

OWOSSO CITY COUNCIL

JANUARY 20, 2009

7:30 P.M.

- PRESIDING OFFICER:** MAYOR MICHAEL E. BRUFF
- OPENING PRAYER:** SHELVA CEBULSKI
- PLEDGE OF ALLEGIANCE:** COUNTY COMMISSIONER HENRIETTA SPARKES
- PRESENT:** Mayor Michael E. Bruff, Mayor Pro-Tem Mark D. Owen, Councilpersons Michael N. Cline, Joni M. Forster, Benjamin R. Frederick, Gary W. Martenis, and Jason D. Simmons.
- ABSENT:** None.

APPROVE AGENDA

Motion by Councilperson Cline to approve the agenda as presented.

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

APPROVAL OF THE MINUTES OF REGULAR MEETING OF JANUARY 5, 2009

Motion by Councilperson Forster to approve the Minutes of the Regular Meeting of January 5, 2009 as presented.

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

PUBLIC HEARINGS

SPECIAL ASSESSMENT DISTRICT NO. 2009-01

THE ALLEY EAST OF DIVISION STREET FROM AUBURNDALE AVENUE TO FRANKLIN AVENUE

The public hearing was conducted for the proposed project.

The following people addressed the City Council regarding the proposed special assessment:

Robert Blair, 723 Division Street, indicated that while he approved of the project he felt more people along the block should be assessed because their property drained into the area affected by the installation.

Kurt Behrendt, 726 Grand Avenue, described how he felt the alley was originally damaged and drainage was reduced. He indicated he wanted to be able to improve his property and installation of a storm drain would be a vital part of the improvement.

There was discussion regarding whether or not all the property owners along the alley should be assessed for the storm drain. It was noted the drain code dictates all those within the watershed in question be assessed a portion of the cost of the improvement as opposed to the special assessment ordinance which dictates only those receiving improvement to their property be assessed. It was decided the drain code would be a more appropriate method to spread the assessment.

Motion by Mayor Pro-Tem Owen to adopt the following resolution:

RESOLUTION NO. 03-2009 *Rescinded February 2, 2009

WHEREAS, the City Council, after due and legal notice, has met and heard all persons affected by the proposed public improvement more particularly hereinafter described; and

WHEREAS, the City Council deems it advisable and necessary to proceed with said public improvement as more particularly hereinafter described.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council hereby determines to make and proceed with the following described public improvement and to defray a part or the whole cost, as more particularly hereinafter provided, by special assessment upon the property specially benefited: The alley east of Division Street from Auburndale Avenue to Franklin Avenue
2. The City Council hereby approves the plans for the aforesaid public improvement as prepared and presented by the City Manager and determines the estimated cost of said public improvement to be \$6,100.00 and approves said estimated cost.

3. The City Council determines that of said total estimated cost, the sum of \$3,500.00 be paid by special assessment upon the property specially benefited, as more particularly hereinafter described.
4. The City Council hereby designates the following described property as the special assessment district upon which the special assessment shall be levied: the alley east of Division Street from Auburndale Avenue to Franklin Avenue for storm drain installation
5. The City Assessor shall prepare a special assessment roll including all lots and parcels of land within the special assessment district herein designated, and the Assessor shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district.

When the Assessor shall have completed the assessment roll, he shall file the special assessment roll with the City Clerk for presentation to the City Council.

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

CITIZEN COMMENTS AND QUESTIONS

Shelva Cebulski, 1243 Marion Street, inquired whether the Blue Ribbon Report addressed clean air issues. It was noted it did not.

Eddie Urban, 601 Glenwood Avenue, wanted clarification as to whether the special assessment for the storm drain would affect his property and he noted his disappointment with the Blue Ribbon Committee members for leaving the Council meeting after their presentation.

Elden Buchholz, 119 East State Street, Corunna, spoke out against the proposed rental registration program saying it was an unnecessary expense for landlords. He also indicated he felt only those owners in violation of an ordinance or building code should be charged and inspected.

Robert Lepley, 1786 Morrice Road, indicated he felt the City already had a good functioning ordinance on the books to handle rentals in violation of code.

Councilperson Cline indicated the proposal was developed only as a place to start and no permanent decisions on the subject would be made tonight, the intention was only to talk.

There was discussion with a disruptive member of the audience. He was notified that any further disruption would cause his removal from the meeting.

Councilperson Fivas indicated he agreed with Councilperson Cline in that the registration proposal is a mechanism to start discussion, noting the proposal was not a mandatory inspection program but simply a registration.

CITY MANAGER REPORT

City Manager Fivas indicated the City is now entering budget season and things are already underway to start the budget for the 2009-2010 fiscal year. He then laid out the schedule for the budget process noting the budget would be presented for discussion in April with adoption in May. Any amendments to the 2008-2009 budget would be presented in June. He further noted Council would be discussing the budget further at the special meeting scheduled for February 21, 2009. Mayor Pro-Tem Owen inquired whether revenue assumptions for the coming year would be based on current figures. It was noted they would.

