

**OWOSSO CITY COUNCIL**

**FEBRUARY 4, 2008**

**7:30 P.M.**

**PRESIDING OFFICER:** MAYOR MICHAEL E. BRUFF  
**OPENING PRAYER:** PASTOR ERIC NUMERICH  
LIFE IN CHRIST CHURCH  
**PLEDGE OF ALLEGIANCE:** COUNICLPERSON MICHAEL N. CLINE  
**PRESENT:** Mayor Michael E. Bruff, Mayor Pro-Tem Mark D. Owen,  
Councilpersons Michael N. Cline, Joni M. Forster, Benjamin R.  
Frederick, Gary W. Martenis, and Jason D. Simmons.  
**ABSENT:** None.

**APPROVE AGENDA**

Motion by Councilperson Cline to approve the agenda as presented.

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

**APPROVAL OF THE MINUTES OF REGULAR MEETING OF JANUARY 22, 2008**

Motion by Councilperson Martenis to approve the Minutes of the Regular Meeting of January 22, 2008 with the following changes:

The vote for the closure of South Ball Street at the railroad tracks should read as follows:

Roll Call Vote.

**AYES:** Councilpersons Forster, Frederick, Mayor Pro-Tem Owen, and Mayor Bruff.

**NAYS:** Councilpersons Simmons, Cline, and Martenis.

The second session of Citizen Comments and Questions should include the following statement:

Betty Coon, 1204 Palmer Avenue, thanked Council for allowing citizens extra time to make comments, inquired as to how insurance companies find out about the purchase of a new fire truck, and commented on the feeling the City was not getting its money's worth with the SEDP.

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

**SPECIAL PRESENTATIONS**

City Engineer Ronald G. Baker detailed the activities of the Engineering Department. He included in his report a visual representation of the database showing when and what nature of street maintenance had been performed on each block of the City's streets.

Department of Public Works Superintendent Mark A. Sedlak detailed the activities of the Department of Public Works, including snow plowing, mowing, tree maintenance, underground utilities maintenance, Holman Pool maintenance, parks maintenance, and leaf pick-up.

**PUBLIC HEARINGS**

**ORDINANCE AMENDMENT**

**ORDINANCE NO. 691  
CHAPTER 2, ADMINISTRATION  
ARTICLE IV, BOARDS AND COMMISSIONS, DIVISION 3, PARKS AND RECREATION  
COMMISSION, SECTIONS 240-247**

A public hearing was conducted to receive citizen comment regarding the proposed addition of Chapter 2, Administration, Article IV, Boards and Commissions, Division 3, Parks and Recreation Commission, Sections 240-247 to the Code of Ordinances of the City of Owosso, Michigan.

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 Councilperson Martenis that the following ordinance be adopted:

**ORDINANCE NO. 691**

AN ORDINANCE TO ADD CHAPTER 2, ADMINISTRATION, ARTICLE IV, BOARDS AND COMMISSIONS, DIVISION 3, PARKS AND RECREATION COMMISSION, SECTIONS 240-247, TO THE CODE OF ORDINANCES OF THE CITY OF OWOSSO, MICHIGAN, TO RE-ESTABLISH A PARKS AND RECREATION COMMISSION

THE CITY OF OWOSSO ORDAINS:

Section 1. That, Chapter 2, Administration, Article IV, *Boards and Commissions*, Division 3, Parks and Recreation Commission, Sections 2-240 through 2-247 of the Code of Ordinances of the City of Owosso, Michigan shall be and the same is hereby added to read as follows:

**Sec. 2-240. Established.**

The Owosso Parks and Recreation Commission is hereby established.

**Sec. 2-241. Purpose.**

The purpose of the Parks and Recreation Commission shall be to provide quality park and recreation opportunities based upon cost, efficiency and community need.

**Sec. 2-242. Members; Appointment, Terms, Voting, Officers.**

(1) The members of the Parks and Recreation Commission shall consist of five (5) at large members appointed by the Mayor and approved by the Council. Commission members shall be residents of the City of Owosso. The Mayor or the designee of the Mayor, with Council approval, shall be an ex officio member of the Commission.

(2) The five (5) at large members shall have terms of two (2) years. The first appointment of the five (5) at large members shall be staggered so that two (2) members are appointed for a one (1) year term and three (3) members shall be appointed to two (2) year terms. Thereafter each appointment of an at large member shall be for a two (2) year term unless it is an appointment to fill a vacancy in office that occurs prior to completion of a term. The ex officio member of the Commission shall serve for an indefinite term at the pleasure of the Mayor.

