

OWOSSO CITY COUNCIL

FEBRUARY 20, 2007

7:30 P.M.

PRESIDING OFFICER: MAYOR LINDA L. ROBERTSON

OPENING PRAYER: MAJOR HENRY TEMPEL
SALVATION ARMY

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.

*Councilperson Horvath arrived at 7:44 pm.

APPROVE AGENDA

Motion by Councilperson Ford to approve the agenda as presented with the addition of the following Item of Business:

6. Bid Authorization. Waive competitive bidding procedures and allow bid solicitation and approval by City Staff for abatement of public nuisances at 122 East Main Street (Lebowsky Center).
Staff Contact: John F. Archer

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

APPROVAL OF THE MINUTES OF REGULAR MEETING OF FEBRUARY 5, 2007

Motion by Councilperson Bruff to approve the Minutes of the Regular Meeting of February 5, 2007 as presented.

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

APPROVAL OF THE MINUTES OF SPECIAL MEETING OF FEBRUARY 12, 2007

Motion by Councilperson Bruff to approve the Minutes of the Special Meeting of February 12, 2007 as presented.

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

PUBLIC HEARINGS

ORDINANCE AMENDMENT – REZONING REQUEST

Director of Community Development Philip Hathaway described the area to be affected by the rezoning and reported the Planning Commission recommended approval of the rezoning request.

Scott Bosgraaf, developer of Woodard Station Lofts, indicated the PUD designation would allow for the mixed use desired for the development. He also offered to answer any questions on the project.

The public hearing was conducted to receive citizen comment regarding request to rezone the parcels described as follows:

Parcel A - 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

Parcel B - LOT 3 BLK 25 A L & B O WILLIAMS ADD INCLUDING 1/2 CLOSED ALLEY

Parcel C - LOT 4 (EX COM S W COR LOT 4 TH E 40' N'WSTLY TO A PT 33' N OF SW COR LOT 4 S 33'
TO BEG BLK 25 A L & B O WILLIAMS ADD INCLUDING 1/2 CLOSED ALLEY

from I-1 Light Industrial District to PUD Planned Unit Development District.

There were no citizen comments.

Whereas, the Council, after due and legal notice, has met and there being no one to be heard, motion by Mayor Pro-Tem Owen that the following ordinance be adopted:

ORDINANCE NO. 685

AN ORDINANCE TO AMEND SECTION 38-27 OF CHAPTER 38 OF THE CODE OF ORDINANCES OF THE CITY OF OWOSSO, MICHIGAN.

THE CITY OF OWOSSO ORDAINS:

SECTION 1. That Section 38-27 of Chapter 38 of Article II of the Owosso City Code, District Boundaries, is hereby amended by changing the designation of the following lots and parcels of land designated in a zoning map of the City of Owosso, and referred to in said Section and made a part thereof, which said lots and parcels hereby intended to be redesignated are not described in body of said Section as in certain zone districts; said designation being as follows:

APPLICANT: Scott Bosgraaf
200 Franklin
Zeeland, MI 48464

PROPERTY ADDRESSES: 317 South Elm Street
314 & 318 South Shiawassee Street

PROPOSED REZONING: FROM I-1 Light Industrial District
TO PUD Planned Unit Development District

PROPERTY DESCRIPTION:

Parcel A - 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 & 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

Parcel B - LOT 3 BLK 25 A L & B O WILLIAMS ADD INCLUDING 1/2 CLOSED ALLEY

Parcel C - LOT 4 (EX COM S W COR LOT 4 TH E 40' N'WSTLY TO A PT 33' N OF SW COR LOT 4 S 33' TO BEG BLK 25 A L & B O WILLIAMS ADD INCLUDING 1/2 CLOSED ALLEY

SECTION 2. The changes made in the zoning in the lots and parcels of land hereinbefore described are hereby ordered to be redesignated on said map in accordance with this Ordinance.

SECTION 3. This Ordinance shall take effect March 12, 2007.

