

OWOSSO CITY COUNCIL

MARCH 19, 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, and Matthew B. Harvey.

ABSENT: Justin R. Horvath.

APPROVE AGENDA

Motion by Councilperson Ford to approve the agenda as presented.

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

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

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

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

CITIZEN COMMENTS AND QUESTIONS

County Commissioner Daniel Stewart, 706 Willow Springs Drive, updated Council on County business.

Gary Martenis, 705 Lingle Avenue, commented on selling water for the E85 plant and suggestions for the City Manager search.

Mark Lamphere, owner of 813 West Main Street, commented on the establishment of an improvement authority for the West M-21 business corridor.

Burton Fox, 216 East Oliver Street, commented on the proposed purchase agreement with Fifth Third Bank and the sale of water for the E85 plant.

David Pyke, 1401 North Hickory Street, commented on the sale of water for the E85 plant.

William Owen, 1309 Herman Street, inquired about offers for the former AO Smith plant. It was indicated there were none.

Eddie Urban, 601 Glenwood Avenue, commented on naming streets in honor of a living person and the problems at Walter Reed Medical Center in Washington D.C.

There was general discussion regarding the proposed corridor improvement authority, the City Manager search, the E85 plant and its effects on the community, and the idea of national health care.

CONSENT AGENDA

Motion by Councilperson Harvey to approve the Consent Agenda as follows:
Set Public Hearing. Set a public hearing for April 16, 2007 to receive citizen comment regarding the Cross Connection Control Program Rules.

Bid Award. Accepted bid of Dennis Hennig of Trumbull Auto Sales for the sale of one 2002 Dodge Intrepid in the amount of \$2,737.00.

Bid Award. Accepted bid of Dennis Hennig of Trumbull Auto Sales for the sale of one 1999 Ford Crown Victoria in the amount of \$1937.00.

Resolution Amendment. Approved amendments to Resolution No. 17-2006 New Personal Property Tax Exemption originally adopted December 18, 2006 as follows:

RESOLUTION 17-2006

**New Personal Property Tax Exemption
1650 East South Street -- Owosso, Michigan**

WHEREAS, State law P.A. 328 of 1998, as amended by P.A. 20 of 1999, provides for personal property tax exemption when certain conditions are met; and,

WHEREAS, The City of Owosso, as a Year 2006 Eligible Distressed Area in the State of Michigan, is qualified to offer exemptions for new personal property; and,

WHEREAS, The City of Owosso, in support of economic development efforts, has adopted criteria to determine eligibility for industrial property tax abatements; and

WHEREAS, Owosso Automation, Inc. of 503 South Chestnut Street and its proposed relocation to its property at 1650 East South Street, with the land description of the new facility site more particularly described below, has applied to the City of Owosso, to acquire a personal property tax abatement for an investment in industrial equipment and machinery exceeding \$600,000 over a two-year period with new employment opportunities estimated at 20 persons; and

WHEREAS, on April 18, 1977, after a public hearing and notice, the City of Owosso established an Industrial Development District, as provided for in Act 198, Public Acts of the State of Michigan of 1997 as amended, that includes the property at 1650 East South Street, more particularly described below; and,

WHEREAS, local taxing jurisdictions, the city assessor and the general public have been offered the opportunity to make public comment on the application and were afforded a public hearing at a regular meeting of the Owosso City Council on December 18, 2006; and

WHEREAS, the City Council of the City of Owosso has found that this inducement for economic development will have an effect at Owosso Automation, Inc of increasing employment in the area, creating a capital investment in the State of Michigan, and promoting economic growth for the region and State; Now Therefore,

BE IT RESOLVED, that the City of Owosso, after public hearing and comment, finds that the application of Owosso Automation, Inc qualifies for a eight (8) year new personal property tax exemption for personal property acquired after the date of this resolution with an ending date on December 30, 2014; Furthermore,

BE IT RESOLVED, That for the exemption to maintain its eligibility each year, the company shall submit two personal property statements annually to the City Assessor, one for the new personal property and another for all other personal property, AND payment of real and personal property taxes must be current; Furthermore,

BE IT RESOLVED, that the City Council authorizes, subject to State Tax Commission review and approval, a new personal property tax exemption to the eligible business, Owosso Automation, Inc, on applicant's premises at 1650 East South Street more particularly described as a parcel of land situated in the City of Owosso, Shiawassee County and State of Michigan, to wit:

LOT 5 (EX E 30' & W 24') FO THE OWOSSO INDUSTRIAL PARK, PART OF THE N ½ OF N ½ OF NE ¼ SEC 30 T7N R3E, CITY OF OWOSSO, SHIAWASSEE COUNTY, MICHIGAN.