(3) Each at large member shall be entitled to one (1) vote. The ex officio member shall not have a vote. Any action shall require a majority vote of the members present at a meeting constituting a quorum. A quorum shall consist of at least three (3) members.

(4) Officers of the Commission shall be elected by majority vote at the first regular meeting following the biennial city council election.

- (a) The officers of the Commission shall be Chairperson and Vice Chairperson. The Mayor or the Mayor's designee, as an ex officio member of the Committee shall serve as Secretary to the Commission. Other officers may be appointed as necessary to carry out the work of the Commission.
- (b) The officers shall serve for a term of two (2) years. The Secretary shall serve an indefinite term.
- (c) The term of the office shall run from the meeting immediately following the election of City Councilmember's and expire at the meeting of the Commissioners two (2) years later.
- (d) The officers shall have the following duties:
  - (i) Duties of Chairperson: The Chairperson shall preside at all meetings of the Commission and will attend appropriate meetings of the City Council. In his/her absence, the Vice Chairperson will attend and make appropriate reports to the Commission at their next regular meeting.
  - (ii) Duties of the Vice Chairperson: In the absence or disqualification of the Chairperson, the Vice Chairperson shall assume all duties and responsibilities of the Chairperson.
  - (iii) Duties of Secretary: The Secretary shall keep or cause to keep a book of minutes of all meetings of the Commission. The Secretary shall prepare agendas and shall give notice of regular and special meetings of the Commission.
  - (iv) As the city representative on the committee, the Secretary shall be in charge of the workup and finalization of the annual report and action plan to be presented to City Council. The Commission must affirm the report by majority vote of those present before presentation to the Council.

- (e) Members of the Parks and Recreation Commission shall serve without compensation.

**Sec. 2-243. Duties of Commission.**

The powers and duties of the Parks and Recreation Commission shall have the following duties as determined by the Owosso City Council:

- (1) Identifying recreation needs of residents and visitors, including suggestions of new sites and facilities;
- (2) Presentation to the City Council and city staff of suggestions for park and recreation area improvements;
- (3) Development of an annual park analysis and action plan at the end of each calendar year;
- (4) Recommendation of priorities for park and recreation facilities and programs for budget consideration as needed;
- (5) Encourage citizen involvement by recommending to the Owosso City Council recreation and park use based on the needs and interest of the community to assure and stimulate public interest;
- (6) Solicit to the fullest extent the cooperation of schools, local youth, countywide and charitable organizations and the public at large to discuss such issues;
- (7) Consult with other entities regarding the quality of the parks and recreation opportunities; and
- (8) Other special park and recreation projects at the direction of the City Council.

**Sec. 2-244. Expenditures, Fund Raising.**

The Parks and Recreation Commission shall have no authority to expend the funds of the City of Owosso.

The Parks and Recreation Commission, subject to approval of the Owosso City Council, may, on its own or in partnership with other entities, raise funds for improvements of the parks and other activities. Funds raised for such purposes may only be expended with Owosso City Council approval.

**Sec. 2-245. Meetings.**

Regular meetings of the Parks and Recreation Commission shall be held at such dates and times as established by resolution of the Commission at its first meeting in each calendar year.

Special meetings of the Parks and Recreation Commission may be called by any member of the Commission.

All meetings of the Parks and Recreation Commission shall be held in compliance with the Michigan Open Meetings Act.

**Sec. 2-246. By-Laws.**

The Parks and Recreation Commission shall adopt by-laws which shall govern its operation. Such by-laws and any amendments thereto shall be subject to Owosso City Council approval.

**Sec. 2-247. Effective Date.**

This Ordinance shall take effect twenty (20) days after adoption.

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.

Section 2. This ordinance shall become effective February 24, 2008.

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.

Motion supported by Councilperson Frederick.

Roll Call Vote.

AYES: Councilpersons Cline, Martenis, Mayor Pro-Tem Owen, Councilpersons Frederick, Forster, Simmons, and Mayor Bruff.

NAYS: None.

### **CITIZEN COMMENTS AND QUESTIONS**

Burton Fox, 216 East Oliver Street, inquired as to when south M-52 would be repaired. City Engineer Baker indicated the State had pushed off reconstruction until 2012, with a possible overlay to temporarily improve its condition.

District 1 County Commissioner Daniel Stewart detailed recent topics addressed by the County Commission including 911 funding.

There was a brief discussion regarding how those with prepaid phone cards would be charged for 911 services and when the County Commission meets.