Motion supported by Councilperson Harvey.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

SITE PLAN REVIEW – Woodard Station Lofts

The public hearing was conducted to receive citizen comment regarding review of the site plan for the Planned Unit Development on the following parcel:

PART OF BLOCK 23, 24, 25, VACATED HOWELL STREET, ELM STREET, A PORTION OF VACATED CASS STREET, ALONG WITH VACATED ALLEY IN BLOCK 25 ALL IN AL AND B.O. WILLIAMS ADDITION TO THE CITY OF OWOSSO, AS RECORDED IN LIBER 29 OF DEEDS, ON PAGE 499, SHIAWASSEE COUNTY RECORDS, CITY OF OWOSSO, SHIAWASSEE COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID BLOCK 23 THAT IS 7.00 FEET EAST OF THE SOUTHWEST CORNER OF LOT 16, BLOCK 23; THENCE ALONG A LINE THAT IS 7.00 FEET EAST OF

AND PARALLEL WITH THE WEST LINE OF LOT 16 IN SAID BLOCK 23 NORTH 03 DEGREES 32 MINUTES 18 SECONDS EAST 231.07 FEET TO THE NORTH LINE OF SAID LOT 16, BLOCK 23; THENCE ALONG THE NORTH LINE OF LOT 16 AND 17 OF SAID BLOCK 23 SOUTH 86 DEGREES 27 MINUTES 47 SECONDS EAST 191.04 FEET; THENCE SOUTH 03 DEGREES 31 MINUTES 54 SECONDS WEST 48.83 FEET; THENCE SOUTH 86 DEGREES 55 MINUTES 16 SECONDS EAST 272.29 FEET TO THE EAST LINE OF BLOCK 24; THENCE ALONG THE EAST LINE OF SAID BLOCK 24 SOUTH 03 DEGREES 12 MINUTES 21 SECONDS WEST 50.23 FEET TO THE SOUTHEAST CORNER OF LOT 2 IN SAID BLOCK 24; THENCE ALONG THE NORTH LINE OF LOTS 5, 8, AND 9 OF BLOCK 25 EXTENDED SOUTH 86 DEGREES 03 MINUTES 43 SECONDS EAST 273.55 FEET TO A POINT BEING ON THE CENTERLINE OF VACATED ALLEY IN SAID BLOCK 25, RECORDED IN LIBER 377, PAGES 139 AND 140, AND LIBER 391, PAGE 246, SHIAWASSEE COUNTY RECORDS; THENCE ALONG THE NORTH LINE OF LOT 3 OF SAID BLOCK 25 EXTENDED SOUTH 86 DEGREES 27 MINUTES 20 SECONDS EAST 142.54 FEET TO THE NORTHEAST CORNER OF LOT 3 IN SAID BLOCK 25; THENCE SOUTH 03 DEGREES 20 MINUTES 00 SECONDS WEST 131.88 FEET TO THE SOUTHEAST CORNER OF LOT 4 IN SAID BLOCK 25; THENCE ALONG THE SOUTH LINE OF SAID BLOCK 25 NORTH 86 DEGREES 30 MINUTES 35 SECONDS WEST 142.29 FEET TO A POINT BEING ON THE CENTERLINE OF VACATED ALLEY IN SAID BLOCK 25, RECORDED IN LIBER 377, PAGES 139 AND 140, AND LIBER 391, PAGE 246, SHIAWASSEE COUNTY RECORDS; THENCE SOUTH 03 DEGREES 12 MINUTES 33 SECONDS WEST 19.97 FEET; THENCE ALONG A LINE THAT IS 20.00 FEET SOUTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID BLOCKS 24 AND 25 NORTH 86 DEGREES 29 MINUTES 09 SECONDS WEST 547.16 FEET; THENCE NORTH 03 DEGREES 49 MINUTES 15 SECONDS EAST 19.95 FEET TO THE SOUTHWEST CORNER OF LOT 5 IN SAID BLOCK 24; THENCE NORTH 86 DEGREES 28 MINUTES 02 SECONDS WEST 190.94 FEET TO THE POINT OF BEGINNING. CONTAINING 3.678 ACRES.

There were no public comments.

Community Development Director Hathaway indicated the site plan reached all of the required standards.

Motion by Councilperson Bruff to approve the Woodard Station Lofts Site Plan as presented.

Motion supported by Councilperson Ford.

Roll Call Vote.

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

NAYS: None.

