

OWOSSO CITY COUNCIL

APRIL 21, 2008

7:30 P.M.

PRESIDING OFFICER: MAYOR MICHAEL E. BRUFF
OPENING PRAYER: PASTOR DAVID WOODBY
REDEEMER LUTHERAN CHURCH
PLEDGE OF ALLEGIANCE: COUNCILPERSON 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 Forster to approve the agenda as presented with the following additions:

PROCLAMATIONS/SPECIAL PRESENTATIONS

2. Proclamation – Arson Awareness Week. A proclamation of the Mayor's Office proclaiming May 4-10, 2008 as Arson Awareness Week in the City of Owosso.

ITEMS OF BUSINESS

6. Main Street Program Resolution. Authorize resolution approving application to the Michigan Main Street Program at the Associate Level on behalf of the Owosso Downtown Development Authority and the Westown Corridor Improvement Authority.

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

APPROVAL OF THE MINUTES OF REGULAR MEETING OF APRIL 7, 2008

Motion by Councilperson Simmons to approve the Minutes of the Regular Meeting of April 7, 2008 as presented with the following change:

CITIZEN COMMENTS AND QUESTIONS - 2ND SESSION

Councilperson Martenis agreed with Councilperson Frederick's comments on the cable service and expressed his hope that the schools would become involved in the ~~river~~ city clean-up efforts.

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

PROCLAMATIONS AND SPECIAL PRESENTATIONS

PROJECT PROPOSAL – 102 SOUTH WASHINGTON STREET

Gordon Pennington of the Friends and Neighbors organization presented a potential development plan for the property located at 102 South Washington Street that included a sitting area with a fountain and an 8,000 square foot building intended to house multiple small store fronts.

PROCLAMATION – ARSON AWARENESS WEEK

Mayor Bruff read aloud a proclamation declaring May 4-10, 2008 as Arson Awareness Week in the City of Owosso as follows:

**A PROCLAMATION
OF THE MAYOR'S OFFICE OF THE CITY OF OWOSSO, MICHIGAN
PROCLAIMING THE WEEK OF MAY 4-10, 2008 AS
"ARSON AWARENESS WEEK" IN THE CITY OF OWOSSO**

WHEREAS, Arson is a serious crime that affects all of us and can only be stopped when we realize the severe damage arson causes to our state and individual communities; and

WHEREAS, Arson kills innocent people and causes countless injuries; and

WHEREAS, These blazes erode the tax base and cause a severe loss to our cities, villages and neighborhoods, and can destroy property and the security of employment; and

WHEREAS, Arson can disrupt our educational system, destroy irreplaceable historical buildings and artifacts and render natural resources useless for long periods of time; and

WHEREAS, Direct cost of arson is estimated by the Michigan Arson Prevention Committee to be nearly \$200 million each year in Michigan alone and arson has a significant impact on insurance premiums and tax dollars that must be used to pay for extinguishing and investigating these maliciously set fires;

NOW, THEREFORE, I, Michael E. Bruff, Mayor of the City of Owosso, Michigan, do hereby proclaim the week of May 4-10, 2008 as "Arson Awareness Week" in the City of Owosso, and urge all citizens to help support the efforts of the local police and fire departments in preventing arson.

Proclaimed this 21st day of April, 2008.

PUBLIC HEARINGS

PUBLIC HEARING-ORDINANCE AMENDMENT

The public hearing was held to receive citizen comment regarding proposed ordinance amendment to Chapter 2, *Administration*, Article III, Administrative Plan of the City, Sections 2-51 and 2-79 through 2-87 of 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 Mayor Pro-Tem Owen that the following ordinance be adopted:

ORDINANCE NO. 695

AN ORDINANCE TO AMEND CHAPTER 2, ADMINISTRATION, ARTICLE III, ADMINISTRATIVE PLAN OF THE CITY, SECTIONS 2-51 AND 2-79 THROUGH 2-87 OF THE CODE OF ORDINANCES OF THE CITY OF OWOSSO, MICHIGAN

THE CITY OF OWOSSO ORDAINS:

Section 1. That Chapter 2, *Administration*, Article III, Administrative Plan of the City, Sections 2-51 and 2-79 through 2-87 of the Code of Ordinances of the City of Owosso, Michigan, shall be and hereby is amended as follows:

Sec. 2-51. Division of the administrative service.

The administrative service of the city shall be under the supervision and direction of the city manager, except as provided by the City Charter, and shall be divided into the following offices and departments, each of which shall be the responsibility of and under the control of an administrative officer or department director as listed below opposite such office or department:

Department	Department Director
Department of Public Safety	Director of Public Safety
Department of Utilities, Engineering & Public Services	Director of Utilities, Engineering & Public Services
Department of Economic Development & Neighborhood Services	Director of Economic Development & Neighborhood Services
Department of Financial & Customer Services	Director of Financial & Customer Services
Office	Officer/Director
Assessor's Office	City Assessor
Attorney's Office	City Attorney
Planning, Building Safety & Code Enforcement Office	Director of Planning, Building Safety & Code Enforcement
Clerk's Office	City Clerk
Human Resources Office	Director of Human Resources
Finance Office	Finance Director
Manager's Office	City Manager
Treasurer's Office	City Treasurer

Sec. 2-52. City officers.

The officers of the city shall be assessor, city manager, clerk, director of public safety, finance director, treasurer and the deputies of any of them.

Sec. 2-53. Vacancies in office.

(a) In cases of a vacancy in office, the absence from the city of an administrative

officer or department director, or the inability on the part of an administrative officer or department director to perform the duties of the position due to illness, injury or other reasons, the city manager may designate an interim acting administrative officer or department head or perform personally the functions of the office.

(b) In the case of his or her own absence from the city, the city manager may designate an administrative officer or department director to perform the duties of the office of manager. In making such a designation, the city manager shall establish such limitations on the authority of the individual appointed to perform his or her duties as he or she deems appropriate.

(c) If the city manager is unable to perform the duties of his or her office due to illness, injury or other reasons, the city council may designate an individual to act as interim acting city manager or may assign the duties of the office to one (1) or more administrative officers or department directors.

Secs. 2-54--2-75. Reserved.

Sec. 2-76. Assessor's office.

The assessor's office shall be headed by the city assessor who shall have the duties and responsibilities detailed for such office in the City Charter, this code and state statutes.

Sec. 2-77. Attorney's office.

The attorney's office shall be headed by the city attorney who may be either an employee of the city or whose services may be provided pursuant to contract. The duties and responsibilities of the city attorney shall be those detailed for such position in the City Charter, this code, and state statutes. The city attorney shall be charged with overseeing the performance of all legal services of the city including those of legal adviser to the council and to all administrative officers and department directors of the city, and the prosecution of all cases arising out of the violation of the provisions of the city ordinances. The city attorney shall also represent, or provide for the representation of, the city in matters in which the city is interested coming before any court or tribunal and shall perform such other duties as may be required by the council. The city attorney shall be charged with the responsibility for calling to the attention of the council all matters of law affecting the city.

Sec. 2-78. Clerk's office.

The clerk's office shall be headed by the city clerk who shall have the duties and responsibilities detailed for such office in the City Charter, this code and state statutes.

Sec. 2-79. Department of economic development & neighborhood services.

