

OWOSSO CITY COUNCIL

JUNE 2, 2008

7:30 P.M.

PRESIDING OFFICER: MAYOR MICHAEL E. BRUFF

OPENING PRAYER: REVEREND HEATHER BARTA
CHRIST EPISCOPAL CHURCH

PLEDGE OF ALLEGIANCE: COUNCILPERSON BENJAMIN R. FREDERICK

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 Mayor Pro-Tem Owen to approve the agenda as presented with the following addition:

ITEMS OF BUSINESS

11. Owosso Community Players Agreement. Consider approval of an agreement between the City and the Owosso Community Players and authorize the Mayor to sign appropriate documents.

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

APPROVAL OF THE MINUTES OF REGULAR MEETING OF MAY 19, 2008

Motion by Councilperson Forster to approve the Minutes of the Regular Meeting of May 19, 2008 as presented.

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

PROCLAMATIONS/SPECIAL PRESENTATIONS

None.

PUBLIC HEARINGS

None.

CITIZEN COMMENTS AND QUESTIONS

Burton Fox, 216 East Oliver Street, commented on his concern with a large truck making deliveries on the corner of Main Street and Washington Street. He indicated he felt the truck was causing a safety hazard by stopping in the street. He also indicated he felt the side conversations of some Council members were distracting. It was indicated the Council issue had already been addressed.

Shelva Cebulski, 1243 Marion Street, pointed out that she had twice seen a person riding a motor scooter on the sidewalks in the downtown and asked that someone look into it. She also thanked the City for seeing to paving around the rehabilitated manholes. She further thanked all those involved in the improvement and dedication of the Veteran's Memorial in Fayette Square.

Betty Coon, 1204 Palmer Avenue, commented on her feeling that those that support open burning had already compromised in limiting burning to only two days per week and further commented that charging for burning permits would be punitive to the elderly and the unemployed. She also thanked the Department of Public Works for making sure her street was cleared of snow and ice during the winter.

Clare McCoy, 5085 Hickory Hollow Lane, inquired as to how she could go about reserving Bennett Field. She explained she was not happy with the way the summer girls' softball league was operated. She also asked how Mr. Dibeau had gained his authority in running the summer girls' softball league.

Eddie Urban, 601 Glenwood Avenue, also expressed his disappointment with the operation of the girls' softball program.

Mayor Bruff asked all the high school students in attendance to introduce themselves.

Councilperson Frederick indicated the rededication ceremony for the Veterans' Memorial at Fayette Square was great. He congratulated the community on its collaborative efforts in the project.

Mayor Bruff indicated he had received a phone call from a citizen who was concerned with possible gypsy moth infestation in town.

City Manager Fivas indicated they were looking at remedies for the moth problem. He also indicated the City is not directly involved with the girls' softball league but would relay the concerns expressed tonight to the leaders of the organization.

There was general discussion regarding the City's level of participation in the softball league and the way it is operated.

CITY MANAGER REPORT

City Manager Fivas expressed his anticipation for the upcoming Curwood Festival. He indicated preparations for the festival would be underway starting Wednesday. He encouraged everyone to welcome visitors to the City and participate in the weekend's events.

He further indicated the Council would be attending to some important items on tonight's agenda. He expressed hope the items would be a catalyst for positive internal changes.

CONSENT AGENDA

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

First Reading and Set Public Hearing - Ordinance Amendment.

The First Reading on the proposed ordinance amendment was held.

A public hearing was scheduled for June 16, 2008 to receive citizen comment regarding the proposed ordinance to amend Chapter 2, *Administration*, Article V, Employee Relations, Sections 2-251, 2-256, and 2-276 through 2-281 of the Code of Ordinances of the City of Owosso, Michigan as follows:

AN ORDINANCE TO AMEND CHAPTER 2, ADMINISTRATION, ARTICLE V, EMPLOYEE RELATIONS, SECTIONS 2-251, 2-256, AND 2-276 THROUGH 2-281 OF THE CODE OF ORDINANCES OF THE CITY OF OWOSSO, MICHIGAN TO REFLECT THE RESTRUCTURING OF THE ORGANIZATION.

THE CITY OF OWOSSO ORDAINS:

SECTION 1. THE CITY OF OWOSSO ORDAINS: That Sections 2-251, 2-256, and 2-276 through 2-281 of Chapter 2, Administration, Article V, *Employee Relations*, is hereby amended to read 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, disabled 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, employee service, and employee recognition programs.

The director of human resources shall encourage the improvements of service by providing employees with opportunities for training, employee service, and employee recognition programs which need not be limited to training, service, and recognition for specific jobs but may include training, service, and recognition 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.

DIVISION 2.

CIVIL SERVICE

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, part-time 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 director of human resources 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 director of human resources 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 equally based on merit as determined by competitive examinations and by an interview process.

(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 and the score received in the interview process.

(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 non-disabled 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 city manager it is in the best interest of the city to do so. Promotions shall give appropriate consideration to the applicant's qualifications and record of performance.

(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 director of human resources to be appropriate for a class, vacancies may be filled by temporary appointment by the city manager.

Sec. 2-279. Eligibility lists.

(a) *Priority of lists.* Eligibility lists 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 director of human resources, 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 director of human resources 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 director of human resources 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, under the direction of the city manager, shall promulgate rules and regulations with regard to discipline, demotions and separation of employees from city employment.

Section 2. This ordinance shall become effective twenty days after 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.