STREET CLOSURE - Ada Street from the South line of Jennett Street to the North line of West King Street, said street section lying within Ingersoll's Addition to the City of Owosso

Community Development Director Hathaway explained the Planning Commission had recommended the closure on a 4-3 vote, he also indicated that public hearing notices had been mailed to all owners/residents on Campbell Drive and Ada Street per the Planning Commission.

Cheryl Peterson, president and CEO of Memorial Healthcare, presented a revised site plan for the project indicating special considerations for children walking to Central School and privacy for both patients and local residents. She also indicated the hospital was trying to balance the needs of patients in the Shiawassee County area with the needs of the residents surrounding the hospital.

The Public Hearing was conducted to receive citizen comment regarding the proposed street closure of *Ada Street from the South line of Jennett Street to the North line of West King Street, said street section lying within Ingersoll's Addition to the City of Owosso, Shiawassee County, Michigan.*

The following people addressed the City Council:

Mayor Robertson read aloud a letter from Hope Meyer, 1304 Ada Street, inquiring as to why other alternatives could not be used.
Mayor Robertson also read aloud an email she received from a local bus driver indicating drop offs will be difficult with the possible closing of the street.
Daniel Colby, 1203 Ada Street, indicated he would like to see the street remain open.
Thomas Moorehead, 1265 Ada Street, indicated he would like to see the street remain open.
Jack Harris, 800 Campbell Drive, inquired about financing for the project.
Marjorie Moorehead, 1265 Ada Street, indicated she would like to see the street remain open.

Burton Fox, 216 East Oliver Street, indicated he would like to see the street remain open.
Kevin M. Brown, 217 Curwood Castle Drive, commented on his feeling the hospital expansion will benefit many people.
Paul Epke, 1117 Ada Street, indicated he would like to see the street remain open.
Mark Anderson, 106 North Lansing Street, inquired as to why other alternatives could not be used.
Roger Snyder, 418 East Oliver Street, inquired about installation of another traffic light on M-52.
Gerald Hockman, 705 Campbell Drive, indicated he was in favor of the closure.
Catherine Stevenson, 1253 Ada Street, indicated she was in favor of the closure.
Thomas Cook, 1201 North Washington Street, indicated he is on the hospital board and is in favor of the closure for safety reasons.
James Slingerland, 908 Campbell Drive, indicated he is also on the hospital board and is in favor of the closure.
Debra Wegman, 911 West King Street, commented on traffic cutting through residential neighborhoods.
Betty Coon, 1204 Palmer Avenue, commented on her feeling the hospital expansion will benefit many people.

There was general Council discussion regarding the difficulty of the question at hand, preserving property values, pedestrian safety, access to the existing home on Ada Street, losing tax revenues, giving away land, the request for a "Plan B" from the hospital, and preserving privacy in the Ada Street neighborhood.

Motion by Councilperson Ford to adopt the following resolution:

RESOLUTION NO. 10-2007

WHEREAS, the City Council of the City of Owosso has met at the time and place named in a resolution passed by said City Council at a meeting thereof held on February 20, 2007 and in accordance to notice thereof published by the City Clerk in *The Argus Press*, for the purpose of hearing and considering objections to the proposed vacation and discontinuance of the following portions of the public street in said City; and all objections of such proposed actions having been heard and duly considered;

BE IT RESOLVED THAT for the benefit of the public health and welfare and safety of persons and property within said City the following street situated in the City of Owosso, County of Shiawassee, State of Michigan, be and the same is hereby vacated, discontinued and abolished, said portions of said street being more particularly described as follows, to wit:

Ada Street from the South line of Jennett Street to the North line of West King Street, said street section lying within Ingersoll's Addition to the City of Owosso, Shiawassee County, Michigan, and

further that the City does hereby retains the utility easements of record and reserves an easement therein for public utility purposes with full rights of ingress and egress for construction, maintenance, and repairs within the right-of-way of said street vacated hereby.

BE IT FURTHER RESOLVED THAT the City Clerk is hereby directed to provide the Shiawassee County Register of Deeds, the Department of Commerce of the State of Michigan, and the Owosso City Engineer with a certified copy of this resolution within thirty (30) days of its adoption.

