

OWOSSO CITY COUNCIL

MARCH 16, 2009

7:30 P.M.

PRESIDING OFFICER: MAYOR MICHAEL E. BRUFF

OPENING PRAYER: BURTON FOX

PLEDGE OF ALLEGIANCE: MAYOR MICHAEL E. BRUFF

PRESENT: Mayor Michael E. Bruff, Mayor Pro-Tem Mark D. Owen, Councilpersons Michael N. Cline, Joni M. Forster, Benjamin R. Frederick, Gary W. Martenis, and Jason D. Simmons.

ABSENT: None.

APPROVE AGENDA

Motion by Councilperson Forster to approve the agenda as presented with the addition of an Item of Business to address the formation of a Historic District Study Team and a correction to Consent Item 3 changing the code section reference from "Sections 34-221 through 34-232" to "Sections 34-221 through 34-235".

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

APPROVAL OF THE MINUTES OF REGULAR MEETING OF MARCH 2, 2009

Motion by Councilperson Simmons to approve the Minutes of the Regular Meeting of March 2, 2009 as presented.

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

SPECIAL PRESENTATION

EMPLOYEE AWARDS

Human Resource Director Jessica Unangst announced the Employees of the Month for October, November and December of 2008 and January 2009 and the 2008 Employee of the Year as follows:

- Employees of the Month
- October 2008 – Donald D. Luft
- November 2008 – John F. Archer
- December 2008 – Amy K. Kohagen
- January 2009 – Kurt Moffit

- Employee of the Year
- 2008 – Donald D. Luft

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 to receive citizen comment regarding authorization of Resolution No. 5 for Special Assessment District No. 2009-01, for the alley east of Division Street from Auburndale Avenue to Franklin Avenue for storm sewer installation.

There were no public comments.

The following preamble and resolution were offered by Councilperson Forster and supported by Councilperson Simmons:

RESOLUTION NO. 11-2009

WHEREAS, the City Council has met, after due and legal notice, and reviewed the special assessment roll prepared for the purpose of defraying the special assessment district's share of the following described public improvement: the alley east of Division Street from Auburndale Avenue to Franklin Avenue for storm sewer installation, and

WHEREAS, there being no one to be heard and after carefully reviewing said special assessment roll the Council deems said special assessment roll to be fair, just and equitable and that each of

the assessments contained thereon results in the special assessment being in accordance with the benefits to be derived by the parcel of land assessed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll as prepared by the City Assessor in the amount of \$3,500.00 is hereby confirmed and shall be known as Special Assessment Roll No. 2009-01.
2. Said special assessment roll shall be divided into two (2) equal annual installments, the first of which shall be due and payable on September 1, 2009, and the subsequent installments shall be due on September 1st of each and every year thereafter. Payment of the amount of the special assessment may be made in full without interest or penalty by December 1, 2009.
3. The installments of the special assessment rolls shall bear interest at the rate of 8% per annum; provided, however, if the bonds are issued in anticipation of said special assessments, then such unpaid special assessment shall bear interest at a rate of interest equal to 1% above the average rate of interest borne by said bonds. Such interest shall commence on September 1, 2009 and shall be paid annually on each installment due date.
4. Said special assessment roll shall be placed on file in the office of the City Clerk who shall attach his warrant to a certified copy thereof within ten (10) days commanding the Assessor to spread the various sums shown thereon as directed by the City Council.

Motion supported by Councilperson Martenis.

Roll Call Vote.

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

NAYS: None.

PUBLIC HEARING - ORDINANCE AMENDMENT

The public hearing was held to receive citizen comment regarding proposed ordinance amendment to Chapter 8, Buildings and Building Regulations, Article VII, *Rental Dwelling Registration*, Sections 8-151 through 8-158 of the Code of Ordinances of the City of Owosso, Michigan.

Mayor Bruff explained the ordinance amendment originated with the Council who referred it to the Planning Commission for their input. The review process was completed and the amendment was up for public hearing. He emphasized the amendment was designed to establish a registration program not an inspection program, noting the inspection component would be complaint based only.