The department of economic development & neighborhood services shall be headed by the director of economic development & neighborhood services. He or she shall have the responsibility for city planning, including the development of master plans, housing plans, recreation plans and the like, and for overseeing activities related to economic development, housing development, downtown development, neighborhood development, grant management, city marketing, business services, and similar activities. In performing his or her duties, the director of economic development & neighborhood services shall coordinate his or her activities with those of other city departments that have responsibilities related to the planning and development activities with which he or she is engaged, and for such other responsibilities that shall be designated from time to time by the city manager to be performed by the department.

Sec 2-80. Department of financial & customer services.

The department of financial & customer services shall be headed by the director of financial & customer services. He or she shall have the responsibilities of customer service coordination for the city. The director shall also coordinate and manage city financial transactions, shall supervise the clerk's office, to the extent permitted by law, and for such other responsibilities that shall be designated from time to time by the city manager to be performed by the department.

Sec. 2-81. Department of public safety.

(a) The department of public safety shall be headed by the director of public safety who shall have the duties and responsibilities detailed for the offices of police chief and fire chief in the City Charter, this code and state statutes and such other duties and responsibilities associated with management of police, fire and emergency medical response services in the city, and for such other responsibilities that shall be designated from time to time by the city manager to be performed by the department.

(b) The department of public safety shall consist of a police division and a fire and emergency medical response division.

(c) The police division shall have the duties and responsibilities detailed for police departments in the City Charter, this code and state statutes.

(1) The director of public safety shall promulgate rules for the government of police officers of the city, subject to approval by the city manager, which shall be entered in a book of police division rules and orders and may be amended or revoked by the public safety director upon written notice to and approval of the city manager. Such rules may establish one (1) or more bureaus within the police division. Any such bureau shall be supervised by an officer of the police division who shall be responsible for the particular functions of the police division assigned to the particular bureau by the director of public safety or his designee. It shall be the duty of all members of the police department to comply with such rules and orders while effective.

(d) The fire and emergency medical response division shall have the duties and responsibilities detailed for fire departments in the City Charter, this code and state statutes. It shall have also the duties and responsibilities detailed in this code and state statutes for emergency medical response and ambulance departments.

(1) The director of public safety shall promulgate rules and regulations for the government of the fire and emergency medical response division, subject to the approval of the city manager, which shall be entered in a book of fire and emergency medical response division rules and which may be amended or revoked by the public safety director upon written notice to and approval of the city manager. It shall be the duty of all members of the fire and emergency medical response division to comply with such rules and orders while effective.

Sec. 2-82. Department of utilities, engineering & public services.

(a) The department of utilities, engineering & public services shall be headed by the director of utilities, engineering & public services who shall have the responsibility for supervising city engineering services, water and wastewater public utilities, and public services as provided in the City Charter. The director of utilities, engineering & public services shall have the responsibility for the design and construction of public improvements in the city, except when that responsibility shall have been assigned by the city manager to another city officer or department director, and he or she shall have the responsibility for assuring that the public facilities and improvements are maintained in a satisfactory condition, and for such other public services that shall be designated from time to time by the city manager to be performed by the department.

(b) The department of utilities, engineering & public services shall consist of a public utilities division and a public services division.

(c) The utilities division shall have the duties and responsibilities detailed for water and wastewater public utilities in the City Charter, this code and state statutes. The director of utilities, engineering & public services shall promulgate rules for the government of the city's water and wastewater public utilities, subject to approval by the city manager, and may be amended or revoked by the director of utilities, engineering & public services director upon written notice to and approval of the city manager, or by the city manager.

(d) The public services division shall have the duties and responsibilities detailed in the City Charter, this code and state statutes associated with the repair and maintenance of streets, parks and public buildings and grounds of the city. The director of utilities, engineering & public services shall promulgate rules subject to Council approval for the government of the city's public services, subject to approval by the city manager, and may be amended or revoked by the director of utilities, engineering & public services director upon written notice to and approval of the city manager, or by the city manager.

Sec. 2-83. Finance department.

The finance department shall be headed by the finance director who shall have the duties and responsibilities detailed for such office in the City Charter, this code and state statutes.

Sec. 2-84. Manager's office.

(a) The manager's office shall be headed by the city manager who shall have the duties and responsibilities detailed for such office in the City Charter, this code and state statutes and such additional duties and responsibilities assigned to him or her from time to time by the city council.

(b) There is hereby established within the manager's office the human resources office. The human resources office shall be headed by the director of human resources. He or she shall have the responsibility for activities related to the personnel functions of the city including, but not limited to, administration of the civil service plan, development of personnel policies and work rules, negotiation of collective bargaining agreements, overseeing the process of recruiting, hiring, disciplining and terminating employees, and the development and

implementation of employee training programs. In performing his or her duties, the human resources office shall coordinate his or her activities with those of the city officers and department directors and their subordinates who are charged with the supervision of personnel in their respective offices and departments, and for such other responsibilities that shall be designated from time to time by the city manager to be performed by the department.

(c) The City Manager shall have the discretion to implement the administrative plan and these amendments based upon the needs of the City, the personnel available to the City and budgeting constraints.

Sec 2-85. Planning, building safety & code enforcement office.

The planning, building safety & code enforcement office shall be headed by the director of planning, building safety & code enforcement who shall have the duties and responsibilities detailed for such office in this code and state statutes, including those duties and responsibilities that are included in such uniform codes adopted by reference by the city. The director of planning, building safety & code enforcement shall also have the responsibility for supervising the work of such other employees or contractors employed by the city for the purposes of providing site plan review, code enforcement, oversight of public building management, and building, plumbing, mechanical and electrical inspection services.

Sec. 2-86. Treasurer's office.

The treasurer's office shall be headed by the city treasurer who shall have the duties and responsibilities detailed for such office in the City Charter, this code and state statutes.

2-87 --2-100. Reserved.

Section 2. The Ordinance shall become effective May 11, 2008.

Section 3. This Ordinance may be purchased or inspected in the Owosso City Clerk's Office Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

Motion supported by Councilperson Martenis.

Roll Call Vote.

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

NAYS: None.

PUBLIC HEARING-ORDINANCE AMENDMENT

The public hearing was held to receive citizen comment regarding proposed ordinance amendment to Chapter 2, *Administration*, Article V, Employee Relations, Sections 2-255 through 2-257, 2-276 through 2-277, and 2-281 of 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 Mayor Pro-Tem Owen that the following ordinance be adopted:

ORDINANCE NO. 696

AN ORDINANCE TO AMEND CHAPTER 2, *ADMINISTRATION*, ARTICLE V, EMPLOYEE RELATIONS, SECTIONS 2-255 THROUGH 2-257, 2-276 THROUGH 2-277, AND 2-281 OF THE CODE OF ORDINANCES OF THE CITY OF OWOSSO, MICHIGAN

THE CITY OF OWOSSO ORDAINS:

Section 1. That Chapter 2, *Administration*, Article V, Employee Relations, Sections 2-255 through 2-257, 2-276 through 2-277, and 2-281 of the Code of Ordinances of the City of Owosso, Michigan shall be and hereby is amended as follows:

Sec. 2-251. Policy statement.

It is hereby declared the policy of the city that:

- (1) Employment in the city government shall be based on merit and fitness, free of personal political considerations.
- (2) Just and equitable incentives and conditions of employment shall be established and maintained to promote efficiency and economy in the operation of the city

government.