Purchase Approval. Approved the purchase of one John Deere four wheel drive 72" front deck mower with soft side cabs and auxiliary hydraulics through the State of Michigan purchasing contract with D & G Equipment in the amount of \$20,764.72.

Contract Agreement – MDOT. Authorized contract with the Michigan Department of Transportation for payment of \$100,000.00 in exchange for the closing of Ball Street at the Great

Lakes Central Railroad Crossing and further authorized the Mayor to sign appropriate documents as follows:

CONTRACT NO. 2008-0205
JOB NO. 102984
CONTROL SECTION: 76066
AGENDA: DAB

**MICHIGAN DEPARTMENT OF TRANSPORTATION
CITY OF OWOSSO
CONTRACT**

THIS CONTRACT 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, of 301 W. Main, Owosso, MI 48867-2958, hereinafter referred to as the "REQUESTING PARTY."

WTTNESSETH:

WHEREAS, the REQUESTING PARTY has passed a resolution to close Ball Street at the Great Lakes Central Railroad, Inc. railroad crossing, identified as National Inventory Number 000-347-J, DEPARTMENT File Number 06292; and

WHEREAS, in view of the safety benefits of closing railroad crossings, this action makes the REQUESTING PARTY eligible for an incentive payment under Michigan law, MCL 247.661, hereinafter referred to as the "STATE INCENTIVE PAYMENT"; and

WHEREAS, the REQUESTING PARTY is willing to undertake the work to physically close the road at the crossing, such work to be herein referred to as the "CLOSURE WORK," in exchange for the STATE INCENTIVE PAYMENT; and

WHEREAS, funds have been identified and approved to provide the STATE INCENTIVE PAYMENT;

NOW, THEREFORE, the parties agree as follows:

1. Using criteria developed by the DEPARTMENT to evaluate closure values, the DEPARTMENT has determined that the REQUESTING PARTY is eligible to receive a STATE INCENTIVE PAYMENT of One Hundred Thousand Dollars (\$100,000.00) for closing this crossing.
2. The REQUESTING PARTY will perform or cause to be performed the CLOSURE WORK with no additional reimbursement from the DEPARTMENT.
3. Immediately upon award of this Contract, the DEPARTMENT will provide Ten Thousand Dollars (\$10,000.00) of the STATE INCENTIVE PAYMENT to the REQUESTING PARTY.
4. The DEPARTMENT will release the remaining Ninety Thousand Dollars (\$90,000.00) of the STATE INCENTIVE PAYMENT in a lump sum payment upon receipt of confirmation from the REQUESTING PARTY that the CLOSURE WORK has been completed and after that completion has been verified through a final inspection by the DEPARTMENT.
5. All CLOSURE WORK will be completed within one year of the date of award of this Contract. If the CLOSURE WORK is not completed within one year of the date of award of this Contract, the REQUESTING PARTY will forfeit its rights to the STATE INCENTIVE PAYMENT and must return the initial Ten Thousand Dollars (\$10,000.00) it received within sixty (60) days following the end of this one-year period. If the REQUESTING PARTY fails to fully repay these monies within the time period allowed, the REQUESTING PARTY agrees that the DEPARTMENT will deduct the Ten Thousand Dollars (\$10,000.00) from any DEPARTMENT funds then or thereafter payable to the REQUESTING PARTY for any project or agreement.
6. DEPARTMENT funds in this Contract made available through Legislative appropriations are based on projected revenue estimates. The DEPARTMENT may reduce the amount of this Contract if the revenue actually received is insufficient to support the appropriation under which this Contract is made.
7. Any approvals, acceptances, reviews, and inspections of any nature by the DEPARTMENT will not be construed as a warranty or assumption of liability on the part of the DEPARTMENT. It is expressly understood and agreed that any such approvals, acceptances, reviews, and inspections are for the sole and exclusive purposes of the DEPARTMENT, which is acting in a governmental capacity under this Contract, and that such approvals, acceptances, reviews, and inspections are a governmental function incidental to the services under this Contract.

Any such approvals, acceptances, reviews, and inspections by the DEPARTMENT will not relieve the REQUESTING PARTY of its obligations hereunder, nor are such approvals, acceptances, reviews, and inspections by the DEPARTMENT to be construed as a warranty as to the propriety of the REQUESTING PARTY'S performance but are undertaken for the sole use and information of the DEPARTMENT.

8. The REQUESTING PARTY will comply with and will use the STATE INCENTIVE PAYMENT in accordance with the provisions of MCL 247.661.
9. The REQUESTING PARTY will
 - a. Establish and maintain accurate records, in accordance with generally accepted accounting principals, of all expenditures made using monies obtained through this Contract, said records to be hereinafter referred to as the "RECORDS." Separate accounts will be established and maintained for all expenditures made using monies obtained through this Contract.
 - b. 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 REQUESTING PARTY 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. Allow the DEPARTMENT or its representative to inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.
 - d. If any part of the work is subcontracted, the REQUESTING PARTY will assure compliance with subsections (a), (b), and (c) above for all subcontracted work.
10. In the event that an audit performed by or on behalf of the DEPARTMENT questions the allowability of an item of expense, the DEPARTMENT will promptly submit to the REQUESTING PARTY a Notice of Audit Results and a copy of the audit report, which may supplement or modify any tentative findings verbally communicated to the REQUESTING PARTY at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY will (a) respond in writing to the responsible Bureau of the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense, and (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE." The RESPONSE will be clearly stated and will provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE will refer to and apply the language of the Contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

The DEPARTMENT will make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that any monies were not expended in accordance with MCL 247.661, the REQUESTING PARTY will repay that amount to the DEPARTMENT or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days after the date of an invoice from the DEPARTMENT. If the REQUESTING PARTY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the REQUESTING PARTY agrees that the DEPARTMENT will deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the REQUESTING PARTY under this Contract or any other agreement or payable to the REQUESTING PARTY under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by the DEPARTMENT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The REQUESTING PARTY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT'S decision only as to

any item of expense the disallowance of which was disputed by the REQUESTING PARTY in a timely filed RESPONSE.