Resolution Amendment. Approved amendments to Resolution No. 10-2007 Ada Street Closure, originally adopted February 20, 2007 as follows:

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 and the rights of the public to use a north-south pedestrian walkway route indicated on the Planning Commission's adopted site plan for Memorial Healthcare, its successors and assigns 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.

Water Deposit Clarification. Authorized the City Treasurer to review requests for refund or waiver of the Water/Sewer Deposit based on recent payment history and short term extenuating circumstances.

Warrant No. 340. Accepted Warrant No. 340 as follows:

Vendor	Description	Fund	Amount
Michigan Municipal Risk Management Authority	Building and Property Insurance	General	\$70,747.00
Brown & Stewart, PC	Professional Services covering the period of February 13, 2007 to March 9, 2007	General	\$13,241.68

Motion supported by Councilperson Ford.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

ITEMS OF BUSINESS

FARMER’S MARKET PERMISSION

There was general discussion regarding the appeals procedure required by the rules.

Motion by Councilperson Harvey to grant permission to the Owosso Farmer’s Market for use of the Armory parking lot (Lot #4) from 6:00 a.m. to 2:00 p.m. on consecutive Saturdays from May 5, 2007 through October 27, 2007 (with alternate location at the Park/Mason lot on June 9, 2007) for the 2007 Farmer’s Market and authorize Traffic Control Order No. 1185.

Motion supported by Mayor Pro-Tem Owen.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

CAR SHOW PERMISSION

Motion by Mayor Pro-Tem Owen to grant permission to the Cruise to the Castle Car Show for use of portions of Washington Street, Ball Street, Water Street, and Exchange Street from 5:00 a.m. to 5:00 p.m. on May 20, 2007 for the 14th Annual Cruise to the Castle and authorize Traffic Control Order No. 1186.

Motion supported by Councilperson Ford.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

COMSTOCK PARKING LOT RAIN GARDENS – GRANT AGREEMENT CONTRACT

There was general discussion regarding the construction, content, and maintenance of a rain garden. It was noted Grayling has used rain gardens extensively with great success.

Motion by Councilperson Ford to approve a grant agreement contract with the Shiawassee Conservation District regarding the construction of rain gardens in the Comstock Center parking lot islands and further authorize the City Engineer to execute appropriate documents as follows:

PROJECT AGREEMENT
Project # 2005-9136

This AGREEMENT is made and entered into this 19th day of March, 2007, by and between the City of Owosso (hereinafter COO) and the Shiawassee Conservation District (hereinafter SCD).

In consideration of the promises below, the parties mutually agree as follows:

ARTICLE I - SCOPE OF SERVICES

The COO will be responsible for hiring and contracting workers that will perform excavation, construction, top soil blending and delivery, and purchase of plants for two bio-retention rain gardens to be located in Owosso's Comstock Center. The COO will install and maintain the bio-retention rain gardens according to approved engineering designs. Proper maintenance will be applied to the systems for a minimum of 10 years.

ARTICLE II – COMPENSATION

Upon completion of the above services and submission of invoices, the SCD will reimburse the COO 75% of the total cost for services rendered utilizing funds from a Michigan Department of Environmental Quality Clean Michigan Initiative Grant awarded to the SCD (see budget attachments).

ARTICLE III – TERM

This contract begins on MARCH 15, 2007 and ends on September 30, 2008.

ARTICLE IV- PERSONNEL

The COO will hire contractors to provide the required services. The SCD representative will order, pick up and deliver bio-retention plants.