City Manager Fivas distributed a letter from the Michigan DEQ notifying the City of a potential clean-up site nearby in Owosso Township. He also noted the Owosso Walk of History project is moving along.

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 February 2, 2009 to receive citizen comment regarding the proposed ordinance to amend Chapter 27, *Soil Erosion and Sedimentation Control*, Sections 27-1 through 27-40 of the Code of Ordinances of the City of Owosso, Michigan as follows:

AN ORDINANCE TO AMEND CHAPTER 27, *SOIL EROSION AND SEDIMENTATION CONTROL*, SECTIONS 27-1 THROUGH 27-40 OF THE CODE OF ORDINANCES OF THE CITY OF OWOSSO, MICHIGAN TO BRING IT INTO COMPLIANCE WITH UPDATES IN STATE LAW.

THE CITY OF OWOSSO ORDAINS:

SECTION 1. THE CITY OF OWOSSO ORDAINS: That Sections 27-1 through 27-40 of Chapter 27, *Soil Erosion and Sedimentation Control*, is hereby amended to read as follows:

Sec. 27-1. Purpose.

The purpose of this chapter is to prevent soil erosion and off-site sedimentation from earth changes within the city by requiring proper provisions of water disposal and the protection of soil surfaces during and after construction.

Sec. 27-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accelerated soil erosion means the increased loss of the land surface that occurs as a result of human activities.

Certification of completion means a signed written statement by the city engineer that specific earthwork has been inspected and found to comply with all soil erosion and sedimentation control plans and specifications.

City Engineer means the engineer of the city of Owosso or his/her representative.

Earth change means a human-made change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state.

Erosion means the process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.

Excavation or cut means any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated and shall include the conditions resulting therefrom.

Flood plain means that area which would be inundated by storm runoff or flood water equivalent to that which would occur with a rainfall or flood of one hundred (100) year recurrence frequency after total development of the watershed.

Grading means any stripping, excavating, filling, stockpiling or any combination thereof, and shall include the land in its excavated or filled condition.

Soil erosion and sedimentation control permit means a permit issued to authorize work to be performed under this chapter.

Permanent soil erosion and sedimentation control measure means those control measures which are installed or constructed to control soil erosion and/or sedimentation and which are maintained after project completion.

Permittee means a person to whom has been issued a permit under the provisions of this chapter.

Stripping means any activity which removes or significantly disturbs the vegetative surface cover including clearing and grubbing operations.

Temporary soil erosion and sedimentation control measures means interim control measures which are installed or constructed for the control of soil erosion and sedimentation and which are not maintained after project completion.

Sec. 27-3. Compliance with chapter required for site plan plat approval.

No site plan, plot plan or plat shall be approved under chapter 38 unless the site plan, plot plan or plat shall include soil erosion and sediment control measures consistent with the requirements of this chapter and related land development regulations.

Sec. 27-4. Compliance with chapter required for occupancy.

No certificate of occupancy for any building will be issued under chapter 8 unless the applicant for such certificate shall have obtained a certification of completion indicating compliance with all grading plans and specifications and completion of all permanent soil erosion control measures.

Sec. 27-5. Responsibility of permittee.

During grading operations the permittee shall be responsible for:

- (1) The prevention of damage to any public utility or services within the limits of grading and along any routes of travel of the equipment;
- (2) The prevention of damage to adjacent property. No person shall deposit sediment on adjacent property or grade on land so close to the property line as to endanger any adjoining public street, sidewalk, alley or any public or private property without supporting and protecting such property from settling, cracking or other damage which might result;
- (3) Carrying out the proposed work in accordance with the approved plans and in compliance with all the requirements of the permit and this chapter;
- (4) The prompt removal of all soil, miscellaneous debris or other materials applied, dumped or otherwise deposited on public streets, highways, sidewalks, or other public thoroughfares during transit to and from the construction.

Sec. 27-6. General requirements.

(a) Any earth changes shall be conducted in such a manner which will effectively reduce accelerated soil erosion and resulting off-site sedimentation.

(b) All persons engaged in earth changes shall design, implement and maintain acceptable soil erosion and sedimentation control measures, in conformance with this chapter and Part 91.

(c) All earth changes shall be designed, constructed and completed in such a manner which shall limit the exposed area of any disturbed land for the shortest possible period of time.

(d) Sediment caused by accelerated soil erosion shall be removed from runoff water before it leaves the site of the earth change.

(e) Any temporary or permanent soil erosion and sedimentation control measures constructed for the conveyance of water around, through or from the earth change area shall be designed to limit the water flow to a nonerosive velocity.