Motion supported by Councilperson Bruff.

Roll Call Vote.

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

NAYS: Councilperson Cline.

CITIZEN COMMENTS AND QUESTIONS

Dave Acton, 4941 Chippewa Court, introduced an automotive technology opportunity involving the City and other local organizations.

Dan Colby, 1203 Ada Street, commented on the recent Council action involving the closure of a portion of Ada Street.

Mark Anderson, 106 North Lansing Street, expressed his endorsement of Rick Williams for the Interim City Manager position.

Kevin M. Brown, 217 Curwood Castle Drive, commented on his support for the hospital expansion project.

Dan Stewart, 706 Willow Springs Drive, County Commissioner District 1, gave Council an update of activity at the County level.

Casey Voss and Jamie Irish, owners of Hair Peace Salon, 106 North Washington Street, commented on their desire for a compromise on parking issues to better accommodate their clients. Community Development Director Hathaway agreed to facilitate another meeting between business owners to try and resolve the issue.

Betty Coon, 1204 Palmer Avenue, inquired about car allowances, Westown Christmas lights, money in the fund balance, and payment for the tank removal on Ball Street.

The 30 minute time limit for citizen comments was reached.

Motion by Councilperson Bruff to extend the first Citizen Comments and Questions period by 15 minutes.

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

Burton Fox, 216 East Oliver Street, commented on the recent fire at the Lebowsky Center and the need for Council to provide direction for the City.

Ed Urban, 601 Glenwood Avenue, commented on celebrity news.

Marsha Lyttle, 624 Saginaw Street, commented on her belief the former City Manager's departure was handled improperly.

Councilperson Cline commented on the ongoing Open Meetings Act investigation and his support for Rick Williams as the Interim City Manager.

Councilperson Harvey commented on the fine job all the firefighters did with difficult weather during the Lebowsky Center fire.

Councilperson Bruff commented on his desire to be a part of the project introduced by Dave Acton.

There was general discussion regarding the cause of the Lebowsky Center fire and past building inspections.

Mayor Pro-Tem Owen commented on his conduct leading to the departure of the former City Manager indicating he did nothing wrong and had the best of intentions.

CONSENT AGENDA

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

Set Public Hearing – Grant Closeout. Set a public hearing for March 5, 2007 to receive citizen comment regarding close-out of Michigan Economic Development Corporation grant project at the Chestnut Street and M-21 intersection.

Boards and Commissions Appointment. Approved mayoral appointment of Michael Bradley as one of three required City administrative officers to the Owosso Planning Commission to fill the position vacated by Gregg Guetschow.

Warrant No. 339. Accepted Warrant No. 339 as follows:

Vendor	Description	Fund	Amount
Brown & Stewart, PC	Professional Services covering the period of January 10, 2007 to February 12, 2007	General	\$17,246.80
Michigan Municipal League	Workers' Compensation Insurance	General	\$20,131.00

Motion supported by Councilperson Bruff.

Roll Call Vote.

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

NAYS: None.

ITEMS OF BUSINESS

CONTRACT AGREEMENT-MICHIGAN DEPARTMENT OF TRANSPORTATION MDOT CONTRACT NO. 06-5611

Motion by Mayor Pro-Tem Owen to authorize the Mayor and City Clerk to execute Contract Agreement – Contract No. 06-5611 with the Michigan Department of Transportation for construction of and 95% payment of construction costs for the Oliver Street bridge, more specifically described as follows:

LOCAL BRIDGE	CAB	
NON FED	Control Section	MCS 76009
	Job Number	86442
	Structure	B01 OF 76-09-23
	Contract No.	06-5611

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of _____ by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF OWOSSO, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Owosso, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated December 4, 2006, attached hereto and made a part hereof:

PART A- STATE PARTICIPATION

The removal and replacement of the structure B01 of 76-09-23 which carries Oliver Street over the Shiawassee River, T7N, R2E, City of Owosso, Shiawassee County, Michigan; the reconstruction of the approaches to the structure for approximately 227 feet westerly and 253 feet easterly of the structure; and all together with necessary related work.

PART B - NO STATE PARTICIPATION

Contractor staking, sidewalk, and nameplate installation work for the structure B01 of 76-09-23, which carries Oliver Street over the Shiawassee River; and all together with necessary related work.