11. With regard to nondiscrimination requirements,
 - a. In connection with the performance of this Contract, the REQUESTING PARTY (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 its performance of this Contract, the REQUESTING PARTY, 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 relating to this Contract.
12. Each party to this Contract will seek its own legal representation and bear its own costs, including judgments, in any litigation that may arise from the performance of this Contract. It is specifically understood and agreed that neither party will indemnify the other party in such litigation.
13. Either party may terminate this Contract for any reason upon thirty (30) days written notice to the other party. If the REQUESTING PARTY terminates this Contract after receiving any portion of the STATE INCENTIVE PAYMENT and has not closed the crossing to vehicular traffic, it must return those monies to the DEPARTMENT within (sixty) 60 days following the termination date. If the REQUESTING PARTY fails to fully repay these monies within the time period allowed, the REQUESTING PARTY agrees that the DEPARTMENT will deduct the full amount from any DEPARTMENT funds then or thereafter payable to the REQUESTING PARTY for any project or agreement.
14. This Contract will be in effect from the date of award until the last obligation between the parties has been fulfilled.
15. This Contract will become binding on the parties and of full force and effect upon signing by the duly authorized representatives of the REQUESTING PARTY and the DEPARTMENT and upon adoption of a resolution approving said Contract and authorizing the signature(s) thereto of the respective representative(s) of the REQUESTING PARTY, a certified copy of which resolution will be sent to the DEPARTMENT with this Contract, as applicable.

Warrant No. 363. Accepted Warrant No. 363 as follows:

Vendor	Description	Fund	Amount
Waste Management	Disposal Charges for special wastes May 1, 2008 – May 15, 2008	WWTP; Local/Major Streets	\$5,592.53

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

ITEMS OF BUSINESS

ORDINANCE AMENDMENT – UTILITIES AND SERVICES

City Manager Fivas explained that Public Act 94 of 1933 allowed the City to adopt such an ordinance without public hearing and upon adoption the ordinance would have immediate effect.

Whereas, the Council has met, and in accordance with Public Act 94 of 1933, motion by Councilperson Cline to adopt the following ordinance under emergent circumstances:

ORDINANCE NO. 697

AN ORDINANCE TO PROVIDE FOR THE CONSTRUCTION OF IMPROVEMENTS TO THE SANITARY SEWAGE DISPOSAL SYSTEM OF THE CITY; TO PROVIDE FOR THE COLLECTION OF REVENUES FROM THE SYSTEM SUFFICIENT FOR THE PURPOSE OF PAYING THE COSTS OF OPERATION AND MAINTENANCE OF THE SYSTEM AND THE PAYMENT OF PRINCIPAL OF AND INTEREST ON BONDS ISSUED TO PAY FOR IMPROVEMENTS TO THE SYSTEM; TO PROVIDE FOR THE SEGREGATION AND DISTRIBUTION OF THE REVENUES; AND TO PROVIDE FOR OTHER MATTERS RELATING TO THE SYSTEM.

THE CITY OF OWOSSO ORDAINS:

SECTION 1. THE CITY OF OWOSSO ORDAINS: That Sections 34-254 through 34-267 of Chapter 34 Utilities and Services, Article V, *Water and Sewer Rates*, is hereby added to read as follows:

Sec. 34-254. Definitions.

Whenever used in this Ordinance, except when otherwise indicated by the context, the following terms when capitalized shall have the following meanings:

- (a) "Act 94" means Act 94, Public Acts of Michigan, 1933, as amended.
- (b) "Bonds" shall mean any Bonds which may be issued by the City for the purpose of making repairs, extensions, enlargements and improvements to the System, for the payment of which the City intends to use Net Revenues.
- (c) "City" means the City of Owosso, Shiawassee County, Michigan.
- (d) "General Obligation Bond Payment Fund" means the General Obligation Bond Payment Fund created under Sec. 34-259 of this Ordinance.
- (e) "Improvement Fund" means the Improvement Fund created under Sec. 34-259 of this Ordinance.
- (f) "LTGO Bonds" means the City's General Obligation Limited Tax Bonds to be issued in one or more series to construct the Project as described in a Notice of Intent to Issue Bonds published by the City on February 6, 2008.
- (g) "Operation Fund" means the Operation and Maintenance Fund created under Sec. 34-259 of this Ordinance.
- (h) "Project" means improving and extending the City's sanitary sewage disposal system, including but not limited to requiring rehabilitation of the City's sanitary sewage system and manholes, together with any appurtenances and attachments thereto and any related site acquisition or improvements.
- (i) "Receiving Fund" means the Sanitary sewage disposal System Receiving Fund created under Sec. 34-259 of this Ordinance.
- (j) "Revenue Bond Redemption Fund" means the Revenue Bond and Interest Redemption Fund created under Sec. 34-259 of this Ordinance.
- (k) "Revenue Bonds" shall mean any Revenue Bonds which might be issued by the City in the future pursuant to Act 94 which are payable from a statutory first lien on the Net Revenues.
- (l) "Revenues" and "Net Revenues" mean the revenues and net revenues of the System and shall be construed as defined in Section 3 of Act 94, including with respect to "Revenues" the earnings derived from the investment of moneys in the various funds and accounts established by this Ordinance.
- (m) "System" means the entire Sanitary sewage disposal System of the City including such facilities thereof as are now existing and as shall be acquired and constructed as the Project, including all appurtenances, enlargements, extensions, repairs and improvements thereto hereafter made.