(f) A person shall install temporary soil erosion and sedimentation control measures before or upon commencement of the earth change activity and shall maintain the measures on a daily basis. A person shall remove temporary soil erosion and sedimentation control measures after permanent soil erosion measures are in place and the area is stabilized. A person shall stabilize the area with permanent soil erosion control measures under approved standards and specifications as prescribed by Rule 323.1710.

(g) A person shall complete Permanent soil erosion control measures for all slopes, channels, ditches or any disturbed land area within five (5) calendar days after final grading or the final earth change has been completed. If it is not possible to permanently stabilize a disturbed area after an earth change has been completed or if significant earth change activity ceases, then a person shall maintain temporary soil erosion and sedimentation control measures until permanent soil erosion control measures are in place and the area is stabilized.

Sec. 27-7. Maintenance requirements.

Persons carrying out soil erosion and sediment control measures under this chapter, and all subsequent owners of property shall maintain all permanent soil erosion and sedimentation control measures.

Sec. 27-8. Minimum design standards for erosion and sediment control.

All soil erosion and sedimentation control plans and specifications including extensions of previously approved plans shall include provisions for erosion and sediment control in accordance with, but not limited to, the standards contained in the "Standards and Specifications for Erosion Control" published by the county soil conservation district. Copies of such standards shall be available for inspection in the office of the city engineer.

Sec. 27-9. Variances.

Where it is alleged that there is error or misinterpretation in any order, requirements, decisions, grant or refusal made by the city engineer, the board of zoning appeals shall have the power to hear specific applications and may amend or change such order, requirements, decisions, grant or refusal so that it is in harmony with the general purpose and intent of the requirements as long as those actions comply with Part 91. The procedural requirements for appeals under sections 38-503 and 38-504 shall be applicable to appeals under this chapter.

Sec. 27-10. Inspection.

(a) The requirements of this chapter shall be enforced by the city engineer or his/her representative. The city engineer shall inspect the work and shall require adequate inspection of compaction by a soil engineer or by a soil testing agency, approved by the city engineer, unless the engineer determines that such inspection requirements may be waived due to the non-hazardous nature of the grading.

(b) Upon satisfactory execution of all approved grading plans and other requirements, the city engineer shall issue a certification of completion. If the city engineer finds any existing conditions not as stated in any application, soil erosion and sedimentation control permit or approved plan, he or she may refuse to approve further work until approval of a revised soil erosion and sedimentation control plan which will conform to the existing conditions.

Sec. 27-11. Enforcement.

(a) Notwithstanding the existence or pursuit of any other remedy, the city may maintain an action in its own name in any court of competent jurisdiction for an injunction or other process against any person to restrain or prevent violations of this chapter.

(b) The city engineer, or his/her duly authorized agents may enter at all reasonable times in, or upon any private or public property for the purpose of inspecting and investigating conditions and practices which may be a violation of this chapter, Part 91, or the rules promulgated pursuant to Part 91.

Secs. 27-12--27-30. Reserved.

ARTICLE II.

PERMIT

Sec. 27-31. Required.

Except as exempted by sections of this chapter, Part 91, or the Rules no person shall do any grading, stripping, excavating or filling nor undertake any earth change unless he or she has a valid soil erosion and sedimentation control permit issued by the city engineer.

Sec. 27-32. Application--Generally.

A separate application shall be required for each soil erosion and sedimentation control permit. Plans, specifications and timing schedules shall be submitted with each application for a soil erosion and sedimentation control permit. The plans shall be prepared or approved and signed by a professional engineer or by an architect. The city engineer may waive the preparation or approval and signature by the professional engineer or architect when the work entails little hazard to the adjacent property and does not include the construction of a fill upon which a structure may be erected.

Sec. 27-33. Same--Data required.

The plans and specifications accompanying the grading permit application shall contain the following data:

- (1) A vicinity sketch at the scale of one (1) inch equals two hundred (200) feet indicating the site location as well as the adjacent properties within five hundred (500) feet of the site boundaries;
- (2) A boundary line survey of the site on which the work is to be performed;
- (3) A plan of the site at a scale of one (1) inch equals one hundred (100) feet showing:
 - a. Name, address and telephone number of the owner, developer and petitioner;
 - b. A timing schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each

- area prior to the completion of effective erosion and sediment control measures;
- c. A certified statement of the quantity of excavation and fill involved;
- d. Existing topography at a maximum of five (5) foot contour intervals;
- e. Proposed topography at a maximum of five (5) foot contour intervals;
- f. Location of any structure or natural feature on the site;
- g. Location of any structure or natural feature on the land adjacent to the site and within fifty (50) feet of the site boundary line;
- h. Location of any proposed additional structures or development on the site;
- i. Elevations, dimensions, location, extent and the slope of all proposed grading (including building and driveway grades);
- j. The estimated total cost of the required temporary and permanent soil erosion control measures;
- k. Plans of all drainage provisions, retaining walls, cribbing, planting, anti-erosion devices, or other temporary or permanent soil erosion control measures to be constructed in connection with, or as a part of, the proposed work together with a map showing the drainage area of land tributary to the site and estimated runoff of the area served by any drains;
- l. Other information or data as may be required by the city engineer such as a soil investigation report which shall include, but not be limited to, data regarding the nature, distribution and supporting ability of existing soils and rock on the site.