- (3) Positions having similar duties and responsibilities shall be classified and compensated on a uniform basis.
- (4) Appointments, promotions and other actions requiring the application of the merit principal shall be based on systematic tests and evaluations, whenever practicable.
- (5) A productive work environment shall be maintained by fair administration of the rights and interests of employees consistent with the best interests of the public and the city.
- (6) Tenure of employees covered by this article shall be subject to good behavior, the satisfactory performance of work, and the availability of funds.

Sec. 2-252. Political activity.

Employees shall be selected without regard to political considerations, may not be required to contribute to any political purpose, and may not engage in improper political activity. Rules shall define the scope of improper political activity.

Sec. 2-253. Unlawful discrimination.

The city shall not discriminate with regard to hiring, terms of employment, promotion, transfer, or other conditions of employment because of race, color, creed, national origin, sex, religious affiliation, age, height, weight, marital status, handicap status, or political affiliation.

Sec. 2-254. Nepotism.

(a) No person shall become employed who is related to a member of the council within the third degree of consanguinity or affinity.

(b) No person shall become or remain employed if such employment would result in supervisory direction and responsibility by one (1) officer or employee over another who is related within the third degree of consanguinity or affinity. "Supervisory direction and responsibility" shall be interpreted to include circumstances in which an officer or employee is immediately subordinate to the superior officer or employee is within the direct line of authority of the superior officer or employee.

(c) The provisions of this section shall not apply to any such relationships between employees, supervisors and council members which are in existence on the effective date of this article.

Sec. 2-255. Administrative rules.

The director of human resources shall draft, in consultation with the city manager, such rules as may be necessary to carry out the provisions of this article. These rules shall be submitted for adoption by resolution of the council. The rules shall have the force and effect of law. Amendments to the rules shall be made by resolution of the council.

Sec. 2-256. Training program.

The director of human resources shall encourage the improvements of service by providing employees with opportunities for training which need not be limited to training for specific jobs but may include training for advancement and for general fitness for public service.

Sec. 2-257. Administration.

(a) The human resources program established by this article shall be administered by the director of human resources. The director of human resources shall be the city manager or his or her designee. The director of human resources shall administer all the provisions of this article and of the personnel rules, and shall prepare and recommend revisions and amendments to the personnel rules.

(b) The council may contract with any qualified person or agency for the performance of such technical services as may be desired in the establishment and operation of the personnel program.

Secs. 2-258--2-270. Reserved.

Sec. 2-271. Divisions of city service.

All officers and personnel of the city are divided into the classified service and the exempt service.

Sec. 2-272. Application.

The provisions of this division shall apply only to the classified service of the city unless otherwise specifically provided.

Sec. 2-273. Exempt service.

The exempt service shall include the following:

- (1) Administrative officers of the city as defined in section 7.1 of the city charter.
- (2) All officials elected by the people.
- (3) Members of appointive boards and commissions.
- (4) Persons employed or retained in a professional capacity.
- (5) Persons whose conditions of employment are subject to collective bargaining agreements.
- (6) Persons whose positions are temporary, parttime or seasonal.

Sec. 2-274. Classified service.

The classified service shall include all other positions in the city service which are not specifically placed in the exempt service by this article.

Sec. 2-275. How status determined.

The class in which each employee shall have status shall be determined in the manner provided in section 2-276.

Sec. 2-276. Position classification plan.

(a) *Establishment; scope.* The director of human resources shall make an analysis of the duties and responsibilities of all positions in the classified service and shall recommend to the council a position classification plan. Each position in the classified service shall be assigned to a class on the basis of the kind and level of its duties and responsibilities, to the end that all positions in the same class shall be sufficiently alike to permit use of a single descriptive title, the same qualification requirements, the same test of competence, and the same pay scale. A position class may contain one (1) position or more than one (1) position.

(b) *Revision of plan.* The initial classification plan shall be revised from time to time as changing conditions require, upon recommendations of the personnel director and with the approval of the council. Such revisions may consist of the addition, abolishment, consolidation, division or amendment of existing classes.

Sec. 2-277. Pay plan.

(a) *Preparation.* The director of human resources under the direction of the city manager and in consultation with the finance director, shall prepare a pay plan and rules for its administration. The rate or range for each class shall be such as to reflect fairly the differences in duties and responsibilities and shall be related to compensation for comparable positions in other places in public and private employment.

(b) *Approval.* The director of human resources shall submit the pay plan and the rules for its administration to the council for adoption. The council, after public hearing, may adopt the plan and the rules, with or without amendment. All amendments shall apply uniformly to all positions within the same class.

(c) *Assignments.* After the pay plan and the rules for its administration have been adopted by the council, the personnel director shall assign each position class to one of the pay ranges provided in the pay plan.

(d) *Amendments.* The pay plan may be amended from time to time as circumstances require, either through adjustment of rates or by reassignment of position classes to different pay ranges.

Sec. 2-278. Employment procedures.

(a) *Appointments.* Vacancies are vacant positions in the classified service which the city desires to fill. The vacancy may be filled pursuant to section 2-279 by the recall, reemployment or promotion of an employee. If not so filled the vacancy will be filled by an original appointment. Original appointments to vacancies shall be based on merit as determined by competitive examinations.

(b) *Examinations.* Examinations shall be in such form as will fairly test the abilities and aptitudes of candidates for the duties to be performed and may not include any inquiry into characteristics or affiliations which, if used as the basis for determining eligibility for employment, would constitute unlawful discrimination.

(c) *Eligibility list.* Candidates who qualify for employment shall be placed on an eligibility list for the appropriate position class in the rank order of the grades they obtained on the examination.

(d) *Veterans preference.* Preference in entrance examinations, but not in promotion, shall be granted to qualified persons who have been members of the armed forces of the United States in time of war, and who seek to enter the service of the city within five (5) years immediately following their honorable discharge from military service. Such preference shall be in the form of points added to the final grades of such persons, provided that they first achieve a passing grade. The preference may be as much as five (5) points for nondisabled veterans, and as much as ten (10) points for persons currently receiving compensation from the U.S. Veteran's Administration for war-service-incurred disabilities. The rank order of such persons among other eligible persons shall be determined on the basis of their augmented rating.

(e) *Promotions.* Vacancies in positions above the entrance level shall be filled by promotion whenever in the judgment of the personnel director it is in the best interest of the city to do so. Promotions shall give appropriate consideration to the applicant's qualifications, record of performance, and seniority.

(f) *Promotion to exempt service.* Any person in the classified service of the city who is promoted or appointed to a position not under the protection of this division shall not, in the event of demotion or dismissal from such position, or in any case where such person is not reappointed at the end of a specified term, be privileged to return to the position which he or she held before such promotion or appointment, or to a position of equal or similar rank or classification, unless approved by the city manager.

(g) *Temporary assignments.* Pending the availability of an eligibility list determined by the personnel director to be appropriate for a class, vacancies may be filled by temporary appointment.

Sec. 2-279. Eligibility lists.

(a) *Priority of lists.* Eligibility lists, in the order of their priority, shall be recall lists, promotional eligibility lists and original appointment eligibility lists.