Sec. 34-255. Construction of Project and Payment of Costs.

It is hereby determined to be a necessary public purpose of the City to acquire and construct the Project. The total cost of the Project is estimated to be not-to-exceed \$2,750,000 including the payment of costs incidental to the issuance, sale and delivery of the LTGO Bonds, which estimate of cost is hereby approved and confirmed. The period of usefulness of the Project is estimated to be not less than thirty (30) years. To pay part of the cost of acquiring and constructing the Project, including payment of legal, engineering, financial and other expenses incident thereto and incident to the issuance and sale of the LTGO Bonds, the City shall borrow a sum not-to-exceed \$2,750,000 and issue one or more series of limited tax general obligation bonds herefore pursuant to the provisions of Part 43 of Act 451, Public Acts of Michigan, 1994, as amended, and a bond authorizing resolution of the City Council. The remaining costs of the Project shall be defrayed from City funds on hand and legally available for such use.

Sec. 34-256. Management; Fiscal Year.

The operation, repair and management of the System shall continue to be under the supervision and control of the City Council. The City Council may employ such person or persons in such capacity or capacities as it deems advisable to carry on the efficient management and operation of the System. The City Council may make such rules and regulations as it deems advisable and necessary to assure the efficient management and

operation of the System. The Fiscal Year for the System shall run concurrently with the Fiscal Year of the City.

Sec. 34-257. No Free Service or Use.

No free service or use of the System, or service or use of the System at less than cost, shall be furnished by the System to any person, firm or corporation, public or private, or to any public agency or instrumentality, including the City.

Sec. 34-258. Rates and Charges; Fixing and Revising Rates; Rate Covenant.

The rates and charges for service furnished by and the use of the System and the methods of collection and enforcement of the collection of the rates and charges for service furnished by and the use of the System shall be those in effect on the date of adoption of this Ordinance, which, in the opinion of the City Council, are currently sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, to provide for the payment of the principal of and interest on the LTGO Bonds as the same become due and payable, and to provide for all other obligations, expenditures and funds for the System required by law and this Ordinance. It is hereby covenanted and agreed to fix and maintain rates for services furnished by the System at all times sufficient to provide for the payment of the expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the System in good repair and working order, and to provide for all other obligations, expenditures and funds for the System required by law including, specifically to provide for payment of principal of, interest, and premium, if any, on the LTGO Bonds.

The rates and charges for operation, maintenance, replacement and administration hereby established shall be based upon a methodology which complies with the applicable federal and state statutes and regulations. The amount of the rates and charges shall be sufficient to provide for debt service and for the expenses of operation, maintenance, replacement and administration of the system as necessary to preserve the same in good repair and working order. The amount of the rates and charges shall be reviewed annually and revised when necessary to ensure system expenses are met and that all users pay their proportionate share of operation, maintenance, equipment replacement and administration expenses.

Sec. 34-259. Funds and Accounts; Flow of Funds.

Commencing on the effective date of this Ordinance, all funds belonging to the System shall be transferred as herein indicated and all Revenues of the System shall be set aside as collected and credited to a separate depository account to be designated as the SANITARY SEWAGE DISPOSAL SYSTEM RECEIVING FUND (the "Receiving Fund"). In addition, on the effective date of this Ordinance, all Revenues in any accounts of the System shall be transferred to the Receiving Fund and credited to the funds and accounts as provided in this section. The Revenues credited to the Receiving Fund are pledged for the purpose of the following funds and shall be transferred or debited from the Receiving Fund periodically in the manner, at the times, and in the order of priority hereinafter specified, provided that no transfer shall be required to be made to a fund on any date if the amount on deposit in the fund is sufficient to meet the requirements of this Ordinance.

A. OPERATION AND MAINTENANCE FUND:

There shall next be established and maintained a separate account designated as the OPERATION AND MAINTENANCE FUND (the "Operation and Maintenance Fund"). Out of the Revenues credited to the Receiving Fund there shall be first set aside in the Operation and Maintenance Fund the amounts necessary to provide for the payment of expenses of administration and operation of the System and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.

B. REVENUE BOND AND INTEREST REDEMPTION FUND:

In the event the City issues Revenue Bonds pursuant to Act 94 which are payable from a statutory first lien on the Net Revenues, there shall be established and maintained a separate depository account designated as the REVENUE BOND AND INTEREST REDEMPTION FUND (the "Revenue Bond Redemption Fund"), the moneys on deposit therein from time to time to be used solely for the purpose of paying the principal of, redemption premiums (if any) and interest on the Revenue Bonds.

Out of the Revenues remaining in the Receiving Fund after provision for the Operation and Maintenance Fund, there shall be set aside in the Revenue Bond Redemption Fund prior to each date principal or interest on the Revenue Bonds is due, the amount necessary to provide for the payment when due of the principal of and interest on the Revenue Bonds including any amounts necessary to maintain any Revenue Bond Reserve Account established within the Revenue Bond Redemption Fund by the ordinance authorizing issuance of Revenue Bonds.