WITNESSETH:

WHEREAS, pursuant to State law, monies have been provided for the performance of certain improvements on public roads; and

WHEREAS, the reference "FHWA" in PART I and PART II refers to the United States Department of Transportation, Federal Highway Administration; and

WHEREAS, the PROJECT has been approved for financing in part with funds appropriated to the Local Bridge Fund pursuant to Section 10(5) of Act 51, Public Acts of 1951, as amended, for the state Local Bridge Program; and

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT.

Costs for construction engineering and inspection incurred by the DEPARTMENT will be charged 100 percent to the REQUESTING PARTY. Any other costs incurred by the DEPARTMENT as a result of this contract will be at PROJECT COST.

The costs incurred by the REQUESTING PARTY for preliminary engineering, construction engineering, construction materials testing, inspection, and right-of-way are excluded from the PROJECT COST as defined by this contract.

3. The DEPARTMENT is authorized by the REQUESTING PARTY to administer on behalf of the REQUESTING PARTY all phases of the project including advertising and awarding the construction contract for the PROJECT. Such administration shall be in accordance with PART II Section II of this contract.

Any items of the PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

4. The REQUESTING PARTY, at no cost to the PROJECT or to the DEPARTMENT, shall:
 - A. Design or cause to be designed the plans for the PROJECT.
 - B. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.
 - C. Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PROJECT.
5. The PROJECT COST shall be met in accordance with the following:

PART A

The PART A portion of the PROJECT COST shall be met in part by state Local Bridge Funds. The state Local Bridge Funds will be applied to the eligible items of the PART A portion of the PROJECT COST at a participation ratio equal to 95 percent. The remaining 5 percent of the eligible items of the PART A portion of the PROJECT COST, as well as any ineligible items of PROJECT COST, shall be paid 100 percent by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PART B

The PART B portion of the PROJECT COST is not eligible for State participation and shall be charged to and paid 100 percent by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

Any items of PROJECT COST not paid by state Local Bridge Funds will be the sole responsibility of the REQUESTING PARTY.

6. No working capital deposit will be required for this PROJECT.

In order to fulfill the obligations assumed by the REQUESTING PARTY under the provisions of this contract, the REQUESTING PARTY shall make prompt payments of its share of the PROJECT COST upon receipt of progress billings from the DEPARTMENT as herein provided. All payments will be made within 30 days of receipt of billings from the DEPARTMENT. Billings to the REQUESTING PARTY will be based upon the REQUESTING PARTY'S share of the actual costs incurred less State Funds earned as the PROJECT progresses.

In the event of any discrepancies between PART I and PART II of this contract, the provisions of PART I shall prevail.

7. Upon completion of construction of the PROJECT, the REQUESTING PARTY will promptly cause to be enacted and enforced such ordinances or regulations as may be necessary to prohibit parking in the roadway right-of-way throughout the limits of the approaches being constructed as a part of the PROJECT.

8. The performance of the entire PROJECT under this contract, whether Federally funded or not, will be subject to the provisions and requirements of PART II that are applicable to a Federally funded project.

9. The REQUESTING PARTY certifies that a) it is a person under 1995 PA 71 and is not aware of and has no reason to believe that the property is a facility as defined in MSA 13A.20101(1)(1); b) the REQUESTING PARTY further certifies that it has completed the tasks required by MCL 324.20126 (3)(h); MSA 13A.20126(3)(h); c) it conducted a visual inspection of property within the existing right of way on which construction is to be performed to determine if any hazardous substances were present; and at sites on which historically were located businesses that involved hazardous substances, it performed a reasonable investigation to determine whether hazardous substances exist. This reasonable investigation should include, at a minimum, contact with local, state and federal environmental agencies to determine if the site has been identified as, or potentially as, a site containing hazardous substances; d) it did not cause or contribute to the release or threat of release of any hazardous substance found within the PROJECT limits.