- (1) Recall lists shall contain the names of regular employees laid off in good standing for lack of funds or work or the elimination of the position by the city.
- (2) Promotional eligibility lists and original appointment eligibility lists shall be created as provided in section 2-278.
- (3) An employee who has not completed an original orientation period and is laid off for lack of work or lack of funds or resigns and withdraws his or her resignation within one (1) year may, with the approval of the appointing authority and the personnel director, have his name restored to the eligibility list from which his or her appointment was originally made.

(b) *Appointment procedure.* When an appointment is to be made to a vacancy, the personnel director shall submit to the individual or individuals making the appointment the names of the three (3) persons ranked highest on the appropriate list who have indicated willingness to accept appointment. When more than one (1) vacancy is to be filled the number of names submitted shall equal the number of vacancies plus two (2).

(c) *Rules for administering lists.* Policies and procedures for administering eligibility lists shall be provided in the personnel rules, covering the duration, cancellation, replacement, and consolidation of such lists, and the removal or suspension of names of eligible persons therefrom.

Sec. 2-280. Orientation.

Any original or promotional appointment shall be considered to be provisional in nature pending satisfactory completion of an orientation or working test period. The personnel director shall promulgate rules and procedures relative to administration of the orientation or working test period.

Sec. 2-281. Discipline, demotions and separations.

The director of human resources shall promulgate rules and regulations with regard to discipline, demotions and separation of employees from city employment. Such rules shall, as a minimum provide:

- (1) For a procedure of binding arbitration as the final and exclusive remedy for employees dismissed by the city.
- (2) That an employee who has not satisfactorily completed an original or promotional orientation or working test period may be dismissed or demoted and such action shall not be subject to review or appeal.

Secs. 2-282--2-315. Reserved.

Section 2. The Ordinance shall become effective May 11, 2008.

Section 3. This Ordinance may be purchased or inspected in the Owosso City Clerk's Office Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

CITIZEN COMMENTS AND QUESTIONS

Ashley Plulik, Junior Council Liaison, relayed the activities of Lincoln High School students and read aloud a letter thanking City Staff for their recent tour of City Hall. Daniel Stewart, County Commissioner District 1, presented an update of the last County Board of Commissioners meeting.

Burton Fox, 216 East Oliver Street, commented on recent efforts to improve Fayette Square.

Gerald Alcorn, 637 ½ North Water Street, detailed the volunteer efforts to improve Fayette Square including the installation of electrical service, repairs to the Veterans monument and the possible relocation of another monument to a different area of the park.

Leonard Walter, 5515 Shipman Road, Corunna, inquired about the possibility of getting a flag that has flown over the Capitol for Fayette Square.

Councilperson Frederick indicated he was in the process of obtaining a flag flown over the Capitol on September 11, 2007.

Eddie Urban, 601 Glenwood Avenue, indicated the Shiawassee County Disabled American Veterans would be interested in helping with the Fayette Square efforts.

Shelva Cebulski, 1243 Marion Street, reminded citizens to please not blow their grass clippings into the street.

Mark Hanna, 4655 Waugh Road, commented on his idea to place a rustic village consisting of inexpensive movable structures on the property located at 102 South Washington Street. He also volunteered to donate \$1000 toward the project.

Kevin M. Brown, 217 Curwood Castle Drive, commended City staff for quickly resolving a series of issues in Collamer Park.

Mayor Bruff reminded citizens of the leash law and the expectation that pet owners clean up after their animals. He also commented on the recent Eagle Scout ceremony held over the weekend for two local Boy Scouts.

City Manager Fivas commended Department of Public Works Superintendent Mark Sedlak and the DPW staff for quickly attending to concerns throughout the City.

Councilperson Simmons inquired about work to Curwood Castle including the choice of paint color for the Castle. It was noted the Historical Commission desired to return the Castle to its original color to attempt to make it as historical in nature as possible.

CITY MANAGER REPORT

City Manager Fivas congratulated Public Safety Director Michael Compeau on his receipt of the Mid-Michigan Red Cross Volunteer of the Year-Community Service Award.

He went on to note the recent fire hydrant pressure testing that had stirred up sediment in various sections of the water system had been concluded, he updated the Council on the status of the VSCI Grant, and expressed his desire to apply for a State grant for street scaping in the downtown.

He also encouraged volunteer efforts involving City parks or other properties be coordinated through the Parks and Recreation Commission.

CONSENT AGENDA

Motion by Mayor Pro-Tem Owen to approve the Consent Agenda as follows:

Set Public Hearing - 2008-2009 City Budget. Set the required Public Hearing pursuant to Chapter 8 of the City Charter for May 5, 2008 to receive citizen comment regarding proposed 2008-2009 City Budget.

Warrant No. 361. Accepted Warrant No. 361 as follows:

Vendor	Description	Fund	Amount
Brown & Stewart, PC	Professional Services from March 11, 2008 – April 14, 2008	General	\$8,964.04
Layne-Northern	Vertical Turbine Pump Rehabilitation	WWTP	\$21,262.50
Caledonia Charter Township	Caledonia Utility Fund Payment	Water	\$12,604.10
Orchard, Hiltz & McCliment, Inc	Engineering Services	Sewer	\$5,990.00

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

ITEMS OF BUSINESS

TRANSPORTATION RESOLUTION

Councilperson Frederick inquired as to whether there was a specific transportation funding package that would be endorsed through the resolution. It was noted the resolution was generic in nature and not intended to endorse any particular plan.

Motion by Councilperson Martenis to authorize the following resolution requesting the Michigan Legislature enact and Governor Granholm sign legislation to provide a comprehensive transportation funding package:

**Resolution 22-2008
Requesting Comprehensive Road and Transit Funding**

The council recognizes the following facts:

1. Michigan's transportation infrastructure is dependent upon long-term planning and ongoing maintenance, both of which are dependent upon adequately funded revenue sources.
2. Although the Michigan Department of Transportation (MDOT) has met its goal of having 90 percent of the state maintained roads in good condition by 2007, the most recent MDOT Five-Year Transportation Plan anticipates that future revenue will not be sufficient to maintain the progress made.
3. Transportation analysts estimate that Michigan has an annual shortfall of \$700 million for the state transportation system and at least \$2 billion for local roads.
4. Increased vehicle traffic on Michigan roads results in growing urban traffic congestion and longer commutes.
5. Michigan drivers will pay \$7 billion annually in costs related to traffic accidents, lost time and wasted fuel as a result of traffic congestion and inadequate roads.
6. The Road Information Program (TRIP) estimates that the average cost of inadequate roadways, annually, is \$1,671 per driver in the Detroit metro area; \$1,085 per driver in Grand Rapids; \$866 per driver in Lansing; and \$785 per driver elsewhere in the state.
7. The quality of a region's transportation system is an important factor in where many businesses and industries may decide to locate, expand, or downsize.
8. A modern transportation system is critically important if Michigan is to take advantage of

economic development opportunities.

9. Current funding for Michigan's transportation system is inadequate.

Accordingly, the council moves that:

The Alternative Funding Task Force created by 2007 PA 221 provides a comprehensive transportation funding package, permanently increasing dedicated funding for transportation.

The Michigan Legislature enact and Governor Jennifer M. Granholm sign legislation providing a comprehensive transportation funding package.

Motion supported by Councilperson Simmons.

Roll Call Vote.

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

NAYS: None.

FARMER'S MARKET PERMIT

There was extensive discussion regarding the insurance requirement, waiver of the insurance requirement, the liability risk for the City in waiving insurance, the timeframe of the Farmer's Market application for a traffic control order, and the desire to see the Farmer's Market open on time and continue its long history of success.