C. GENERAL OBLIGATION BOND PAYMENT FUND:

There shall next be established a fund designated the GENERAL OBLIGATION BOND PAYMENT FUND (the "General Obligation Bond Payment Fund") the money credited thereto to be used solely for payment of principal of, interest and premium, if any, on the LTGO Bonds and any other general obligation bonds issued by the City for improvements to the System. Out of the Revenues remaining in the Receiving Fund after meeting the requirements of the Operation and Maintenance Fund and the Revenue Bond Redemption Fund, there shall be next set aside in, or credited to, the General Obligation Bond Payment Fund, amounts which shall be proportionately sufficient to provide for payment of principal, interest and premiums, if any, on the LTGO Bonds and any other general obligation bonds as the same become due. Amounts in the General Obligation Bond Payment Fund shall be withdrawn as necessary to pay the principal of and interest and premium on the LTGO Bonds and any other general obligation bonds as the same become due; the moneys withdrawn for payment of the LTGO Bonds shall be deposited in the debt retirement fund created for the LTGO Bonds.

D. IMPROVEMENT FUND:

There shall next be established and maintained a separate account, pursuant to Sec. 34-261 of this Ordinance, designated as the IMPROVEMENT FUND (the "Improvement Fund"), the money credited thereto to be used solely for the purpose of making improvements, additions, extensions, repairs, and replacements to the System. The Improvement Fund may have several subaccounts therein. On the effective date of this Ordinance, there shall be credited to the Improvement Fund a sum, if any, as shall be determined by the City Manager. Out of the Revenues and moneys of the System remaining in the Receiving Fund, after provision has been made for the transfer of moneys in the Operation and Maintenance Fund, the Revenue Bond Redemption Fund (including any bond reserve account which may be established on a future date) and the General Obligation Bond Payment Fund, there shall be transferred to the Improvement Fund such additional funds as shall be necessary to keep the System in proper repair and working order. If at any time it shall be necessary to use moneys in the Improvement Fund for the purpose for which the Improvement Fund was established, the moneys so used shall be replaced from any moneys in the Receiving Fund which are not required by this Ordinance to be used for the Operation and Maintenance Fund, the Revenue Bond Redemption Fund (including any bond reserve account which may be established on a future date) or the General Obligation Bond Payment Fund.

E. SURPLUS MONEYS:

Hereafter, any Revenues in the Receiving Fund after satisfying all the foregoing requirements of this Section may, at the discretion of the City, be transferred to the Improvement Fund or used for any other purpose permitted by law.

Sec. 34-260. Priority of Funds.

In the event the moneys in the Receiving Fund are insufficient to provide for the current requirements of the Operation and Maintenance Fund, the Revenue Bond Redemption Fund or the General Obligation Bond Payment Fund, any moneys or securities in other funds of the System, except the proceeds of sale of any Bonds, shall be credited or transferred, first, to the Operation and Maintenance Fund, and second, if the moneys on deposit in the Operation and Maintenance Fund are sufficient to meet the requirements of the Operation and Maintenance Fund, shall be credited or transferred to the Revenue Bond Redemption Fund (including any bond reserve account which may be established on a future date) or the General Obligation Bond Payment Fund and finally to the Improvement Fund.

Sec. 34-261. Depository and Funds on Hand.

Moneys in the several funds and the accounts established pursuant to this Ordinance, except moneys in the Revenue Bond Redemption Fund (including any bond reserve account which may be established on a future date) and the General Obligation Bond Payment Fund and moneys derived from the proceeds of sale of any Bonds, may be kept in one bank account at a bank or banks designated by resolution of the City, and if kept in one bank account the moneys shall be allocated among the several funds on the books and records of the City in the manner and at the times provided in this Ordinance.

Sec. 34-262. Investments.

Moneys in the funds and accounts established herein may be invested by the City in United States of America obligations or in obligations the principal of and interest on which is fully guaranteed by the United States of America and any other investments hereafter permitted by law. If the moneys invested are kept in one account, as provided in Sec. 34-261 of this Ordinance, then the monies shall be allocated among the several funds on the books and records of the City in the manner and at the times provided in this Ordinance. Investment of moneys in the Revenue Bond Redemption Fund or the General Obligation Bond Payment Fund being accumulated for payment of the next maturing principal or interest payment of Bonds shall be limited to obligations bearing maturity dates prior to the date of the next maturing principal or interest payment on the Bonds.

In the event investments are made, any securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds or account from which the purchase was made. Gains realized or interest income earned on investment of funds in the Receiving Fund, the Operation and Maintenance Fund, and the Improvement Fund shall be deposited in or credited to the Receiving Fund at the end of each fiscal year. Gains realized on interest income earned on investment of moneys in the Revenue Bond Redemption Fund (including income derived from any bond reserve account which may be established on a future date) or the General Obligation Bond Payment Fund, shall be credited as received to the such Fund, provided that any bond reserve account therein is fully funded.

Sec. 34-263. Covenants.