Eddie Urban, 601 Glenwood Avenue, inquired as to why the Westown CIA would be holding its meetings in a church.

Linda Keenan inquired if the Council would place an item of business on the next agenda for the Owosso Community Players.

Councilperson Martenis commented on his desire to see the Charter changed to allow a council member to abstain without the permission of the remaining council members. There was general discussion regarding the current punishment for such an abstention and if it was appropriate to abstain or not.

Mayor Bruff indicated it may be appropriate to examine the entire Charter to update it.

City Manager Joseph A. Fivas indicated the Open Meetings Act allows meetings to be held anywhere as long as they are open to the public and meet ADA requirements.

### **CITY MANAGER REPORT**

City Manager Fivas provided a handout detailing the status of the Osubrn Lakes Subdivision project. He indicated that 54 of the 83 lots in the first phase have been sold. He also detailed progress on the meeting of Shiawassee County cities and villages, indicating a meeting is tentatively planned for the 5th Monday in March and would include 2 to 3 representatives from each municipality. Appointment of City of Owosso representatives will be handled by the Mayor.

### **CONSENT AGENDA**

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

#### **Conduct First Reading and Set Public Hearing-Ordinance Amendment.**

The First Reading on the proposed ordinance amendment was held.

A public hearing was scheduled for February 19, 2008 to receive citizen comment regarding the proposed ordinance amendment to add Chapter 18, *Nuisances*, Article III, Littering and Distribution of Handbills, Section 18-58 (c) of the Code of Ordinances of the City of Owosso, Michigan, as follows:

AN ORDINANCE TO ADD CHAPTER 18, NUISANCES, ARTICLE III, *LITTERING AND DISTRIBUTION OF HANDBILLS*, SECTION 18-58 (c) TO THE CODE OF ORDINANCES OF THE CITY OF OWOSSO, MICHIGAN, TO ALLOW NON-PROFIT ORGANIZATIONS TO LEAVE HANDBILLS INHABITED PRIVATE PREMISES.

THE CITY OF OWOSSO ORDAINS:

Section 1. That, Chapter 18, Nuisances, Article III, *Littering and Distribution of Handbills*, Section 18-58 (c) of the Code of Ordinances of the City of Owosso, Michigan shall be and the same is hereby added to read as follows:

- (c) A non-profit organization may obtain a permit from the City Clerk to distribute handbills at inhabited private premises without leaving such handbill with an owner, occupant or other person. The permit shall be valid for two (2) days, and the non-profit organization may only apply for one permit during an eleven (11) month period. Permits can only be issued for community service projects, and can not be issued for fundraising activities. The permit applicant shall fully describe activities and rationale

for the permit. If the City receives complaints from residents that they do not want the handbills, the permit applicant shall retrieve the handbills from the resident in a timely fashion. The permit application shall provide contact information so that such complaints may be forwarded. The City Clerk may reject a permit application if it does not meet the criteria in this subsection, or upon evidence of past abuses of this policy.

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.

Boards and Commissions Appointments. Approved the Mayoral appointment of Michael Tillotson to the Cable Access Advisory Commission for a term expiring June 30, 2011.

Warrant No. 356. Accepted Warrant No. 356 as follows:

Vendor	Description	Fund	Amount
Berger Chevrolet	2008 Chevrolet Impalas (5)	Fleet	\$73,490.00

Motion supported by Councilperson Cline.

Roll Call Vote.

AYES: Councilpersons Frederick, Simmons, Martenis, Forster, Mayor Pro-Tem Owen, Councilperson Cline, and Mayor Bruff.

NAYS: None.

**ITEMS OF BUSINESS**

**WESTOWN CIA MEETING SCHEDULE**

Motion by Mayor Pro-Tem Owen to adopt the 2008 Westown Corridor Improvement Authority meeting schedule as follows:

**NOTICE IS HEREBY GIVEN**, pursuant to the provisions of Act 267, Public Acts of 1976, of the schedule of Regular Meetings Westown Corridor Improvement Authority of the City of Owosso, County of Shiawassee, State of Michigan for the calendar year beginning January 1, 2008. The dates, time and place of said regular meetings shall be as follows:

CIA Westown		
The 2nd Wednesday of each month, 7:00 p.m., local prevailing time		
The Connection Christian Church, 812 West Main Street, Owosso, MI		
JAN 09	MAY 14	SEP 10
FEB 13	JUN 11	OCT 18
MAR 12	JUL9	NOV 12
APR 9	AUG 13	DEC 10

**STRATEGIC COMMUNITY PLANNING FOR 2008**

City Manager Fivas distributed a handout detailing the proposed strategic planning process. He indicated it may be helpful to employ a facilitator to get the process started. He further indicated input from community leaders and citizens would be essential to the plan.