Motion by Councilperson Cline to approve the application of the Farmer's Market for use of City parking Lot #4 on consecutive Saturdays from May 3, 2008 through October 25, 2008 (except June 7, 2008 during which Lot 31 will be closed) and authorize Traffic Control Order No. 1204 formalizing such on the condition they obtain liability insurance by June 1, 2008.

Motion supported by Councilperson Simmons.

Roll Call Vote.

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

NAYS: None.

CHESTNUT STREET CONTRACTS

Motion by Mayor Pro-Tem Owen to authorize the Chestnut Street Loan Agreement and the Construction Agreement with MDOT for reconstruction of Chestnut Street from Young Street to Stewart Street as follows:

(ADVANCE CONSTRUCTION CONTRACT)		CAB
STP&LJT	Control Section	STUL 76421
	Job Number	89573
	Project	STP 0776(219)
	Federal Item No.	RR 5703
	CFDA No.	20.205
		(Highway
		Research
		Planning &
		Construction)
	Contract No.	07-5278

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 May 21, 2007, attached hereto and made a part hereof:

Resurfacing work along South Chestnut Street from Stewart Street to Young Street; including minor curb and gutter replacement, concrete sidewalk ramps, hot mix asphalt paving, and pavement marking work; and all together with necessary related work.

WITNESSETH:

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

WHEREAS, the PROJECT has been approved for financing in part with State Local Jobs Today Program Funds; and

WHEREAS, the PROJECT will be performed as an advance construction project; 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, or portions of the PROJECT at the request of the REQUESTING PARTY, are being programmed with the FHWA, for implementation with the use of Federal Funds under the following Federal program(s) or funding:

SURFACE TRANSPORTATION PROGRAM

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.

The PROJECT work shall be performed as an advance construction PROJECT and shall meet applicable Federal requirements set forth on 23 CFR Subpart G; 23 U.S.C. 115.

It is understood that authorization to undertake the performance of the work under this contract as an advance construction PROJECT does not constitute any commitment of DEPARTMENT or Federal Funds for this PROJECT.

Expenditures incurred on this PROJECT as advance construction will not be subject to reimbursement with Federal Funds until the PROJECT is converted to a regular Federal-aid project as provided under 23 CFR 630.705(2); CFR 630.709.

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 or portions of 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.

The REQUESTING PARTY will furnish the DEPARTMENT proposed timing sequences for trunkline signals that, if any, are being made part of the improvement. No timing adjustments shall be made by the REQUESTING PARTY at any trunkline intersection, without prior issuances by the DEPARTMENT of Standard Traffic Signal Timing Permits.

5. The PROJECT COST shall be met in part by contributions by the State Local Jobs Today Program and the REQUESTING PARTY.

State Local Jobs Today Grant Funds shall be applied to the eligible items of the PROJECT COST at a participation ratio equal to (20) percent up to an amount not to exceed \$29,000. The balance of the PROJECT COST, after deduction of State Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

Contingent upon availability of Federal Funds and Federal approval, Federal Surface Transportation Funds, for future fiscal years, may be applied to the cost incurred as advance construction in an amount such that the Federal Surface Transportation Funds equal a participation ratio of 80 percent up to an amount not to exceed \$ 116,000.

The State Local Jobs Today Program loan, through a separate contract, is an amount equivalent to the estimated Federal Surface Transportation Funding applicable to the PROJECT that is not currently available. Said loan shall be used as advance construction dollars. Contingent upon availability of Federal Funds and Federal approval, Federal Surface Transportation Funds, for future fiscal years, will be applied to any outstanding principal balance of the State Local Jobs Today Program loan for costs incurred on this PROJECT as advance construction.

Any items of PROJECT COST or any advance construction expenditure not reimbursed by Federal Funds or State Funds will be the sole responsibility of the REQUESTING PARTY.

6. No working capital deposit will be required from the REQUESTING PARTY 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 10 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 available Federal Funds, State Local Jobs Today Loan Funds, and State Local Jobs Today Grant Funds as the PROJECT progresses.

Failure to make such payments within 10 days of receipt of billings from the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold without further notice an equal amount from the REQUESTING PARTY'S share of any future Act 51 monthly allocations.

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

7. At such time as traffic volumes and safety requirements warrant, the REQUESTING PARTY will cause to be enacted and enforced such ordinances as may be necessary to prohibit parking in the traveled roadway throughout the limits 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 it is a person under the Natural Resources and Environmental Protection Act (NREPA); 1995 PA 71 and is not aware of and has no reason to believe that the property on which the work under this agreement is to be performed is a facility as defined in MCL 324.20101(o); MSA 13A.20101(1)(1). The REQUESTING PARTY certifies that it is not a person liable under Part 201 or Part 213 of the Natural Resource and Environmental Protection Act (NREPA); MCL 324.20101 et seq. and Part 213 of NREPA; MCL 324.21301a et seq. The REQUESTING PARTY is a local unit of government that has acquired or will be acquiring property for a transportation corridor or public right-of-way and was not responsible for any activities causing a release or threat of release at or on the property. Pursuant to MCL 324.20126, the REQUESTING PARTY is not a person who is liable for response activity or response activity costs as defined by MCL 324.20101 (ee) and (ff).

10. Both the REQUESTING PARTY and the DEPARTMENT certify that the DEPARTMENT is not a person liable under Parts 201 and 213 of the NREPA; that the DEPARTMENT is not an owner or operator of any property within the PROJECT limits; that the DEPARTMENT has not arranged for the disposal of hazardous substances within the PROJECT limits, nor has the DEPARTMENT transported any hazardous substances to the PROJECT limits; that the DEPARTMENT has not conducted any activities which have resulted in a release or threat of release of hazardous substances at the facility or within the PROJECT limits and that the DEPARTMENT is otherwise not liable for any response activities or response activity costs at the facility.

11. If subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require the incurrence of response costs for response activity pursuant to state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Department of Environmental Quality, shall notify the DEPARTMENT,

both orally and in writing within 24 hours of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine whether the area within the PROJECT limits constitutes a facility and whether the REQUESTING PARTY is required to incur response costs to address the contamination under state or federal law. If the REQUESTING PARTY is liable for response activities or response costs under state or federal laws, the DEPARTMENT will consult with the FHWA to determine the eligibility of such response costs for reimbursement. In the event that the response costs and other incidental costs including, but not limited to delay costs, are deemed not to be eligible for reimbursement by the FHWA, the REQUESTING PARTY shall be charged for and shall pay to the DEPARTMENT all response costs and delay costs of the contractor for the PROJECT. If the REQUESTING PARTY refuses to participate in such costs, 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.

12. 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.

13. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the Federal Highway Administration pursuant to Title 23 of the United States Code.

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 and its agents 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 and its agents 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 and its agents is assuming any liability, control or jurisdiction.

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

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT and its agents 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.

14. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, 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) rest with the REQUESTING PARTY and other local agencies having respective jurisdiction.

15. 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.

16. 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.

17. 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.

18. 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 owners 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.

19. 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 and 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.