The City covenants and agrees with the holders of the Bonds as follows as long as any of the Bonds remain Outstanding and unpaid as to either principal or interest:

- (a) The City will maintain the System in good repair and working order and will operate the same efficiently and will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Michigan and the City's Charter and ordinances.
- (b) The City will keep proper books of record and account separate from all other records and accounts of the City, in which shall be made full and correct entries of all transactions relating to the System in accordance with state law. The City shall have an annual audit (or, if permitted by State law, an audit every two years) of the books of record and accounts of the System for the preceding operating year made each year by an independent certified public accountant.
- (c) The City will maintain and carry, for the benefit of the holders of the Bonds, insurance on all physical properties of the System and liability insurance, of the kinds and in the amounts normally carried by municipalities engaged in the operation of similar sanitary sewage disposal systems, including self-insurance.
- (d) The City will not sell, lease or dispose of the System, or any substantial part of the System, until all of the principal and interest on Bonds have been paid in full or provision made therefor as herein provided. The City will operate the System as economically as possible, will make all repairs and replacements necessary to keep the System in good repair and working order, and will not do or suffer to be done any act which would affect the System in such a way as to have a material adverse effect on the security for the Bonds.
- (e) The City will not grant any franchise or other rights to any person, firm or corporation to operate a System that will compete with the System.
- (f) The City will cause the Project to be acquired and constructed promptly and in accordance with the plans and specification therefor.

Sec. 34-264. Revenue Bonds.

The right is reserved to issue Revenue Bonds payable from the Revenues of the System in accordance with the provisions of Act 94, which shall have a statutory lien on the Net Revenues of the System.

Sec. 34-265. Repeal of Prior Ordinances.

All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are repealed.

Sec. 34-266. Severability and Paragraph Headings.

If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

Sec. 34-267. Publication and Recordation.

In accordance with the provisions of Section 6 of Act 94, this Ordinance shall be published once in full in *The Argus-Press*, a newspaper of general circulation in the City of Owosso qualified under State of Michigan law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the City and such recording authenticated by the signatures of the Mayor and the City Clerk.

Section 2. This ordinance shall become effective June 2, 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 Simmons.

Roll Call Vote.

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

NAYS: None.

BID AWARD – PIERCE PUMPER TRUCK

Motion by Councilperson Forster to approve acceptance of bid from Gary Ritter for one 1978 GM Pierce Pumper truck, VIN# CCF668V141266, in the amount of \$1,125.00.

Motion supported by Councilperson Martenis.

Roll Call Vote.

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

NAYS: None.

BID AWARD – MCCOY MILLER AMBULANCE

It was noted that the City has a history of receiving very low bids for used emergency equipment, with some equipment having been recently donated due to a lack of bids.

Motion by Approved acceptance of bid from Gary Ritter for one 1994 Ford 350 McCoy Miller Ambulance in the amount of \$1,015.00.

Motion supported by Councilperson Simmons.

Roll Call Vote.

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

NAYS: None.

GENERAL APPROPRIATIONS RESOLUTION AMENDMENT

Motion by Councilperson Frederick to authorize the following amendment to Resolution No. 28-2008, General Appropriations Resolution:

RESOLUTION NO. 28-2008 AMENDMENT

WHEREAS, the City Council passed a general appropriations resolution on May 19th 2008 providing for a total operating millage rate of 13.7987 for the fiscal year beginning July 1, 2008; and

WHEREAS, it has been determined the successful passage of the Holman Pool millage approved by a majority in August 2006 provided for a maximum authorized rate of .291 mills per \$1,000 of taxable value subject to constitutional, statutory and charter limitations; and

WHEREAS, it is projected that the operational expenses of the Pool for the fiscal year 2007-08 will result in a surplus over the adjusted authorized rate; and

WHEREAS, based on the projected carryover after amending the 2007-08 budget it has been determined that the millage to operate the Pool should be adjusted to reflect the foregoing;

NOW THEREFORE BE IT RESOLVED, that the total operating millage rate for the fiscal year 2008-09 be amended to 13.6139 mills including .1993 mills for Holman Pool per 1,000 of taxable value of the 2008 assessment roll with a revenue yield of \$3,881,914 and hereby affirm General Appropriations Resolution # 28-2008 otherwise unchanged.

Motion supported by Councilperson Martenis.

Roll Call Vote.

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

NAYS: None.

PET ORDINANCE DISCUSSION

There was a brief discussion of the ordinance relating to pet ownership. It was noted the gentleman that protested the ordinance at the last Council meeting had taken out a petition to attempt to have the ordinance changed. The Council took no action to change the current ordinance.

PROMISSORY NOTE – BROWNFIELD REDEVELOPMENT AUTHORITY

Motion by Councilperson Forster to accepted the Promissory Note from the Brownfield Redevelopment Authority memorializing the debt for the reconstruction of Cass Street as follows:

PROMISSORY NOTE

\$211,136.53

Owosso, Michigan
December 1, 2007

For the value received, the borrower, OWOSSO BROWNFIELD REDEVELOPMENT AUTHORITY, a Michigan municipal corporation of Owosso, Michigan, promises to pay to the order of the lender, THE CITY OF OWOSSO, a Michigan municipal corporation, or its successors, assigns, and endorsees, Two Hundred Eleven Thousand One Hundred Thirty Six and 53/100 (\$211,136.53) Dollars, or the portion of that amount that has been advanced, with interest on all principal outstanding from today at the rate of six (6%) percent per year. The principal and interest shall be payable as follows:

Principal and interest shall be payable in annual reimbursements from the City's share of captured tax revenues provided for in the District #3 Brownfield Redevelopment Plan with the understanding that the reimbursement is limited to the captured tax revenues actually collected for the term of the plan.

Both the principal and interest on this note shall be payable in U.S. currency at the principal office of the lender at 301 West Main Street, Owosso, Michigan 48867, or at any other place the lender or any subsequent holder of the note directs in writing.

The borrower may prepay the principal and interest of this note at any time.