Sec. 27-34. Fees.

At the time of filing an application for a soil erosion and sedimentation control permit, a nonrefundable filing fee as prescribed by resolution of the council shall be paid to the city treasurer.

Sec. 27-35. Bond requirement.

(a) A soil erosion and sedimentation control permit shall not be issued unless the permittee shall first post with the city engineer a bond executed by the owner and a corporate surety with authority to do business in this state as a surety only for projects with soil erosion and sedimentation control costs of more than \$1000.

(b) The bond shall be in a form approved by the city attorney, payable to the city, and in the amount of the estimated total cost of all temporary or permanent soil erosion control measures. The total cost shall be estimated by the city engineer. The bond shall include penalty provisions for failure to complete the work on schedule as specified on the soil erosion and sedimentation control permit. In lieu of a surety bond, the applicant may file with the city a cash bond or an instrument of credit approved by the city attorney in the amount equal to that which would be required for the surety bond.

(c) Every bond and instrument of credit shall include and every cash deposit shall be made on the conditions that the permittee shall comply with all of the provisions of this chapter and all of the terms and conditions of the grading permit, and shall complete all of the work contemplated under the grading permit within the time limit specified in the grading permit, or if no time limit is specified, within one hundred eighty (180) days after the date of the issuance of the grading permit.

Sec. 27-36. Extension of time.

If the permittee is unable to complete the work within the specified time, he or she may, at least ten (10) days prior to the expiration of the permit, present in writing to the city engineer and building inspector a request for an extension of time setting forth the reasons for the requested extension. If an extension is warranted, the city engineer may grant additional time for the completion of the work, but no such extension shall release the owner or the surety on the bond or the person furnishing the instrument of credit or cash bond. If the permittee does not request an extension and the original permit expires prior to the site being stabilized, he or she must apply for a new permit.

Sec. 27-37. Failure to complete work.

In the event of failure to complete the work or failure to comply with all the requirements, conditions, and terms of the permit issued under the provisions of this article, the city engineer may order such work as is necessary to eliminate any danger to persons or property and to leave the site in a safe condition and he or she may authorize completion of all necessary temporary or permanent soil erosion control measures. The permittee and the surety executing the bond or person issuing the instrument of credit or making the cash deposit shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be insured or expended by the city in causing any and all such work to be done. In the case of a cash deposit, any unused portion thereof shall be refunded to the permittee.

Sec. 27-38. Denial of permit.

Grading permits shall not be issued where:

- (1) The proposed work would cause hazards to the public safety and welfare; or
- (2) The work as proposed by the applicant will damage any public or private property or interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on any public way or into any waterway or create an unreasonable hazard to persons or property; or
- (3) The land area for which grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability or any other such hazard to persons or property; or
- (4) The land area for which the grading is proposed may lie within the floodplain of any stream or watercourse (not specifically designated and delineated by the city as an area subject to flood hazard), unless a hydrologic report, prepared by a professional engineer, is submitted to certify that the proposed grading will have, in his or her opinion, no detrimental influence on the public welfare or upon the total development of the watershed.

Sec. 27-39. Modifications of approved plans.

All modifications of the approved soil erosion and sedimentation control plans must be submitted and approved by the city engineer. All necessary substantiating reports shall be submitted with any proposal to modify the approved grading plan. No grading work in connection with any proposed modification shall be permitted without the approval of the city engineer.

Sec. 27-40. Exceptions.

- (a) No permits shall be required by the provisions of this article for the following:
 - (1) Grading or an excavation below finished grade for basements, footings retaining walls, or other structures or plots zoned R-1, R-2, RM-1 and RM-2 of less than twenty thousand (20,000) square feet and more than five hundred (500) feet from any lake, stream or drainage course;
- (b) Although no permits are required under subsection (a), the operations and constructions exempted from obtaining permits must comply with the rules and regulations concerning grading and erosion specified in this chapter.

Payment Authorization. Authorize payment to BioTech Agronomics in the amount of \$90,060.00 for the removal of sludge and the cleaning of 2 sludge lagoons at the Water Filtration Plant.

Change Order. Authorize Change Order No. 1 to the sludge removal contract with BioTech Agronomics for the removal sludge from the third lagoon at the Water Filtration Plant on a unit bid price with a total estimated additional cost of \$90,000.00.

Warrant No. 378. Accept Warrant No. 378 as presented.