EXHIBIT I
CONTROL SECTION STU 76421
JOB NUMBER 89573
PROJECT STP 0776(219)

	<u>ESTIMATED COST</u>
CONTRACTED WORK	
Estimated Cost	\$142,700
	<u>COST PARTICIPATION</u>
GRAND TOTAL ESTIMATED COST	\$142,700
Less State Local Jobs Today Grant Funds*	<u>\$ 28,500</u>
Balance	\$114,200
Less State Local Jobs Today Program Loan/Federal Funds (Advance Construction) Future Fiscal Year**	<u>\$114,200</u>
REQUESTING PARTY'S SHARE (Future Fiscal Year)	\$ 0

*State Local Jobs Today Grant Funds shall be applied to the eligible items of the PROJECT COST at a participation ratio equal to 20 percent up to an amount not to exceed \$29,000.

**Contingent upon availability of Federal Funds and Federal approval, Federal Surface Transportation Funds, for future fiscal years, may be applied to the cost incurred as advance construction in an amount such that the Federal Surface Transportation Funds equal a participation ratio of 80 percent up to an amount not to exceed \$116,000.

NO DEPOSIT

	CAB
Control Section:	STUL 76421
Job No.:	89573
Project:	STP 0776(219)
Federal Item No.:	RR5703
CFDA No.:	20.205
	(Highway Research Planning & Construction)
Contract No.:	07-7278

**MICHIGAN DEPARTMENT OF TRANSPORTATION
CITY OF OWOSSO
LOCAL JOBS TODAY PROGRAM
LOAN CONTRACT**

THIS LOAN CONTRACT, hereinafter referred to as the "CONTRACT," is made and entered into this date of _____ by and between the Michigan Department of Transportation, of 425 West Ottawa Street, P.O. Box 30050, Lansing, MI 48909, hereinafter referred to as the "DEPARTMENT," and the CITY OF OWOSSO, MICHIGAN, of 301 W. Main Street, Owosso, MI 48867-2925, hereinafter referred to as the "RECIPIENT."

WITNESSETH:

WHEREAS, Act 51, Public Acts of 1951, as amended, authorizes the DEPARTMENT to enter into contracts with boards of county road commissioners, incorporated cities, and villages for the loaning of funds for the purpose of constructing transportation infrastructure improvements, as

described in the second paragraph of Article DC, Section 9, of the Michigan Constitution of 1963, as amended;

NOW, THEREFORE, the parties agree to the following:

Section 1. PURPOSE

The purpose of this CONTRACT is to assist the RECIPIENT in financing transportation infrastructure improvements, as described in the second paragraph of Article IX, Section 9, of the Michigan Constitution of 1963, as amended, through the project described below, hereinafter referred to as the "PROJECT." Such assistance will be provided by the DEPARTMENT in the form of a loan. Funds will be used for pre-approved purposes only. The DEPARTMENT has the discretion and the authority to recall, freeze, or limit disbursement of any funds or a portion thereof if the purpose or manner of expenditure by the RECIPIENT is inconsistent with this CONTRACT and/or with federal or state laws, regulations, rules, or policies.

Resurfacing work along South Chestnut Street from Stewart Street to Young Street; including minor curb and gutter replacement, concrete sidewalk ramps, hot mix asphalt paving, and pavement marking work; and all together with necessary related work.

Section 2. CONTRACT TERM

This CONTRACT will be in effect from the date of award through September 30, 2009.

Section 3. PROJECT FUNDING, BILLINGS, AND PAYMENTS

The DEPARTMENT will loan the RECIPIENT \$116,000. The RECIPIENT will pay interest at the rate of 4 percent annually. The loan funds will be used only for the PROJECT. The DEPARTMENT will retain the loan funds and make payments to PROJECT contractors and subcontractors on the RECIPIENT'S behalf. The RECIPIENT directs the DEPARTMENT to convert federal advanced construction funds as soon as they become available. The assessment of interest will begin when the DEPARTMENT expends loan funds on the RECIPIENT'S behalf. It is understood that the loan funds provided under this CONTRACT will not be sufficient to pay all PROJECT costs.

The loan under this CONTRACT is subject to the RECIPIENT'S repayment in the following manner: federal aid reimbursement applicable to the PROJECT will be used to pay principal on the loan, and the DEPARTMENT will invoice the RECIPIENT annually for the actual amount of interest. The invoiced amounts will be due and payable within thirty days. Final payment of all principal and interest on the loan must be made on or before September 30, 2009.

If the RECIPIENT fails to make any of its required payments when they are due, the DEPARTMENT will immediately notify the RECIPIENT of such default and of the amount thereof, and if such default is not corrected by payment within ten (10) days, the DEPARTMENT is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the RECIPIENT from the Michigan Transportation Fund, but only after sufficient money has been returned to the county road commission, city, or village to provide for the payment of contractual obligations incurred or to be incurred and principal and interest on notes or bonds issued or to be issued under 1941 PA 205, 1943 PA 143, 1952 PA 175, or Section 18c or 18d of 1951 PA 51, sufficient monies to remove the default and to credit the RECIPIENT with payment thereof and to notify the RECIPIENT in writing of such fact.

The RECIPIENT 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 RECIPIENT 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.

Section 4. ADMINISTRATION

The DEPARTMENT will administer all phases of the PROJECT on behalf of the RECIPIENT, including advertising and awarding the construction contract for the PROJECT or portions of the PROJECT, in accordance with the Local Agency Cost Participation Contract, as described in Section 9.

Any change in the scope or character of the PROJECT or in the cost, term, or other provision of the CONTRACT will be by a prior written amendment to this CONTRACT awarded by the parties.

In case of any discrepancies between the body of this CONTRACT and any exhibits hereto, the body of the CONTRACT will govern. The headings used in this CONTRACT

are for convenience and identification purposes only and do not form a binding part of this CONTRACT.

Section 5. COMPLIANCE ACTIVITIES

The RECIPIENT will, in the performance of this CONTRACT, comply with and require its contractors and subcontractors to comply with all applicable federal, state, and local statutes, ordinances, and regulations and will obtain or have its contractors and subcontractors obtain all permits that are applicable to the entry into and performance of this CONTRACT.

The RECIPIENT will secure any agreements or approvals from railroad companies, utility companies, governmental agencies, or private parties required for construction of the PROJECT.

This CONTRACT will be interpreted, construed, and enforced in accordance with the laws of the State of Michigan.

By signing this CONTRACT, the RECIPIENT certifies that it has obtained or will obtain all necessary environmental protection permits and clearances prior to the beginning of the construction of the PROJECT.

Section 6. BREACH AND TERMINATION

In the event that any of the following occur, the DEPARTMENT may consider the RECIPIENT to be in default with respect to this CONTRACT:

- a. The RECIPIENT misrepresents any documentation or information provided to the DEPARTMENT to secure loan financing.
- b. The RECIPIENT fails to make a payment of any installment of interest under this CONTRACT or fails to make a due payment of any other debt or obligation now or later owed by RECIPIENT to the DEPARTMENT.
- c. The RECIPIENT defaults in the performance of any other obligation to the DEPARTMENT under this CONTRACT.
- d. The RECIPIENT becomes insolvent or makes an assignment for the benefit of creditors.
- e. Any guarantee or pledge made by the RECIPIENT that now or later secures payment for any or all indebtedness arising from this CONTRACT becomes terminated or limited for any reason (except as otherwise set forth herein or in 1951 PA 51) without the prior written consent or agreement of the DEPARTMENT.
- f. At any time the DEPARTMENT, acting in good faith, has cause to believe that the prospect of payment or performance under this CONTRACT is impaired.