The entire unpaid principal balance of the note and all accrued interest shall become immediately due and payable at the option of the lender or any subsequent holder of the note ten (10) days after any default in the payment of any principal or interest on this note or for any other uncured default under the mortgage or any instrument securing this note or the debt evidenced by this note.

The holder of the note may charge a late charge of four (4%) percent on any payment of principal or interest that is not received when it becomes due and payable. If this note or any part of the debt evidenced by it is not paid when due, whether or not accelerated, the borrower promises to pay all the costs for collection, including reasonable attorney fees and expenses incurred by the holder of the note for the protection or realization of the security, whether or not a suit is filed on the note.

Notwithstanding any provisions in this note or any other instrument now or later securing this note or any debt under the note, the interest to be paid to the holder of the note shall not exceed an amount computed at the highest lawful rate of interest. If any payment due under this note or any other instrument securing this note or any part of the debt under the note violates the interest limitation prescribed by law that a court of competent jurisdiction holds applicable, the payment shall be reduced to an amount computed at the highest lawful rate of interest. If the holder of this note receives as interest an amount that would be unlawful, the unlawful interest shall automatically be applied to the payment of the principal of this note (whether or not then due and payable), not to the payment of interest, or shall be refunded to the borrower if the principal has been paid in full.

All makers, guarantors, and endorsers of the note jointly and severally waive presentment for payment, protest and demand, notice of protest, demand and dishonor, and nonpayment of this note.

Motion supported by Councilperson Simmons.

Roll Call Vote.

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

NAYS: None.

BS&A SOFTWARE PURCHASE

There was a brief description of the research process used by City staff to reach their recommendation.

Motion by Councilperson Forster to authorize purchase of BS&A Municipal Software, including general ledger, accounts payable, cash receipting, payroll, miscellaneous receivable, purchase orders, utility billing, complaint tracking, internet services and cash receipting hardware in an amount not to exceed \$41,667.00 per year for three years.

Motion supported by Councilperson Martenis.

Roll Call Vote.

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

NAYS: None.

AMBULANCE BILLING SOFTWARE PURCHASE

Motion by Councilperson Simmons to authorize purchase of ambulance billing software and data training applications from Zoll Data Systems in the amount of \$33,088.00 plus yearly maintenance.

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

STREET BOND RESOLUTION

Motion by Councilperson Forster to approve a resolution authorizing submittal of a street bond proposal to voters on the November 4, 2008 General Election ballot as follows:

RESOLUTION NO. 31-2008

City of Owosso County of Shiawassee, State of Michigan

RESOLUTION SUBMITTING BOND PROPOSAL TO THE VOTERS OF THE CITY OF OWOSSO

WHEREAS, the City Council of the City of Owosso, County of Shiawassee, State of Michigan (the "City") has determined that it is in the best interest of the residents and property owners of the City that the City acquire and construct local and major street improvements throughout the City consisting of paving, repaving, reconstructing and improving streets and sidewalks, including necessary rights-of-way, proper drainage facilities and all necessary appurtenances and attachments thereto (the "Project"); and

WHEREAS, the maximum estimated cost of the Project is \$1,950,000; and

WHEREAS, the City Council has determined that the City should borrow money in an amount not-to-exceed One Million Nine Hundred Fifty Thousand Dollars (\$1,950,000) and issue general obligation bonds of the City in one or more series for the purpose of paying the cost of the Project; and

WHEREAS, the City Council wishes to place a proposal to issue bonds for the Project before the qualified electors of the City at the general election to be held in the City on Tuesday, November 4, 2008 (the "2008 General Election").

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The proposal attached to this Resolution as Exhibit A (the "Bond Proposal") shall be submitted to a vote of the qualified electors of the City at the 2008 General Election. The wording of the Bond Proposal, in the form attached to this Resolution as Exhibit A, is hereby certified to the City Clerk for submission to the City's electors at the 2008 General Election. The City Clerk is hereby directed to file this Resolution with the County Clerk of the County of Shiawassee on or prior to August 26, 2008.

2. The City Clerk is hereby directed to cause notice of last day of registration and notice of election to be published for the 2008 General Election, and to have prepared and printed ballots for submitting the Bond Proposal to the qualified electors of the City at the 2008 General Election, all in accordance with and as required by Michigan Election Law, Act 116, Public Acts of Michigan, 1954, as amended.

3. The estimated first year millage and average annual millage rate set forth in the Bond Proposal are hereby found to be reasonable estimates of such millage rates.

4. The City hereby declares its intent to reimburse itself from the proceeds of the Bonds for expenditures made or to be made with respect to the Project described in the Bond Proposal and makes the following declarations 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:

(a) As of the date hereof, the City reasonably expects to reimburse itself for the expenditures described in (b) below with proceeds of debt to be incurred by the City.

(b) The expenditures described in this paragraph (b) are for the costs of acquiring the Project which were paid or will be paid subsequent to sixty (60) days prior to the date hereof from the general funds of the City.

(c) The maximum principal amount of debt expected to be issued for the Project, including issuance costs, is \$1,950,000.

(d) A reimbursement allocation of the expenditures described in (b) 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 related 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 City's 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.

(e) The expenditures described in (b) above 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).

(f) 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 (d) above.

(g) Expenditures for the Project to be reimbursed from the proceeds of the borrowing for purposes of this Resolution do not include and are in addition to (i) costs for the issuance of the debt, (ii) an amount not in excess of the lesser of \$100,000 or five percent (5%) of the proceeds of the borrowing, and (iii) preliminary expenditures not exceeding twenty percent (20%) of the issue price of the borrowing, within the meaning of Treas. Reg. § 1.150-2(f).