The following persons addressed the City Council regarding the proposed amendment:

Max Tait, office location 720 South Washington Street, indicated he felt the registration process could be carried out on-line for free. He felt any additional costs to landlords in the tough economic climate would be detrimental.

Rex Button, 200 South Oak Street, said his landlord had indicated his rent would go up by at least \$25 if the amendment passed. He felt passing the cost off to renters was not fair. He also felt the City was spending its money in the wrong places.

Mayor Bruff clarified the registration program would cost landlords only \$25 per unit every two years, working out to a little over \$1.00 per month.

Tom Wiegel, 2729 Krouse Road, asked why all rentals were not being treated the same. It was indicated they were being treated equally no matter where they were located within the City.

James Stechschulte, 901 West Oliver Street, indicated the amendment would only increase the cost of rent for renters. He felt the City was already making money from rental properties because they were not eligible for homestead tax exemptions.

Building Official John F. Archer indicated he had solicited information from approximately 25 similar communities and the City would be well within the range of fees charged by those municipalities. He further indicated the Council had significant discussion regarding the amount of the fees and considered the issue carefully prior to recommending a fee structure.

Bruce Robb, County Commissioner District 2, asked why the rental ordinance currently on the books was not enforced and what the new ordinance was meant to accomplish. It was noted the

previous ordinance will be rescinded and replaced with an ordinance that contains the means to assist the City in cleaning up properties. It will also reference to the building code as the standard, whereas the former ordinance was subjective in nature in regard to offenses and violations.

Diane Wilson, 821 South M-52, expressed her fear that any costs incurred in repairing violations would be passed on to renters. It was noted inspections would only be performed upon the submission of a written complaint and only gross violations and those named specifically in the complaint would be investigated. The intent of the ordinance is to provide a remedy to life safety issues in/on rental properties.

Jeff Daniels, 1104 Pierce Street, inquired how a complaint is determined and why the old hotel was knocked down despite the fact there was asbestos inside. Mr. Daniels was asked to keep his comments to the ordinance amendment. He then asked if the informational pamphlet available in City Hall would be the checklist used to determine violations during inspection. Building Official Archer attempted to answer. Mr. Daniels became agitated and was asked to leave. Sergeant at Arms Michael Compeau escorted him from the building.

Barbara Holland, 3529 Parmenter Road, Durand, asked what the fees would go toward and indicated she was not happy about the anticipated charge for registration despite the fact it was only a little more than \$1.00 per month. She felt landlords should be able to register on-line for free. She further indicated she tries hard to keep her places in good condition and asked that Council keep landlords in mind when considering the amendment.

City Manager Fivas indicated the program would help the City establish a list of rental properties along with contacts for those properties. It would also provide for an educational program for renters and landlords and upgrade the City's ability to map the location of rental properties to assist in identifying trends in neighborhoods. Building Official Archer also noted the information would make it easier to contact landlords with any concerns.

Norman Pugh, 3030 Copas Road, felt the City did not need to form a list of rental properties as they could use current records to determine rental status. He also indicated he would prefer to be contacted by mail rather than by telephone if there is an issue with one of his properties. He felt the program discriminated against landlords and is only being considered because the City needs money.

Building Official Archer indicated he would only call a landlord in an attempt to expedite the correction of any potential issues, saying phone calls are many times more effective than letters.

Kris Delaney, 1450 West Riley Road, indicated she maintains her parent's rental properties and would prefer to be contacted by mail rather than by phone. She indicated she didn't agree with the City proposing a fee for registration saying it should be done on-line for free.

Pauline Hill, 415 Clinton Street, indicated her biggest problem with rentals in her neighborhood is the garbage, saying many buildings with six apartments or more do not have dumpsters for tenant garbage. She further indicated many landlords in her area take care of their properties but she felt it was time that the remainder be forced to get some attention.

David Stechschulte, 917 East Main Street, thanked the Council for responding to his emails and asked how many additional employees would be needed to run the program. It was noted one part time individual would be needed initially to help with enforcement, but any increases in the program would necessitate the hire of a full time employee.

Burton Fox, Planning Commission Chair, said the ordinance was not meant to be punitive in nature but rather as an improvement tool. He indicated his hope was to see owner occupied homes improve right along with rental properties.