Vendor	Description	Fund	Amount
Brown & Stewart, PC	Professional Services November 11, 2008 – December 8, 2008	General	\$8,010.60
Huron & Eastern Railway Company, Inc	Annual maintenance of active traffic control devices	Major Street	\$5,690.00
Caledonia Charter Township	Caledonia Utility Fund Payment	Water	\$19,915.25

Motion supported by Councilperson Cline.

Roll Call Vote.

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

NAYS: None.

ITEMS OF BUSINESS

SHIAWASSEE STREET RECONSTRUCTION RESOLUTION

Councilperson Frederick indicated that while Council had authorized a similar resolution last year he felt it was important to go on the record again to show the importance of this project in light of the pending stimulus package being offered by the Federal Government. He also indicated he would like copies of the resolution sent to Representatives Camp and Rogers and Senators Levin and Stabenow.

Motion by Councilperson Frederick to authorize the following resolution urging State and Federal representatives to aid in the reconstruction of South Shiawassee Street.

**RESOLUTION NO. 04-2009
IN SUPPORT OF THE RECONSTRUCTION OF M-52**

WHEREAS, M-52 is major north/south transportation artery that serves the Owosso community and many commuters passing through; and

WHEREAS, the M-52 reconstruction project has been scheduled and put on hold by the Michigan Department of Transportation at least 3 times; and

WHEREAS, this stretch of highway is in dire need of reconstruction including curbing, drainage, and resurfacing; and

WHEREAS, M-52 is not scheduled for reconstruction until 2011; and

WHEREAS, the City has dedicated itself to providing quality infrastructure despite difficult economic times; and

WHEREAS, City leaders believe good infrastructure is imperative to attracting and retaining much needed business to the area.

NOW, THEREFORE, BE IT RESOLVED, that the City of Owosso, formally requests the Michigan Department of Transportation take the necessary steps to improve M-52 within the City of Owosso by 2010; and

BE IT FURTHER RESOLVED, a copy of this Resolution be forwarded to Governor Jennifer Granholm, State Senator Valde Garcia, State Representative Richard Ball, Congressman Dave Camp, Congressman Mike Rogers, United States Senator Carl Levin, and United States Senator Debbie Stabenow.

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

PROPERTY LEASE- HOPKINS LAKE

Motion by Mayor Pro-Tem Owen to authorize 21-day posting of lease for city owned tillable land located near Hopkins Lake to Shawnee Creek Farms in the amount of \$500.00 per year for five years and described as follows:

WEST TILLABLE ACRES, (10 ACRES M/L) OF THE FOLLOWING DESCRIPTION: SECTION 25, T7N-R2E, CITY OF OWOSSO, PART OF SOUTHWEST ¼, BEGINNING AT A POINT ON NORTH-SOUTH ¼ LINE, WHICH IS N00°29'49"W ON NORTH-SOUTH ¼ LINE 1230.00 FEET FROM SOUTH ¼ CORNER OF SECTION 25; THAN S69°57'00"W 261.04 FEET; N89°52'59"W 1074.00 FEET; N00°29'49"W 858.37 FEET; S89°51'20"E 1320.01 FEET TO SAID NORTH-SOUTH ¼ LINE; TH S00°29'49"E 767.74' TO POINT OF BEGINNING

Motion supported by Councilperson Simmons.

Roll Call Vote.

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

NAYS: None.

ON-PREMISE LIQUOR LICENSES – OBJECTIONS TO RENEWAL AND/OR REVOCATION

Motion by Mayor Pro-Tem Owen to authorize a resolution establishing a procedure governing the objection to renewal and revocation of On-Premises Liquor Licenses as follows:

RESOLUTION NO. 05-2009

**CITY OF OWOSSO
A RESOLUTION TO ESTABLISH A
COMMUNITY STANDARDS REVIEW PROCESS
FOR ON-PREMISE LIQUOR LICENSES**

WHEREAS, there are currently no community standards in place relative to the issuance, the renewal or the revocation of an on-premises, Class C. Liquor License; and

WHEREAS, there are numerous problems at establishments that serve liquor that affect the safety of all City residents and that there are physical fights where persons are injured and danger exists for other people in the vicinity of such fights; and

WHEREAS, there are individuals who are served alcohol at licensed liquor establishments then drive upon the public roadways while drunk, causing danger to all who use the roadways; and

WHEREAS, there are sometimes minors who are served alcohol at licensed liquor establishments, contrary to the law of the State of Michigan and the City of Owosso; and

WHEREAS, there are loud noises from certain licensed liquor establishments that disturb the peace and quiet of nearby residents; and

WHEREAS, there are various criminal and destructive activities that occur in disproportionate frequency after alcohol is served at licensed liquor establishments; and

WHEREAS, the excessive amounts of manpower and resources needed by the City of Owosso and its Police Department to address these various disruptive, criminal and dangerous actions takes the resources of the City of Owosso away from other productive activities that would benefit all City of Owosso residents; and

WHEREAS, the adoption of community standards regarding the issuance, renewal or revocation of an on-premises Class C Liquor License would be in the best interests of the residents of the City of Owosso and provide for their health, safety and welfare: and

WHEREAS, the attached Community Standards properly set forth the standards deemed to be reasonably related to the goals of the City Council.