The REQUESTING PARTY also certifies that, in addition to reporting the presence of any hazardous substances to the Department of Environmental Quality, it has advised the DEPARTMENT of the presence of any and all hazardous substances which the REQUESTING PARTY found within the PROJECT limits, as a result of performing the investigation and visual inspection required herein. The REQUESTING PARTY also certifies that it has been unable to identify any entity who may be liable for the cost of remediation. As a result, the REQUESTING PARTY has included all estimated costs of remediation of such hazardous substances in its estimated cost of construction of the PROJECT.

10. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Department of Environmental Quality, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, if applicable, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that, if applicable, remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

11. If federal and/or state funds administered by the DEPARTMENT are used to pay the cost of remediating any hazardous substances discovered after the execution of this contract and if there is a reasonable likelihood of recovery, the REQUESTING PARTY, in cooperation with the Department of Environmental Quality and the DEPARTMENT, shall make a diligent effort to recover such costs from all other possible entities. If recovery is made, the DEPARTMENT shall be reimbursed from such recovery for the proportionate share of the amount paid by the FHWA and/or the DEPARTMENT and the DEPARTMENT shall credit such sums to the appropriate funding source.

12. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use the state Local Bridge Funds.

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT pursuant to the terms of this contract are done to assist the REQUESTING PARTY in meeting program guidelines in order to qualify for available funds. Such approvals, reviews, inspections and recommendations by the DEPARTMENT shall not relieve the REQUESTING PARTY and the local agencies, as applicable, of their ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT is assuming any liability, control or jurisdiction.

The providing of recommendations or advice by the DEPARTMENT does not relieve the REQUESTING PARTY and the local agencies, as applicable, of their exclusive jurisdiction of the highway or bridge structure(s) and responsibility under MCL 691.1402, MSA 3.996(102).

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT is performing a governmental function, as that term is defined in MCL 691.1401; MSA 3.996(101), which is incidental to the completion of the PROJECT.

13. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway or bridge structure(s), described as the PROJECT for purposes of MCL 691.1402; MSA 3.996(102). Exclusive jurisdiction of such highway for the purposes of MCL 691.1402; MSA 3.996(102) rests with the REQUESTING PARTY and other local agencies having respective jurisdiction.

14. The REQUESTING PARTY shall approve all of the plans and specifications to be used on the PROJECT and shall be deemed to have approved all changes to the plans and specifications when put into effect. It is agreed that ultimate responsibility and control over the PROJECT rests with the REQUESTING PARTY and local agencies, as applicable.

15. The REQUESTING PARTY agrees that the costs reported to the DEPARTMENT for this contract will represent only those items that are properly chargeable in accordance with this contract. The REQUESTING PARTY also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

16. The parties shall promptly provide comprehensive assistance and cooperation in defending and resolving any claims brought against the DEPARTMENT by the contractor, vendors or suppliers as a result of the DEPARTMENT'S award of the construction contract for the PROJECT. Costs incurred by the DEPARTMENT in defending or resolving such claims shall be considered PROJECT COSTS.

17. The DEPARTMENT shall require the contractor who is awarded the contract for the construction of the PROJECT to provide insurance in the amounts specified and in accordance with the DEPARTMENT'S current Standard Specifications for Construction, and to:

- A. Maintain bodily injury and property damage insurance for the duration of the PROJECT.
- B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the

DEPARTMENT, and its officials, agents and employees, the REQUESTING PARTY and any other county, county road commission, or municipality in whose jurisdiction the PROJECT is located, and their employees, for the duration of the PROJECT and to provide, upon request, copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owner's protective liability insurance policy.

- C. Comply with the requirements of notice of cancellation and reduction of insurance set forth in the current standard specifications for construction and to provide, upon request, copies of notices and reports prepared to those insured.

18. This contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the parties hereto; upon the adoption of the necessary resolution approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, a certified copy of which resolution shall be attached to this contract; and with approval by the State Administrative Board.

EXHIBIT I
 CONTROL SECTION MCS 76009
 JOB NUMBER 86442
 STRUCTURE B01 OF 76-09-23

	TOTAL ESTIMATED <u>COST</u>	STATE LOCAL BRIDGE FUNDS <u>(EST 95%)</u>	BALANCE REQ. PARTY <u>SHARE</u>
PART A - STRUCTURE AND APPROACHES (STATE PARTICIPATION)			
Construction (Contracted)	\$2,067,200	\$1,963,800	\$103,400
PART B - CONTRACTOR STAKING, SIDEWALK, & NAMEPLATE INSTALLATION WORK (NO STATE PARTICIPATION)			
Construction (Contracted)	\$ 21,600	\$ -0-	\$ 21,600
GRAND TOTAL	\$2,088,800	\$1,963,800	\$125,000

NO DEPOSIT REQUIRED

Motion supported by Councilperson Horvath.