In the event that the RECIPIENT fails to comply with the provisions of this CONTRACT, including the default provisions herein, and such noncompliance by the RECIPIENT continues for a period often (10) days after written notification of such noncompliance without an effort by the RECIPIENT to begin to diligently pursue remedies for such noncompliance, the DEPARTMENT will have the right, at its option and notwithstanding any waiver by the DEPARTMENT or any prior noncompliance, to demand the immediate return of the full outstanding balance of the loan financing and to terminate this CONTRACT.

The exercise of such right by the DEPARTMENT will not impair any other rights of the DEPARTMENT under this CONTRACT or any rights of action against the RECIPIENT for the collection of remaining monies due the DEPARTMENT and/or the recovery of damages.

Section 7. CONTRACTUAL OBLIGATIONS

Both parties will make reasonable efforts to satisfy promptly their surviving obligations to each other necessary to complete their contractual relationships after expiration or termination of this CONTRACT. This provision is not intended to nor does it create or confer any rights upon any person or entity not a party to this CONTRACT.

Section 8. PERFORMANCE RESPONSIBILITY

Each party to this Contract will remain responsible for any claims arising out of that party's performance of this Contract, as provided by this Contract or by law. This Contract is not intended to increase or decrease either party's liability for or immunity from tort claims.

Section 9. LOCAL AGENCY COST PARTICIPATION CONTRACT

The DEPARTMENT and the RECIPIENT agree that, with respect to the PROJECT, the RECIPIENT will enter into a Local Agency Cost Participation Contract consisting of Part I and Part II (Standard Agreement Provisions) with the DEPARTMENT prior to the disbursement of loan funds.

Section 10. NOTICES

All notices required hereunder will be in writing and will be deemed to have been duly given if personally delivered or sent by certified mail, return receipt requested, postage paid, or by telegram addressed as shown below, or by confirmed facsimile machine message, unless notified differently in writing by the other party.

If to the DEPARTMENT:
Michigan Department of
Transportation Financial
Operations Division
425 West Ottawa Street
P.O. Box 30050
Lansing, MI 48909

If to the RECIPIENT:
City of Owosso
301 W. Main
Street Owosso, MI
48867-2925

Section 11. SEVERABILITY

If any term, covenant, condition, or provision (or any part thereof) of this CONTRACT or the application thereof to any party or circumstance will at any time or to any extent be held to be invalid or unenforceable, the remainder of this CONTRACT or the application of such term or provision (or remainder thereof) to parties or circumstances other than those to which it is held to be invalid or unenforceable will not be affected thereby, and each term, covenant, condition, and provision of this CONTRACT will be valid and will be enforced to the fullest extent permitted by law.

Section 12. ASSIGNMENT

This CONTRACT may not be assigned without the express prior written approval of the non-assigning party, which approval will not be unreasonably withheld.

Section 13. ACCESS AND AUDIT

- a. The RECIPIENT will establish and maintain accurate records, in accordance with generally accepted accounting principals, of all expenses incurred for which payment is sought or made under this CONTRACT, said records to be hereinafter referred to as the "RECORDS." Separate accounts will be established and maintained for all costs incurred under this CONTRACT.
- b. The RECIPIENT will maintain the RECORDS for at least three (3) years from the date of final payment made by the DEPARTMENT under this CONTRACT. In the event of a dispute with regard to the allowable expenses or any other issue under this CONTRACT, the RECIPIENT will thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.
- c. The RECIPIENT will allow the DEPARTMENT or its representative to inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.
- d. The RECIPIENT will comply with the Single Audit Act of 1984, as amended, including, but not limited to, the Single Audit Amendments of 1996 (31 U.S.C. 7501-7507).
- e. The RECIPIENT will comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.
 - i. Recipients expending a total of Five Hundred Thousand Dollars (\$500,000.00) or more in federal funds from one or more funding sources in their fiscal year will submit two (2) copies to the address in part ii below:
 - The Reporting Package
 - The Data Collection Form
 - The audit firm management letter to the recipient, if issued.

The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

- ii. Recipients expending less than Five Hundred Thousand Dollars (\$500,000.00) in federal funds must submit a letter to the DEPARTMENT advising that an OMB Circular A-133 audit was not required. The letter will indicate the applicable fiscal year, the amount of federal funds spent, and the name(s) of the DEPARTMENT federal programs. This information must also be submitted to the address below.

Address: Michigan Department of Transportation
Financial Operations Division
425 West Ottawa Street
P. O. Box 30050
Lansing, MI 48909

- iii. Recipients must also comply with applicable state laws and regulations relative to audit requirements.
- iv. Recipients will not charge audit costs to the DEPARTMENT'S federal programs that are not in accordance with the aforementioned OMB Circular A-133 requirements.
- v. All recipients are subject to the federally-required monitoring activities, which may include limited scope reviews and other on-site monitoring.
- f. If any part of the work is subcontracted, the RECIPIENT will assure compliance with subsections (a), (b), (c), (d), and (e) above for all subcontracted work.

Section 14. PROHIBITION OF DISCRIMINATION

- a. In connection with the performance of the PROJECT under this CONTRACT, the RECIPIENT (hereinafter in Appendix A referred to as the "contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts," as set forth in Appendix A, dated March 1998, attached hereto and made a part hereof. This provision will be included in all subcontracts relating to this CONTRACT.
- b. During the performance of this CONTRACT, the RECIPIENT, for itself, its assignees, and its successors in interest (hereinafter in Appendix B referred to as the "contractor") agrees to comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6, and the Regulations of the Department of Transportation (49 CFR Part 21) issued pursuant to said Act, including Appendix B, dated June 2003, attached hereto and made a part hereof. This provision will be included in all subcontracts related to this CONTRACT.

Section 15. ASSIGNMENT OF ANTITRUST RIGHTS

With regard to claims based on goods or services that were used to meet the RECIPIENT'S obligation to the DEPARTMENT under this CONTRACT, the RECIPIENT hereby irrevocably assigns its right to pursue any claims for relief or causes of action for damages sustained by the State of Michigan or the DEPARTMENT due to any violation of 15 USC, Sections 1-15, and/or 1984 PA 274, MCL 445.771 - .788, excluding Section 4a, to the State of Michigan or the DEPARTMENT.

The RECIPIENT shall require any subcontractors to irrevocably assign their rights to pursue any claims for relief or causes of action for damages sustained by the State of Michigan or the DEPARTMENT with regard to claims based on goods or services that were used to meet the RECIPIENT'S obligation to the DEPARTMENT under this CONTRACT due to any violation of 15 USC, Sections 1-15, and/or 1984 PA 274, MCL 445.771 - .788, excluding Section 4a, to the State of Michigan or the DEPARTMENT as a third-party beneficiary.

The RECIPIENT shall notify the DEPARTMENT if it becomes aware that an antitrust violation with regard to claims based on goods or services that were used to meet the RECIPIENT'S obligation to the DEPARTMENT under this CONTRACT may have occurred or is threatened to occur. The RECIPIENT shall also notify the DEPARTMENT if it becomes aware of any person's intent to commence, or of commencement of, an antitrust action with regard to claims based on goods or services that were used to meet the RECIPIENT'S obligation to the DEPARTMENT under this CONTRACT.