There was discussion regarding options available to the City to foster economic growth.

Council agreed to continue discussion on the topic at future council meetings.

**NOTICE OF INTENT TO ISSUE GENERAL OBLIGATION BONDS AND RIGHT TO REFERENDUM**

Motion by Councilperson Cline to adopted the following resolution of notice of intent to issue general obligation bonds and right to referendum thereof for the purpose of for borrowing from the state revolving fund for the Sanitary Sewer Overflow Control Program:

**Resolution No. 09-2008  
City of Owosso County of Shiawassee, State of Michigan**

**NOTICE OF INTENT RESOLUTION FOR GENERAL OBLIGATION  
SEWAGE SYSTEM IMPROVEMENT BONDS**

WHEREAS, the City of Owosso (the "City") has executed Administrative Consent Order ACO-SW05-015 dated September 21, 2005 (the "Order") of the Michigan Department of Environmental Quality ("DEQ") requiring the City to take actions to abate pollution in connection with the City's operation of the Owosso/Mid-Shiawassee Co. Waste Water Treatment Plant; and

WHEREAS, under the Order the City has agreed to implement a DEQ approved combined sewer overflow control program requiring rehabilitation of the City's sanitary sewage system and manholes (the "Project"); and

WHEREAS, Part 43 of Act 451, Public Acts of Michigan, 1994, as amended ("Act 451") enables a City to issue and sell bonds to finance improvement of a sewage system when DEQ has ordered the installation, construction, alteration, improvement, or operation of a sewage system; and

WHEREAS, the City Council of the City intends to authorize the issuance of limited tax general obligation bonds pursuant to Act 451 in one or more series in an aggregate amount not to exceed \$2,750,000 (collectively, the "Bonds") for the purpose of paying the costs of construction of the Project; and

WHEREAS, a notice of intent to issue the Bonds must be published at least 45 days before the issuance of the Bonds order to comply with the requirements of Section 5(g) of the Home Rule Cities Act, Act 279, Public Acts of Michigan, 1909, as amended.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Clerk is hereby authorized and directed to publish a notice of intent to issue the Bonds in *The Argus-Press*, a newspaper of general circulation in the City.
2. The notice of intent shall be published as a one-quarter (1/4) page display advertisement in substantially the following form:

NOTICE TO ELECTORS AND TAXPAYERS  
OF THE CITY OF OWOSSO  
OF INTENT TO ISSUE BONDS SECURED BY THE  
TAXING POWER OF THE CITY AND RIGHT OF REFERENDUM THEREON

PLEASE TAKE NOTICE that the City Council of the City of Owosso, County of Shiawassee, State of Michigan, intends to issue and sell limited tax general obligation bonds pursuant to Part 43 of Act 451, Public Acts of Michigan, 1994, as amended, in an amount not to exceed Two Million Seven Hundred Fifty Thousand Dollars (\$2,750,000) in order to implement a Michigan Department of Environmental Quality ("DEQ") approved combined sewer overflow control program to abate pollution by rehabilitating the City's sanitary sewage system and manholes as required by an Administrative Consent Order of DEQ dated September 21, 2005.

The bonds may be issued in one or more series and may be combined with bonds issued for other purposes as shall be determined by the City Council. Each series of the bonds will mature in annual installments not to exceed thirty (30) in number, with interest on the unpaid balance from time to time remaining outstanding on said bonds to be payable at rates to be determined at sale of the bonds but in no event to exceed such rates as may be permitted by law.

SOURCE OF PAYMENT OF BONDS

The City intends to pay the principal and interest of the bonds from revenues derived from the operation of the city's sewage disposal system. In case of the insufficiency of said revenues, the principal of and interest on the bonds shall be payable from the general funds of the city lawfully available for such purposes including property taxes levied within existing charter, statutory and constitutional limitations.

RIGHT OF REFERENDUM

THE BONDS WILL BE ISSUED WITHOUT A VOTE OF THE ELECTORS UNLESS A VALID PETITION REQUESTING SUCH A VOTE SIGNED BY NOT LESS THAN 10% OF THE REGISTERED ELECTORS RESIDING WITHIN THE CITY IS FILED WITH THE CITY CLERK WITHIN FORTY-FIVE (45) DAYS AFTER PUBLICATION OF THIS NOTICE. IF SUCH PETITION IS FILED, THE BONDS MAY NOT BE ISSUED WITHOUT AN APPROVING VOTE OF A MAJORITY OF THE QUALIFIED ELECTORS OF THE CITY VOTING ON THE QUESTION.