Roll Call Vote.

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

NAYS: None.

BANK ACCOUNT SIGNATORIES

Motion by Councilperson Ford to authorize a resolution designating signatories for the Chemical Bank accounts as follows:

**RESOLUTION NO. 11-2007
 CHEMICAL BANK SIGNATORIES**

BE IT RESOLVED that Chemical Bank, 100 East Main Street, Owosso, Michigan 48867 be and its hereby designated as a depository of the funds of the City of Owosso, and that the said funds be subject to withdrawal upon checks, notes, drafts, bills of exchange, acceptances, undertakings or other orders for the payment of money when signed by any two (2) of the following: Amy K. Kohagen, City Clerk; Richard C. Williams, Finance Director; and Stanley P. Jelinek, Public Works Director.

BE IT FURTHER RESOLVED that the above named Chemical Bank is authorized to pay any such checks, notes, drafts, bills of exchange, acceptances, undertakings or other orders and also to receive the same for the credit of or in payment from the payee or any other holder without injury as to the circumstances of issue of the disposition of the proceeds thereof, even if drawn to the individual other of any signing officer or payable to said Chemical Bank or others for his account, or tendered in payment of his individual obligation.

BE IT FURTHER RESOLVED that any and all endorsements for or on behalf of the City of Owosso upon checks, drafts, notes or instruments for deposit or collection made with the said Chemical Bank may be written or stamped endorsements of the City of Owosso without any

designation of the person making such endorsements.

BE IT FURTHER RESOLVED that said Chemical Bank be promptly notified in writing by the City Clerk of the City of Owosso of any change in this resolution and that until it has actually received such notice in writing said Chemical Bank is authorized to act in pursuance of this resolution.

It is further certified that this resolution is within the power of the City Council to pass as provided in the Charter and Ordinances of this City.

Motion supported by Councilperson Cline.

Roll Call Vote.

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

NAYS: None.

PROPERTY SALE-Twenty-one (21) days posting period

Community Development Director Hathaway explained the details of the property sale process.

Motion by Councilperson Harvey to receive a purchase agreement for vacant parcel at 102 South Washington Street legally described as *The East 87.32 feet of Lots 3 and 4, Except the South 20 feet of Lot 3, Block 26 of the Original Plat of the City of Owosso*, for the sum of \$400,000 to Fifth Third Bank and file with the City Clerk until the meeting of March 19, 2007.

Motion supported by Councilperson Bruff.

Roll Call Vote.

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

NAYS: None.

SANITARY SEWER OVERFLOW PROGRAM UPDATE

Utilities Director Gary M. Burk presented Council with an update on the Sanitary Sewer Overflow Program. He indicated ground water infiltration was the major factor leading to sanitary sewer overflows, stating overflows occur approximately every 1 to 2 years. The City has entered into an agreement with the Michigan Department of Environmental Quality to remediate/remedy the problem. Man hole inspections, smoke testing, and video inspections of sewer lines are currently in progress. Upon receipt of an anticipated MDEQ report, Council will be presented with choices to further tighten the system.

INTERIM CITY MANAGER INTERVIEW

There was general discussion regarding the single letter of interest from City Assessor Larry D. Cook, his qualifications, and other possible candidates that did not express interest. There was further discussion regarding Mr. Cook's plans for running the City and how specific issues such as the budget will be handled.

Motion by Councilperson Ford to approve the appointment of Larry D. Cook as the Interim City Manager.

Motion supported by Councilperson Horvath.

Roll Call Vote.

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

NAYS: None.

Interim City Manager Cook requested an executive session at the end of regular business to discuss the terms of his contract.

City Attorney William C. Brown advised Council no vote was necessary as the closed session was requested to discuss personnel issues.