ARTICLE V - INDEMNIFICATION AGREEMENT

The COO will protect, defend and indemnify SCD, its officers, agents, servants, volunteers and employees from any and all liabilities, claims, liens, fines, demands and costs, including legal fees, of whatsoever kind and nature which may result in injury or death to any persons, including the COO's own employees, and for loss or damage to any property, including property owned or in the care, custody or control of SCD in connection with or in any way incident to or arising out of the occupancy, use, service, operations, performance or non-performance of work in connection with this contract resulting in whole or in part from negligent acts or omissions of COO, or any employee, agent or representative of the COO.

ARTICLE VI- INSURANCE REQUIREMENTS

Hired contractors will adhere to all Insurance Requirements put forth by the COO.

ARTICLE VII - COMPLIANCE WITH LAWS AND REGULATIONS

The COO hired contractors will comply with all federal, state and local regulations, including but not limited to all applicable OSHA/MIOSHA requirements and the Americans with Disabilities Act.

ARTICLE VII - EQUAL EMPLOYMENT OPPORTUNITY

The COO will not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, national origin, physical handicap, age, height, weight, marital status, veteran status, religion and political belief (except as it relates to a bona fide occupational qualification reasonably necessary to the normal operation of the business).

ARTICLE IX – LIABILITY

All liability, loss, damage as a result of claims, demands, costs or judgments arising out of activities to be carried out pursuant to the obligations of the COO on this Agreement shall be the responsibility of the COO, and not the responsibility of the SCD, if the liability, loss or damage is caused by, or arises out of, the actions or failure to act on the part of the COO, or anyone directly or indirectly employed by the COO provided that nothing herein shall be construed as a waiver of any governmental immunity the COO has a provided by statute or modified by court decisions.

ARTICLE X - CHOICE OF LAW AND FORUM

This contract is to be interpreted by the laws of Michigan. The parties agree that the proper forum for litigation arising out of this contract is in Shiawassee County, Michigan.

ARTICLE XI - FEES AND OTHER SOURCES OF FUNDING

The COO shall not seek or obtain funding through fees or charges to any client receiving services for which the State reimburses the SCD under this agreement.

ARTICLE XII - ACCESS TO RECORDS

The COO shall maintain books, receipts, records, documents and other evidence directly pertinent to performance on grant work under this agreement. The Michigan DEQ, the SCD and any of their authorized representatives shall have access to all such books, receipts, records, documents and any other evidence for the purpose of inspection, audit and copying during normal business hours.

ARTICLE XIII - CHANGES IN SCOPE OR SCHEDULE OR SERVICES

Changes mutually agreed upon by the SCD and the COO will be incorporated into this contract by written amendments signed by both parties.

ARTICLE XIV - EXTENT OF CONTRACT

Section 1 - This contract represents the entire agreement between the parties and supersedes all prior representations, negotiations or agreements whether written or oral.

Section 2 - Termination without cause. Either party may terminate the contract by giving thirty (30) days written notice to the other party.

Motion supported by Councilperson Cline.

Roll Call Vote.

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

NAYS: Mayor Robertson.

ABSENT: Councilperson Horvath.

LAND EXCHANGE – 1509 WEST OLIVER STREET

Motion by Councilperson Bruff to authorize a twenty-one (21) day posting period for land exchange of a portion of City-owned property located at 1509 West Oliver Street with Frank and JoAnna Fisher legally described as follows:

PART OF THE SOUTHEAST 1/4 OF SECTION 14, T7N-R2E, OWOSSO TOWNSHIP, SHIAWASSEE COUNTY, MICHIGAN, DESCRIBED AS BEGINNING AT A POINT THAT IS S90°00'00"W ON THE EAST AND WEST 1/4 LINE OF SAID SECTION 14 A DISTANCE OF 1866.23 FEET AND S42°07'00"E 1201.61 FEET AND S47°52'47"W 242.36 FEET FROM THE EAST 1/4 CORNER OF SAID SECTION 14; THENCE S42°07'00"E 298.24 FEET; THENCE ON A CURVE TO THE RIGHT HAVING A RADIUS OF 245.00 FEET, A DELTA ANGLE OF 38°22'13" AND A CHORD BEARING AND DISTANCE OF N61 °18'07"W 161.02 FEET; THENCE N42°07'00"W 146.16 FEET; THENCE N47°52'47"E 52.92 FEET TO THE POINT OF BEGINNING, CONTAINING 0.304 OF AN ACRE, MORE OR LESS. SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD.