NOW THEREFORE BE IT RESOLVED:

THAT the City of Owosso, by a majority vote, hereby adopts the attached Community Standards regarding the issuance, renewal or revocation of an on-premises Class C Liquor License.

**CITY OF OWOSSO POLICE DEPARTMENT
COMMUNITY STANDARDS REGARDING ISSUANCE, RENEWAL
OR REVOCATION OF AN ON PREMISES CLASS C LIQUOR LICENSE**

I. Every three (3) years, or as needed, the City Manager or a duly authorized representative of the City shall conduct an investigation and report on each on-premises liquor licensed establishment. The investigation shall determine whether:

1. Licensee must meet all State guidelines as specified by the Michigan Liquor Commission Administrative Rules and the Michigan Liquor Control Code of 1998 or amendments thereto.
2. All licenses, fees, taxes and necessary inspections are current and in compliance.
3. Liquor License issued by the State of Michigan are current.
4. If licensee is a Corporation, Partnership, LLC or other legal entity the licensee must indicate all shareholders, officers, partners, members or managers or other parties.
5. Licensee must be in compliance with all proper zoning and site plan review standards.

6. Licensee meets and complies with all fire and safety standards.
7. The licensee, its agents or employees have violated any Federal, State, local law or regulation, relating to the operation of the Licensee.
8. Licensed establishment has engaged in improper conduct. Improper conduct is defined as:

A. Four (4) complaints or police calls per month or more than 48 complaints or police calls per year. This is inclusive of complaint investigation requests received from the Michigan Liquor Control Commission. (Does not include police response to business entry or hold up alarms.)

OR

B. Five (5) criminal complaints per year involving assault and battery including domestic violence assault and sexual assault occurring within the licensed premises or in the parking lot of the business whether owned by the licensee or not.

OR

C. Two (2) arrests of persons who had been consuming alcoholic beverages at the licensed establishment and are subsequently arrested for driving offences, specifically including OWI as defined by State Law and Local Ordinance within 12 months.

OR

D. Any arrest of persons who are minors for possession of alcoholic beverages or who have consumed or purchased beverages at the licensed premises within 12 months.

OR

E. Two (2) documented complaints of unnecessary loud noise or disturbance, injurious to the health, peace or quiet of the residents and property owners of the City of Owosso as defined by Ordinance Chapter 18 Section 18-8 within 12 months.

II. The City Manager or the duly authorized representative shall forward the report to the City Council. The Council may adopt a resolution setting a hearing date, and complying with Section 2 of the Procedure for Community Standards Review Hearing.

PROCEDURE FOR COMMUNITY STANDARDS REVIEW HEARING

1. A public hearing shall be held before any action shall be taken. That hearing shall be held before the City of Owosso Council.
2. Licensee shall be given timely written notification of the hearing including:
 - a. Date, time and location of the hearing.
 - b. Reasons for the proposed actions the Council may consider taking.
 - c. State the proposed action the Council is being asked to consider which may be objecting to license renewal or seeking revocation of the Class C license.
 - d. Licensee will be informed of their rights at the hearing including the opportunity to defend by confronting any adverse witnesses and by being allowed to present witnesses, evidence, and arguments and their right to be represented by an attorney.
3. At the Council hearing the licensee will be given an effective opportunity to defend themselves by confronting any adverse witnesses and by being allowed to present witnesses, evidence, and arguments.
4. The City Council may object to the renewal of licensees liquor license for one or more of the following reasons:
 - a. If the Licensee fails to meet all statutes and rules pertaining to liquor licenses.
 - b. If licenses, fees, taxes and necessary inspections are not current and not in compliance;
 - c. If the liquor license issued by the State of Michigan is not current;
 - d. If all interested parties are not revealed;

- e. If Licensee is not in compliance with zoning or site plan requirements;
 - f. If Licensee is not in compliance with fire and safety standards;
 - g. If Licensee, its agents or employees, have violated an Federal, State or local law or regulation relating to the operation of Licensee;
 - h. If Licensee has engaged in improper conduct as defined in paragraph 8 of the City of Owosso Police Department Community Standards Regarding Issuance, Renewal or Revocation of an On Premises Class C Liquor License.
5. After the hearing process the Council will make a written statement of findings and adopt a resolution indicating the specific action requested.
6. The Council will send the following documents to MLCC:
- a. Copy of the Community Standards including the date of adoption and, if applicable, the date of publication.
 - b. Certified copy of the notice sent to licensee.
 - c. Proof of service or proof of mailing of the notice.
 - d. Certified copy of the resolution that was adopted by the local governing body objecting to the renewal of the license or requesting that the license be revoked.

