notices, etc., from the ICMA Retirement Corporation or the Vantage Trust; and shall cast, on behalf of the City, any required votes under the Vantage Trust; may delegate any administrative duties relating to the Plan to appropriate departments; and

BE IT FURTHER RESOLVED that the City of Owosso hereby authorizes the City Manager to execute all necessary agreements with the ICMA Retirement Corporation incidental to the administration of the Plan.

Motion supported by Councilperson Ford.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

PERSONNEL RULES AND REGULATIONS AMENDMENT

Motion by Councilperson Ford to adopted the following amendment to the retirement provisions of the City's Personnel Rules and Regulations:

Retirement

Retirement-Option A:

- (a) General City employees hired prior to January 1, 2006 shall remain in the employer's current Defined Benefit pension plan adopted by City Ordinance No. 638, Article VII, Owosso Employee's Retirement System, effective July 1, 1945, or convert to an Option B Defined Contribution Plan available to employees hired after January 1, 2006.
- (b) Vacation, sick leave, life insurance, hospitalization insurance and all other benefits, shall terminate at the date of the employee's retirement.
- (c) General City employees benefit formula shall be Final Average Compensation (FAC) times the sum of 2.5% for all years of credited service. Retirement eligibility is age sixty (60) with ten (ten) years or more of service.

Retirement-Option B:

- (a) General City employees hired after January 1, 2006 may participate in a Defined Contribution pension program by making contributions to such programs that are made available by the employer.

- (b) Vacation, sick leave, life insurance, hospitalization insurance, and all other benefits shall terminate at the date of the employee's retirement.
- (c) Employees may make contributions to a defined contribution program in such amounts as permitted by the Federal laws and regulations.
- (d) The employer will match employee contributions to the employee's defined contribution account, dollar for dollar, up to a maximum of four percent (4%) of the employee's gross annual salary.
- (e) Employees are one hundred percent (100%) vested in their contributions. Employees will become vested in the Employer's contributions in accordance with the following schedule:
 - 50% upon completion of two (2) years of service
 - 60% upon completion of three (3) years of service
 - 70% upon completion of four (4) years of service
 - 80% upon completion of five (5) years of service
 - 90% upon completion of six (6) years of service
 - 100% upon completion of seven (7) years of service

Motion supported by Mayor Pro-Tem Owen.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

SET PUBLIC HEARING – COMMUNITY DEVELOPMENT BLOCK GRANT CLOSE-OUT

Motion by Councilperson Ford to set a public hearing for October 2, 2006 to receive citizen comment regarding the close-out of the Community Development Block grant project at 104-108 North Washington Street.

Motion supported by Councilperson Harvey.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

COMMUNICATIONS

- Vickie Jacobs, Charter Communications. Announcement of Charter Telephone service.
- Philip B. Hathaway, Community Development Director. Response to letter from James Griesen regarding effects of proposed Neighborhood Enterprise Zone.
- John F. Archer, Building Official. August 2006 Building Department Report.
- John F. Archer, Building Official. August 2006 Code Violations Report.
- Michael T. Compeau, Public Safety Director. August 2006 Police Department Report.
- Michael T. Compeau, Public Safety Director. August 2006 Fire Department Report.
- Downtown Development Authority. Minutes of Meeting of September 6, 2006.
- Shiawassee District Library. Minutes of Meeting of July 26, 2006.

CITIZEN COMMENTS AND QUESTIONS

Betty Coon, 1204 Palmer Avenue, thanked Council and Staff for their efforts in installing a "No Left Turn" sign at the Palmer Avenue entrance to Baker College, she also inquired about whether M-52 would be changed from 4 lanes to 3 lanes and why the City was maintaining M-52 instead of the State.

City Manager Guetschow indicated the State was only studying a proposal to change M-52 from 4 lanes to 3 lanes and the City would be reimbursed for costs incurred in the maintenance of M-52.

John Fogus, 1403 George Street, commented on reduced traffic on George Street due to the reopening of South Street.

James Stechschulte, former Mayor Pro-Tem, 901 West Oliver Street, commented the City should pay a portion of the Palmer Avenue reconstruction.

Michael Dvorak, former Mayor, 637 Water Street, commented on the consideration of the proposed NEZ and his support for the City Manager.

Paul Dinkins, 217 East King Street, commented on Baker paying for the entire Palmer Avenue reconstruction project.

Mark Anderson, former Councilperson, 106 North Lansing Street, commented on Baker College's generous offer and the performance of the City Manager.

Ed Urban, 601 Glenwood Avenue, inquired as to when Council considered the paving of the parking lot at Bentley Park. Staff indicated the item had been before Council and was included in the budget.

Burton Fox, 216 East Oliver Street, commented on flooding on East Williams Street. Staff indicated the storm sewer pipe was small preventing the area from draining quickly.

Judy Lamphere, former Mayor, 431 Curwood Drive, commented on her support for the City Manager.

There was general Council/Staff discussion regarding the probable traffic sensor installed by the State at the intersection of M-52 and King Street and painting lane indicators at the intersection of Main Street and Dewey Street.

Councilperson Bruff thanked everyone in the audience for their presence and encouraged them to attend more meetings.

Councilperson Cline commented on his feeling that people should be present to have their views heard and moving the Farmer's Market.

RECESS TO EXECUTIVE SESSION TO HEAR COMPLAINTS REGARDING THE CITY MANAGER'S PERFORMANCE

Motion by Mayor Pro-Tem Owen to recess to executive session at 8:44 p.m.

Motion supported by Councilperson Harvey.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

RETURNED FROM EXECUTIVE SESSION AT 10:00 PM

Mayor Robertson commented on Council's satisfaction with the discussion in executive session.

ADJOURNMENT

Motion by Mayor Pro-Tem Owen for adjournment at 10:02 p.m.

Motion supported by Councilperson Ford and concurred in by unanimous vote.

Linda L. Robertson, Mayor

Amy K. Kohagen, Deputy City Clerk