BID AUTHORIZATION

Motion by Mayor Pro-Tem Owen to waive competitive bidding procedures and allow bid solicitation and approval by City Staff for abatement of public nuisances at 122 East Main Street (Lebowsky Center).

Motion supported by Councilperson Ford.

Roll Call Vote.

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

NAYS: None.

COMMUNICATIONS

Hope Meyer. Letter regarding Ada Street closing.

Michigan Municipal League. Issue Advisory.

Michigan Municipal League. Legislative Conference Schedule.

Larry D. Cook, City Assessor. Memo regarding assessment changes for 2007.

Richard C. Williams, Finance Director. January 2007 Revenue & Expenditure Report.

John F. Archer, Building Official. January 2007 Building Department Report.

John F. Archer, Building Official. January 2007 Code Violations Report.

Michael T. Compeau, Public Safety Director. January 2007 Police Department Report.

Michael T. Compeau, Public Safety Director. January 2007 Fire Department Report.

Downtown Development Authority. Minutes of Meeting of February 7, 2007.

Items received at the meeting: Revised Woodard Station Lofts site plan illustration, Ada Street Petition, Ada Street chart, SSO Program Update outline, and a draft Employment Agreement for Interim City Manager.

CITIZEN COMMENTS AND QUESTIONS

Marsha Lyttle, 624 North Saginaw Street, commented on her belief that good intentions do not substitute for doing things the right way.

Roger Snyder, 418 East Oliver Street, commented on starting the healing process and moving on.

Bonnie Snyder, 418 East Oliver Street, commented on her support for Council members and the need to move on.

John Pappas, 2485 Wellington Street, commented on the need for Council members to gain as much knowledge as possible, to work together, and to move on.

Ed Urban, 601 Glenwood Avenue, commented on Council members' efforts to gain knowledge.

Mayor Robertson commented on the need to respect one another and move on.

Councilperson Bruff commented on people stating feeling as fact, his efforts to gain knowledge, and his support for Rick Williams.

There was general discussion regarding the Mayor protecting the City Manager, if Council members could sit in on staff meetings, and Charter provisions requiring Council to work with staff through the City Manager.

Mayor Pro-Tem Owen commented on the opportunity for the current Council to select a new City Manager and the need to prepare for the impending retirement of many department heads.

EXECUTIVE SESSION

Motion by Councilperson Bruff to adjourn to Executive Session to discuss contract terms with Interim City Manager Larry D. Cook (10:07 p.m.).

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

Prior to the opening of the Executive Session City Attorney Brown advised Council that a closed session could not be held to discuss the terms of the contract with Interim City Manager Cook under the Open Meetings Act.

Open meeting was resumed at 10:24 p.m.

City Attorney Brown presented Council with a rough draft contract governing its agreement with Interim City Manager Cook, indicating the contract would be modified to fit the terms reached.

There was general discussion regarding determining the Interim City Manager's responsibilities and commensurate pay for those responsibilities.

Motion by Councilperson Ford to authorize the terms of an agreement with Interim City Manager Larry D. Cook as stated in the Employment Agreement for Interim City Manager with the following changes/additions:

He shall be compensated at a rate of \$65,000 per year during his term as Interim City Manager.

He shall receive an extra 5 days vacation for the remaining time he is employed by the City should he serve as the Interim City Manager at least 60 days. (Total vacation time not to exceed 20 days.)

Motion supported by Mayor Pro-Tem Owen

Roll Call Vote.

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

NAYS: None.

There was general discussion regarding how to start the manager search. Mayor Pro-Tem Owen offered to have Lincoln Park City Manager Steve Duchane speak to Council on the process of hiring a new City Manager. Mayor Robertson indicated she had received information from the Michigan Municipal League and the Mercer Group regarding the hiring process. There was also mention of placing an advertisement in the local paper.

There was further discussion regarding making lists of the qualities each Council member is looking for in the new City Manager and including City Staff and the public in the hiring process.

Interim City Manager Cook recommended a process that includes assembling a profile from input from the public, staff, and special interest groups.

ADJOURNMENT

Motion by Councilperson Ford for adjournment at 10:47 p.m.

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

Linda L. Robertson, Mayor

Amy K. Kohagen, City Clerk