Motion supported by Councilperson Cline.

Roll Call Vote.

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

NAYS: None.

UTILITY BILLING

Motion by Councilperson Forster to authorize the following resolution adopting quarterly utility billing beginning October 1, 2009:

**CITY OF OWOSSO COUNCIL RESOLUTION
STANDARD PROCEDURES FOR ISSUANCE AND COLLECTION
OF UTILITY BILLS**

Pursuant to the authority conferred upon it by the Charter of the City of Owosso, Chapter 34, Article III of the Owosso City Code, the City Council does hereby resolve that all retail water/sewer customers, except as noted below, shall be billed on a quarterly basis beginning with the quarter to be billed at the end of December 2009, with usage charges based upon the meter readings of September (start) and December (end) 2009. The standard billing procedures are as follows, except that modifications may be required in response to unusual circumstances:

1. Beginning with the quarter ending December 31, 2009 retail water and sewer bills shall be based upon quarterly meter readings and billed quarterly except that "Large Users" (as defined by the Director of Public Services) may, at his discretion, be based upon monthly meter readings and be billed monthly.
2. For the purpose of reading meters and rendering bills for service the City shall be divided into two districts; one consisting of "Large Users", and a second consisting of all "Other Users". The users in these districts will be determined by the Director of Public Services based upon service/meter size. The reading, billing and due dates for monthly bills shall continue as currently practiced with the intent that in the future these processes would be integrated. The timeline for quarterly billing is to be as follows:

Quarterly District	Read Date	Bill Date	Billing Due Date	Disconnect Notice Mailed	Disconnect Notice Due Date	Non-Pay, Shut-off Date
Note: Final Monthly Read, Sept. 2009 & First Quarterly Read, Dec. 2009	1 st -20 th Of Months Of December, March, June, September	Last Day Of The Months Of December, March, June, September	No Later Than The 20 th Of Month Following Bill Date	20 th -25 th Of January, April, July, October	No less than 14 days following Billing Due Date	Following Disconnect Notice Due Date

* The timelines in this table represent guidelines; exceptional conditions may cause a variance of these timelines.

3. Water and sewer charges will be converted and/or adjusted, as needed, to a quarterly rate, based upon the monthly rate schedules as outlined in the existing Council Resolution, "WATER AND SEWER RATE SCHEDULE FOR WATER AND SEWER BILLS ISSUED ON OR AFTER SEPTEMBER 30, 2005", Adopted September 6, 2005, or until such time as this resolution is superseded to adjust for a quarterly billing rate schedule.

4. Utility bills shall be based upon water meter size, metered usage charge, other charges for service, late payment charges, and miscellaneous water service charges/circumstances.

5. All bills shall be sent to the mailing address as recorded in the official file of the account.

6. Bills are due and payable by the "Billing" due date to be considered paid timely and to avoid late payment charges. Partial payments and pre-payments will be accepted, and posted to an account upon receipt, anytime during the utility billing cycle as a convenience to our customers.

7. If a bill is unpaid at its original "Billing" due date, a "Disconnect Notice" may be sent to the mailing address as recorded in the office file of the account. If the account is in the name of someone other than the owner(s) a "Disconnect Notice" may also be mailed to the service address and/or to the owner(s) of record of the parcel as referenced in the tax rolls. Such "Disconnect Notice" will clearly indicate that, "Service will be scheduled for shut-off if not paid by the due date", additionally noting, "no further notice will be given prior to shut-off", and shall serve as final notice prior to shut-off.

8. All water and/or sewer bills may be subject to a late payment charge of 10% of the current amount due and will be added to the next bill/notice for failure to make prompt payment.

9. If a bill is unpaid at its "Disconnect Notice" due date, the account shall be reviewed for eligibility and;

a) scheduled for shut off, or

b) removed from the shut off list by the Director of Public Services and/or his/her designee due to exceptional conditions such as; a review of the account has been requested and is in progress, a correction or adjustment has been made, an agreement for payment has been executed, an appeal is in progress, a minimal amount is due, or for another exceptional condition which is pending.

10. A list of accounts scheduled for shut off shall be prepared, by the Water Office and reviewed/updated on the day prior to the scheduled shut-off day and forwarded to the appropriate staff for shut off.

11. Non-pay shut-offs will be accomplished following the due date of the "Disconnect Notice". If any person shall refuse or neglect to pay their utility bill "Disconnect Notice" after it has become due and payable, it shall be the duty of the Utilities Director and/or Director of Public Services to cause the water and/or sewer service to be discontinued. Service shall not be restored until all arrears in water and sewer service charges are paid in full, together with any/all service costs as necessitated by non-payment of water and/or sewer bills.