Section 16. AWARD CONTINGENCY

Award of this CONTRACT will be contingent upon the RECIPIENT providing the DEPARTMENT with a duly adopted resolution authorizing a representative of the RECIPIENT to award this CONTRACT and undertake the PROJECT.

Section 17. FEDERAL TAX CODE

The RECIPIENT is a political subdivision of the State of Michigan that qualifies as a "government unit" within the meaning of Sections 141(b)(6)(A) and 141(c)(l) of the Internal Revenue Code of 1986, as amended, hereinafter referred to as the "CODE."

The RECIPIENT hereby covenants and agrees for the benefit of the DEPARTMENT that it will comply with the applicable requirements of Section 149 of the CODE.

The RECIPIENT will not permit at any time or times any of the property financed with the proceeds of the loan finds that would result in the exclusion of any bonds of the DEPARTMENT from the treatment afforded by Section 103(a) of the CODE, as from time to time amended, by reason of the classification of such bonds as "private activity bonds" within the meaning of Section 141 (a) of the CODE, or as obligations guaranteed by the United States of America, as provided in Section 149(b) of the CODE, or cause interest on the bonds to be includable in gross income for federal income tax purposes.

Section 18. AWARD

This CONTRACT will become binding on the parties and of full force and effect upon signing by the duly authorized representatives of the RECIPIENT and the DEPARTMENT and upon adoption of a resolution approving said CONTRACT and approving the signature(s) thereto of the respective representative(s) of the RECIPIENT, a certified copy of which resolution will be sent to the DEPARTMENT with this CONTRACT, as applicable.

Note: All appendices and attachments in their full text are located in the Clerk's Office.

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

OWOSSO TOWNSHIP WATER AGREEMENT

Motion by Councilperson Simmons to authorize a temporary water agreement and amendment with Owosso Charter Township providing Davis Cartage with water service and further authorize the Mayor to sign appropriate documents as follows:

It is understood that Owosso City Council took action at a council meeting on 3/3/08 to amend their previous policy of not supplying water outside the city, and make provision to allow the supplying of water to the property located at 490 S. Chestnut St. in Owosso Charter Township. This consideration took place as a result of the request by Davis Cartage representatives who are developing the site. It is further understood that this service is being considered as a new hook up by the City.

Owosso Charter Township will agree to the supplying of water service to the site providing the following is understood:

1. This is a temporary arrangement for this site in order to avoid delays to the project, the cost of water will be double that of city residents rates and 25% of the water sale will be placed in an account for the township and turned over to their own account once a water contract is agreed upon.
2. Owosso Charter Township and the City of Owosso will continue to work to reach a conclusion on a water agreement, which has been under discussion for the past couple years.
3. When an agreement is reached with the City of Owosso on a water agreement it is understood that the 490 S. Chestnut St. site will fall into the district discussed for that area.

Amendment to Owosso Charter Township Agreement to Provide Water to 490 S. Chestnut St in Owosso Charter Township:

4. On March 31, 2009 if a comprehensive water agreement has not been reached with Owosso Charter Township on District #2, then the temporary escrow account established in subsection 1) of this temporary agreement will be released back to the City of Owosso Water Fund.

Motion supported by Mayor Pro-Tem Owen.

Roll Call Vote.

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

NAYS: None.

PROPERTY OPTIONS – 102 SOUTH WASHINGTON STREET

There was extensive discussion regarding the options for the property, the definition of Area Wide Benefit, and the costs for each option. It was pointed out Council did not need to make a determination as to exactly what project would take place on the property but simply provide staff with direction as to what aspects of the grant they would like to ask the MEDC to modify.

Motion by Mayor Pro-Tem Owen to direct City Staff to request the following amendments to the existing MEDC grant for the property located at 102 South Washington Street, recognizing that the City would be obligated to complete an Area Wide Benefit project on the location by September 1, 2008 at an amount to be determined by the MEDC:

1. Reduce the grant amount from \$750,000 to the expended \$247,399.
2. Change the National Objective from Jobs Creation to Area Wide Benefit.

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

MAIN STREET PROGRAM RESOLUTION

Motion by Councilperson Frederick to authorize a resolution approving application to the Michigan Main Street Program at the Associate Level on behalf of the Owosso Downtown Development Authority and the Westown Corridor Improvement Authority as follows:

**RESOLUTION NO. 23-2008
SUPPORTING APPLICATION TO THE
ASSOCIATE LEVEL MAIN STREET PROGRAM**

WHEREAS, the aim of the Michigan Main Street is to revitalize and grow Michigan's downtowns into thriving traditional centers of commerce for people and business. Recognizing that healthy and vibrant downtowns are part of a larger strategy to retain and attract young people, professionals and high tech companies to the State of Michigan; and

WHEREAS, the Main Street Program approach was developed to save historic commercial architecture and community fabric, while also aiding in economic development, and

Whereas, the Associate Level Main Street Program was established as a two year training program based in historic preservation that is intended to usher communities into the full Main Street Program; and

WHEREAS the municipality of the City of Owosso desires to participate in the Associate Level Main Street Program administered through a partnership between the Michigan State Historic Preservation Office (SHPO) and Michigan State Housing Development Authority (MSHDA);

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Owosso that the municipality of the City of Owosso supports the submission of an application and agrees to participate in the Associate Level Main Street Program.

FURTHERMORE, the Council is committed to the goal of economic revitalization of the designated areas of the Owosso Downtown Development Authority (DDA) and the Owosso Corridor Improvement Authority (CIA) within the context of preservation and rehabilitation of its commercial buildings, recognizing that the Main Street Program is one of many location specific economic and community development tools provided by the State of Michigan to be utilized by local municipalities.

COMMUNICATIONS

John F. Archer, Building Official. March 2008 Building Department Report.

John F. Archer, Building Official. March 2008 Code Violations Report.

Michael T. Compeau, Public Safety Director. March 2008 Police Department Report.

Michael T. Compeau, Public Safety Director. March 2008 Fire Department Report.

Owosso Historical Commission. Minutes of the Meeting of March 18, 2008.

CITIZEN COMMENTS AND QUESTIONS

Brian Berry, 627 North Washington Street, on behalf of Preservation Owosso, commended all the volunteers for their work on Fayette Square and encouraged pursuit of the improvements laid out in the Parks Master Plan.

Shelva Cebulski, 1243 Marion Street, commented on her desire to see burning prohibited in the City. She also inquired if the railroad could be forced to clean up their property near the intersection of Chipman and Beehler Streets. It was noted they could not be forced to clean up their property.

Burton Fox, 216 East Oliver Street, suggested permanently moving the Farmer's Market location to an area on Washington Street similar to the street market conducted by Focus Owosso to attract more business to the downtown.

Gerald Alcorn, 637 ½ North Water Street, suggested establishing a skating rink (both summer and winter venues) and outdoor film viewing area on the property at 102 South Washington Street.

Eddie Urban, 601 Glenwood Avenue, commented on his concern that some Farmer's Market vendors may not carry individual insurance policies.

There was an update on the status of the Gould House Garage reconstruction project. Councilperson Martenis indicated the Historical Commission was having difficulty finding an architect that would donate their efforts to the project.

ADJOURNMENT

Motion by Mayor Pro-Tem Owen for adjournment at 9:33 p.m.

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

Michael E. Bruff, Mayor

Amy K. Kohagen, City Clerk