5. If the qualified electors of the City approve the Bond Proposal, then the City hereby appoints Miller, Canfield, Paddock and Stone, P.L.C. as bond counsel for the Bonds.

6. All resolutions and parts of resolutions, insofar as they conflict with the provisions of this resolution, are hereby repealed.

EXHIBIT A

CITY OF OWOSSO **BOND PROPOSAL FOR STREET IMPROVEMENTS**

Shall the City of Owosso, Shiawassee County, Michigan, borrow the principal sum of not to exceed One Million Nine Hundred Fifty Thousand Dollars (\$1,950,000) and issue its general obligation unlimited tax bonds therefor in one or more series, payable in not to exceed twenty-five (25) years from the date of issue of each series, for the purpose of paying the costs to the City of acquiring and constructing local and major street improvements throughout the City consisting of paving, repaving, reconstructing and improving streets and sidewalks, including necessary rights-of-way, proper drainage facilities and all necessary appurtenances and attachments thereto for the use of the City? The estimated millage to be levied in 2009 is ___ mills (\$___ per \$1,000 of taxable value) and the estimated simple average annual millage rate required to retire the bonds is ___ mills (\$___ per \$1,000 of taxable value).

Yes _____

No _____

Motion supported by Councilperson Simmons.

Roll Call Vote.

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

NAYS: None.

FARMER'S MARKET – INSURANCE REQUIREMENT

City Manager Fivas indicated he had discussed the insurance issue with Market Master Liz Schautz and she agreed the Farmer's Market would obtain the required policy. It was felt the insurance policy, in addition to a hold harmless agreement and individual insurance policies held by the vendors themselves would sufficiently mitigate the City's risk. There was concern that individual vendors would be forced to obtain insurance if they didn't already have a policy. It was noted the City policy did not require proof of insurance from individual vendors. There was further discussion regarding how other communities address risk mitigation in relation to their farmer's markets. It was noted that many communities require a hold harmless agreement in lieu of insurance. Council expressed a hope of balancing the need to protect the city without creating undue difficulty for the Farmer's Market.

Motion by Councilperson Cline to extend the deadline for the Farmer's Market to obtain insurance to June 16, 2008.

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

OWOSSO COMMUNITY PLAYERS DEVELOPMENT AGREEMENT

City Manager Fivas explained the City had agreed to dedicate \$350,000 of the Vibrant Small Cities Initiative Grant to the reconstruction of the façade of the Lebowsky Center. The development agreement had been requested by the Michigan State Housing and Development Authority as a guarantee of local match funding for the Grant.

It was noted construction on the Lebowsky Center is anticipated to begin later in the summer.

Motion by Mayor Pro-Tem Owen to approve the following development agreement between the City and the Owosso Community Players governing the funding for façade improvements at the Lebowsky Center and authorize the Mayor to sign appropriate documents.

Motion supported by Councilperson Simmons.

Roll Call Vote.

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

NAYS: None.

COMMUNICATIONS

Tim Ransberger, Charter Communications. Notification of changes to channel lineup.

William C. Brown, City Attorney. Opinions on proposed ordinance amendments regarding pet ownership.

Michael T. Compeau, Public Safety Director. 100 Club Grants.

Owosso Historical Commission. Minutes of Meeting of May 20, 2008.

Westown Corridor Improvement Authority. Minutes of Meeting of April 9, 2008.

Shiawassee Area Transportation Agency. Minutes of Meeting of January 8, 2008.

Shiawassee Area Transportation Agency. Minutes of Meeting of February 12, 2008.

Shiawassee Area Transportation Agency. Minutes of Meeting of March 11, 2008.

Shiawassee Area Transportation Agency. Minutes of Meeting of April 8, 2008.

CITIZEN COMMENTS AND QUESTIONS

Linda Keenan of the Owosso Community Players thanked Council for their support of the Lebowsky Center rebuilding efforts. She further thanked City Manager Fivas and Economic Development Coordinator Morgan for their assistance. She also indicated OCP was preparing to move quickly with the project once funding is secured.

Betty Coon, 1204 Palmer Avenue, relayed the statistics of the last vote on burning, indicating the ratio was 28.6% to ban burning and 71.4% to allow burning.

Burton Fox, 216 East Oliver Street, indicated there was interest to undertake another volunteer effort. Public support had been expressed for the idea of building a glass display enclosure to house the 1921 American LaFrance fire truck. He further indicated he would present Council with formal plans at a later date.

Shelva Cebulski, 1243 Marion Street, encouraged everyone to attend the next Council meeting when the burning issue will again be discussed. She once again indicated she would like to see burning banned in the City.

Eddie Urban, 601 Glenwood Avenue, said it was his understanding the Market Master for the Farmer's Market donated most profits to a local food bank and did not keep the money as stated earlier in the meeting.

Deborah Cline, 608 North Saginaw Street, indicated she has enjoyed watching the Council at work during recent meetings. She thanked them for doing their part to maintain a good community.

Councilperson Cline indicated his comments regarding who keeps the profits from the Farmer's Market came from a conversation with the Market Master herself.

Councilperson Martenis expressed his excitement for the upcoming Curwood Festival and encouraged all to participate in the events.

Mayor Bruff indicated he would like to see more information on the volunteer effort for the fire truck enclosure.

ADJOURNMENT

Motion by Mayor Pro-Tem Owen for adjournment at 8:44 p.m.

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

Michael E. Bruff, Mayor

Amy K. Kohagen, City Clerk