Motion supported by Mayor Pro-Tem Owen.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

PROPERTY SALE – 102 SOUTH WASHINGTON STREET

There was general discussion regarding the removal of the reversion clause from the deed. It was noted Fifth Third Bank will present Council with proposed site plans prior to the consideration of a Purchase Agreement.

Motion by Councilperson Ford to authorize a further twenty-one (21) day posting period, with the removal of the reversion clause, for sale of City-owned property located at 102 South Washington Street to Fifth Third Bank in the amount of \$400,000 legally described as follows:

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, SHIAWASSEE COUNTY, MICHIGAN.

Motion supported by Mayor Pro-Tem Owen.

Roll Call Vote.

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

NAYS: Councilperson Cline

ABSENT: Councilperson Horvath.

REALTY AGREEMENT – 102 SOUTH WASHINGTON STREET

There was general discussion regarding signage and how this action affects the potential deal with Fifth Third Bank.

Motion by Mayor Pro-Tem Owen to authorize the terms of a listing agreement with Re/Max of Owosso for the sale of City-owned property located at 102 South Washington Street. (Full text of the contract is available in the Clerk's Office.)

Motion supported by Councilperson Harvey.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

CORUNNA WATER AGREEMENT

There was discussion regarding how much water the E85 plant would need to operate, current unused water capacity, projected water needs for the City and outlying areas, concern with missing an opportunity to sell water, expanding the water system to meet the full needs of the plant, the sources of our water, the possibility of the plant recycling water, and the pace of government vs. business development.

It was decided to offer the City of Corunna 500,000 gallons per day of the excess water capacity, negating the need to increase the water system other than drilling another well for supply consistency. Further requests for water will be considered as they arise. Councilperson Harvey volunteered to attend E85 meetings to gain a perspective for Council.

CITY MANAGER SEARCH

Mayor Robertson read aloud a letter from Councilperson Horvath and a letter from citizen Lisa Hood recommending the use of a search firm to hire the next City Manager.

Motion by Councilperson Ford to hire a search firm to conduct the search for the next City Manager.

Motion supported by Mayor Pro-Tem Owen.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

There was general discussion regarding suggested firms, the cost to hire a search firm, and search firms the City has used in the past.

Motion by Councilperson Harvey to hear presentations from the following search firms: the Michigan Municipal League, Varnum Consulting, LLC, and the Mercer Group, Inc.

Motion supported by Councilperson Ford.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Horvath.

There was general discussion regarding establishing a special meeting to conduct the search firm interviews.

Motion by Councilperson Harvey to set a special meeting for April 30, 2007 at 7:00 p.m. in the City Hall Council Chambers to hear search firm presentations and conduct interviews.

Motion supported by Mayor Pro-Tem Owen.

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

NAYS: None.

ABSENT: Councilperson Horvath.

COMMUNICATIONS

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

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

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

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

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

Owosso Planning Commission. Minutes of Meeting of February 26, 2007.

CITIZEN COMMENTS AND QUESTIONS

Gary Martenis, 705 Lingle Avenue, commented on forming a Parks & Recreation Committee and selling water for the E85 plant.

Burton Fox, 216 East Oliver Street, inquired about details of the proposed land exchange with Frank and JoAnna Fisher.

Community Development Director Hathaway explained the land exchange.

Eddie Urban, 601 Glenwood Avenue, commented on hunting.

Major Henry Tempel commented on the recent Boy Scout food collection and making adjustments during meetings to better accommodate the hearing impaired.

Michael Nolph, 1219 North Water Street, commented on selling water for the E85 plant and spending money on the City Manager search.

There was general discussion regarding careful spending, the former Parks & Recreation Commission, who addresses parks concerns currently, and establishing new committees.

ADJOURNMENT

Motion by Mayor Pro-Tem Owen for adjournment at 9:27 p.m.

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

Linda L. Robertson, Mayor

Amy K. Kohagen, City Clerk