THIS NOTICE is given pursuant to the requirements of Section 5(g), Act 279, Public Acts of Michigan, 1909, as amended. Further information concerning the matters set out in this notice may be secured from the City Clerk's office.

Amy K. Kohagen, City Clerk  
City of Owosso

3. The City Council hereby determines that the foregoing form of Notice of Intent to Issue Bonds, and the manner of publication directed, is adequate notice to the electors of the City and is the method best calculated to give them notice of the City's intent to issue the Bonds, the purpose of the Bonds, the security for the Bonds, and the right of referendum of the electors with respect thereto, and the newspaper named for publication is hereby determined to reach the largest number of persons to whom the notice is directed, and the newspaper complies with the requirements of Act No. 247, Public Acts of Michigan, 1963.

4. The City hereby makes the following declaration of intent for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 pursuant to the Internal Revenue Code of 1986, as amended:

(1) The City reasonably expects to reimburse itself with proceeds of debt to be incurred by the City for certain costs associated with acquisition and construction of the Project which were or will be paid subsequent to sixty (60) days prior to the date hereof from the general funds or capital fund of the City.

(2) As of the date hereof, the maximum principal amount of debt expected to be issued for reimbursement purposes, including reimbursement of debt issuance costs, is \$2,750,000, which debt may be issued in one or more series and/or together with debt for other purposes.

(3) A reimbursement allocation of the expenditures described in paragraph (1) above with the proceeds of the borrowing described herein will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the use of the proceeds of the debt to be issued for the Project to reimburse the City for a capital expenditure made pursuant to this resolution.

(4) The expenditures for the Project are "capital expenditures" as defined in Treas. Reg. § 1.150-1(b), which are any costs of a type which are properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of "placed in service" under Treas. Reg. § 1.150-2(c)) under general Federal income tax principles (as determined at the time the expenditure is paid).

(5) No proceeds of the borrowing paid to the City in reimbursement pursuant to this resolution will be used in a manner described in Treas. Reg. § 1.150-2(h) with respect to abusive uses of such proceeds, including, but not limited to, using funds corresponding to the proceeds of the borrowing in a manner that results in the creation of replacement proceeds (within Treas. Reg. § 1.148-1) within one year of the reimbursement allocation described in (3) above.

5. The Finance Director of the City is hereby authorized, at his discretion, to retain a financial advisor to advise the City with respect to issuance and sale of any series of the Bonds.

6. The City recognizes that Miller, Canfield, Paddock and Stone, P.L.C., has represented from time to time, and currently represents the Michigan Municipal Bond Authority, various financial institutions and other potential participants in the bond financing process for unrelated projects, any of which might offer to purchase the City's Bonds or to act as Transfer Agent for the Bonds. The City appoints Miller, Canfield, Paddock and Stone, P.L.C. as bond counsel for the Bonds, notwithstanding the potential concurrent representation of any such bidder regarding any unrelated matter.

7. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

Motion supported by Councilperson Martenis.

Roll Call Vote.

AYES: Mayor Pro-Tem Owen, Councilpersons Martenis, Cline, Forster, Frederick, Simmons, and Mayor Bruff.

NAYS: None.

#### **COMMUNICATIONS**

None.

#### **CITIZEN COMMENTS AND QUESTIONS**

Shiawassee Economic Development Partnership Director Justin Horvath commented on possible local tools for economic development.

Eddie Urban, 601 Glenwood Avenue, thanked Mike Tillotson for video taping Council meetings, thanked Councilpersons Martenis and Frederick for their efforts in re-establishing the parks and recreation commission, and commented on Michigan's economic condition and geography.

Mayor Pro-Tem Owen commented on his feeling that the State has instituted policies that make the state unattractive to business.

Councilperson Martenis commented on what he felt was the political nature of Mayor Pro-Tem Owen's comments and detailed what took place at the recent Historical Commission meeting. He indicated the Commission is looking for any old photos of the city to include in a potential publication.

There was a brief discussion regarding whether or not to require all speakers to travel to the podium to accommodate the video taping of the meeting.

**ADJOURNMENT**

Motion by Mayor Pro-Tem Owen for adjournment at 8:54 p.m.

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

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Michael E. Bruff, Mayor

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Amy K. Kohagen, City Clerk