Kimberly Omer, 2280 Aiken Road, was concerned about the financial burden the ordinance may create. She felt the ordinances already on the books should be enforced and funding for the program if it should be adopted should not come from landlords alone.

Elizabeth Dysinger, 1882 Manitou Drive, indicated she hasn't made money in two years on her rentals saying taxes and upkeep eat up all her profits. She said she would sell her properties if she could but there is no market for them.

There was Council discussion regarding how the proposed ordinance compares to the current ordinance. Building Official Archer indicated the current ordinance was weak in a number of areas and didn't establish any formal code guidelines to follow. City Manager Fivas noted the current ordinance requires an inspection every two years where the proposed ordinance requires inspection only upon complaint.

There was further discussion regarding the repeal of the mandatory inspection language in favor of a complaint based inspection system, how the GIS mapping system would be used in regard to rental properties, and if the City could establish a registration program on-line. It was noted the capabilities of the current website would be unable to support such a program, but the City was

already in discussions to revamp the website to allow customers to fill out forms on-line among other new options.

Mayor Pro-Tem Owen suggested landlords undertake a referendum petition if they were unhappy with the proposed ordinance.

Councilperson Forster said she had received several phone calls from landlords and all but one had indicated their support for the proposed ordinance.

Mayor Bruff noted he'd received mixed comments from citizens and noticed a lot of misinformation. He was concerned that citizens knew Council did not take the issue lightly. He went on to say he felt non-homestead tax rates should not be considered when examining the fees for the proposed program as rental owners are aware of the taxes they will owe and have purchased their properties as business investments from which to profit. He also indicated he was disturbed to hear of one renter saying his rent would go up \$25 per month if the amendment passed even though the cost to landlords would only be a little over \$1.00 per month.

Councilperson Frederick said he was glad he had the opportunity to hear input from both sides of the issue. He went on to say he felt the mapping and education components of the proposed program were important and that it should be remembered the ordinance was meant to improve the health and safety of residences. Lastly he noted his desire to see these standards applied to all residences in the City, saying they were about to take an important first step in that direction.

Motion by Mayor Pro-Tem Owen to close discussion.

Motion supported by Councilperson Cline.

Roll Call Vote.

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

NAYS: None.

Whereas, the City Council, after due and legal notice, has met and having heard all interested persons, motion by Councilperson Cline that the following Ordinance be adopted:

ORDINANCE NO. 704

AN ORDINANCE TO AMEND CHAPTER 8, BUILDINGS AND BUILDING REGULATIONS, ARTICLE VII, RENTAL DWELLING REGISTRATION, SECTIONS 8-151 THROUGH 8-158 OF THE CODE OF ORDINANCES OF THE CITY OF OWOSSO, MICHIGAN TO REESTABLISH A RENTAL REGISTRATION PROGRAM.

THE CITY OF OWOSSO ORDAINS:

SECTION 1. THE CITY OF OWOSSO ORDAINS: That Sections 8-151 through 8-158 of Chapter 8, Buildings and Building Regulations, Article VII, Rental Dwelling Registration, is hereby amended to read as follows:

Sec. 8-151. Definitions.

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

Building inspector means the official who is charged with the administration and enforcement of this Code, or any duly authorized representative by the City Manager.

Occupant includes all tenants, lessees and persons residing within a rental dwelling or rental unit.

Owner means any person, firm, corporation or other legal entity having a legal or equitable interest in the premises.

Owner's representative means a person or representative of a corporation, partnership, firm, joint venture, trust, association, organization or other entity designated by the owner of the premises as responsible for operating such property in compliance with all the provisions of the city's ordinances.

Rental dwelling unit means any single structure, building or other facility promised and/or leased to a residential tenant for use as a home, residence or sleeping unit. Such term includes, but is not limited to, one- or two-family dwellings, multiple dwellings and apartment units.

Sec. 8-152. Purpose of standards.

The city recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe residential rental structures in the city as an important factor for the general health, safety and welfare of all of its citizens. This article is designed to promote the continued maintenance of quality and safe rental properties and to enhance and maintain property values.

Sec. 8-153. Applicability; exclusions.