12. Additional charges incurred by the City may be billed to and paid by any user when it is necessary to collect and analyze wastewater samples discharged by the user to remove or treat prohibited material discharged by the user, or to clean or repair wastewater facilities or any part thereof as a result of the user's discharge.

13. The Utilities Director shall have the authority to cause a water and/or sewer bill to be adjusted if a determination is made that a significant loss of water has occurred, and was not due to negligence or fault of the customer. These determinations will be made in accordance with guidelines established by the City and will be documented for future reference.

14. A customer may request a final read at any time during a billing cycle, and a final bill will be generated.

Motion supported by Councilperson Martenis.

Roll Call Vote.

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

NAYS: None.

RENTAL ORDINANCE – REVIEW AND RECOMMENDATION

There was a lengthy discussion regarding whether a new ordinance should be written or if the current ordinance should be adjusted to reflect the addition of a registration program. Building Official John F. Archer noted both the current ordinance and the draft ordinance have their place,

saying either one could be adjusted to fit the needs of the current time. He also noted he would like to see the written complaint process included in any future ordinance as it tends to prevent the City from being forced into court battles between landlords and tenants.

There was also discussion regarding when the City last operated an inspection program. Building Official Archer indicated the program was in effect until about 12 years ago when, due to administrative issues, the Council placed a stay on enforcement of the ordinance and instead instructed staff to use the junk and trash ordinance as a substitute on a complaint only basis.

Mr. Archer went on to note the Planning Commission had planned to discuss the idea on numerous occasions but found it difficult to find the time given their workload.

Mayor Pro-Tem Owen asked the Council to express caution when implementing a registration/inspection program due to the tough economic conditions. It was noted public hearings would be held and attempts would be made to keep fees low.

Mayor Bruff admonished an audience member for his disruptive behavior.

Motion by Councilperson Frederick to send the draft ordinance to the Planning Commission for in-depth review with the incorporation of a written complaint process.

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

COMMUNICATIONS

Paula Perry, Letter of resignation – Cable Access Advisory Commission.

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

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

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

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

CITIZEN COMMENTS AND QUESTIONS

Shelva Cebulski, 1243 Marion Street, indicated she follows the stock market closely and has noted the stock market has historically fallen drastically with the inauguration of a new president. She also announced the Red Cross is holding a blood drive at the Knights of Columbus on Wednesday.

Norm Pugh, 3030 Copas Road, Corunna, commented on the proposed rental registration program. He was removed by the Sergeant at Arms for personally attacking a Council member and refusing to follow decorum.

Robert Lepley, 1786 Morrice Road, said he hoped Council would keep landlords in mind when instituting quarterly water billing, indicating many costs from tenants are eventually laid on landlords despite the fact they are not the source of the costs.

City Manager Fivas indicated the \$75 water deposit may be lower than it needs to be but would like to see the actual effects of quarterly billing prior to making any changes.

Kurt Behrendt, 726 Grand Avenue, indicated he felt quarterly billing would be a burden to residents saying he knows he can pay monthly but would not do so without receiving a bill. He also said he would like the meter reader to make note of properties that need to be cleaned up and report them to the building department.

Eddie Urban, 601 Glenwood Avenue, said after reading that a nearby jurisdiction has only one period for citizen comment in its meetings he was pleased with the structure of the two Citizen Comments and Questions periods built into the City's meetings.

Elden Buchholz, 119 East State Street, Corunna, said he felt a rental registration program would be unnecessarily pick on landlords, he said he did not need another fee to pay and the City should be able to keep track of its rentals by exploring the list of non-homestead properties. He also wanted to know when the Planning Commission would be taking up the issue. It was noted they would be meeting January 26th, with a possible public hearing date of February 23rd.

Building Official Archer noted the registration program was not intended to pick on landlords but could be a useful tool for both the City and landlords. He also said he felt he received better responses from landlords when he was able to call and talk to them about issues rather than

sending letters and a registration program would be able to collect the needed contact information for each rental property.

Councilperson Frederick indicated he wanted information on the registration and inspection programs of comparable communities in time for discussion at the next meeting.

Councilperson Cline indicated the intent of the program was not to pick on landlords. He indicated he felt the City had been lenient on rental properties for too long. He said there were many good landlords in the City, but also many poor landlords whose properties need attention.

Councilperson Forster commented she liked the Vibe Newsletter that was sent out by the DDA. She also noted the letter in the newspaper from Sunnyside Florist to the DPW and the City thanking them for clearing their sidewalks and for recognizing their hard work.

NEXT MEETING

February 2, 2009

BOARDS AND COMMISSIONS OPENINGS

Cable Access Advisory Commission – term expires 06-30-2009
Zoning Board of Appeals – Alternate, term expires 06-30-2009

ADJOURNMENT

Motion by Mayor Pro-Tem Owen for adjournment at 9:11 p.m.

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

Michael E. Bruff, Mayor

Amy K. Kohagen, City Clerk