(a) This article shall apply to any rental dwelling unit, or part thereof, which is occupied by persons pursuant to any oral or written rental or lease agreement or other valuable compensation. Such dwelling shall include, but not be limited to, single-family dwellings, multiple-family dwellings, rooming houses and boardinghouses. No person shall lease or rent a rental dwelling unit unless they have registered their property.

(b) This article does not apply to jails, hospitals, nursing homes, convalescent homes, foster homes or temporary group shelters provided by legal nonprofit agencies which are inspected, certified and/or licensed by the state.

Sec. 8-154. Registration.

(a) *Compliance required.* All rental dwelling unit owners are required to bi-annually register their rental dwelling units pursuant to this article and shall comply with the following:

- (1) All existing rental dwelling units property shall be registered within 180 days of the effective date of the ordinance.
- (2) All newly constructed rental dwelling units shall be registered prior to any use or occupancy as a rental dwelling unit and every year thereafter.
- (3) A new owner shall register a rental dwelling unit, which is sold, transferred or conveyed, within 30 days of the date of the closing of such sale. Any existing registration shall be transferred to the new owner and shall be valid until its expiration or revocation for noncompliance with city codes and ordinances.
- (4) All existing nonrental dwelling units, which are converted to rental dwelling units, shall be registered prior to the date on which the property is first occupied for rental purposes and bi-annually thereafter. Failure to comply will result in penalties as described in this ordinance or by resolution.

(b) *Applications.*

- (1) Applications for registration shall be made in such form and in accordance with such instructions as may be provided by the building inspector designated by the city manager and shall include at least the following information:
 - a. The name, address and telephone number of the owner (no post office box shall be accepted).
 - b. The name, address and telephone number of the owner's representative, if the rental property owner has opted to appoint a representative.

(2) Upon registration, the owner shall be responsible for notifying the building inspector of any change of address of either the owner or owner's representative.

(c) *Fee.* At the time of registration of the dwelling unit, there will be a prescribed fee, as adopted by resolution. Any unpaid registration fees shall become a lien on the property immediately and collected as an assessment pursuant to city ordinance. An owner shall not have a property as a rental dwelling unless it has registered with the City.

Sec. 8-155. Applicable standards.

The standards used to determine rental property and dwelling unit compliance with city codes and ordinances shall be the International Property Maintenance Code, as adopted and amended by the city council.

Sec. 8-156. Non-compliance with code.

(a) The building inspector may enter rental dwelling units under any of the following circumstances:

- (1) After the registration of the rental dwelling unit which shows the possibility of not complying with local or state law.

(2) Upon receipt of a written complaint from an owner, owner's representative or occupant that the premises is in violation of this article.

(3) Upon receipt of a report or referral from the police department, fire department, public or private school, or another public agency, or a failure to comply with this ordinance.

(4) Upon evidence of an existing ordinance violation observed by the building inspector.

(5) At the request of the owner to determine compliance with the International Property Maintenance Code.

(6) If the proposed rental dwelling unit is being converted from a single-family home, the building inspector shall evaluate the property for public safety violations before first occupied for rental purposes.

(b) The building inspector may make an appointment with the owner or owner's representative of the rental dwelling unit. The owner or owner's representative must give the building inspector at least 24 hours' notice when changing the scheduled appointment with an alternative date and time. The building inspector shall issue a written report noting any violations of this article or any other provision of the city's ordinances and shall provide a copy of the report to the owner or owner's representative. The building inspector shall direct the owner or owner's representative to correct violations within the time set forth in the report. A reasonable time for correcting violations shall be determined by the building inspector in light of the nature of the violations and all relevant circumstances, which shall not exceed 60 days, unless correction of the violation within a 60-day period is impossible due to seasonal considerations. Upon request of the person responsible for correcting violations, the building inspector may extend the time for correcting violations, but not to exceed an additional 30 days.

(c) The building inspector may charge a nominal fee that equals the actual administrative cost to enter premises as established by resolution. If the building inspector determines that a complaint was filed without a factual basis and with malice, a fee may be charged to the complainant.

Sec. 8-157. Fees.

Fees for registration of rental units and penalties shall be established by resolution. The fee schedule shall be available to the public from the city clerk. Any unpaid inspection fees shall become a lien on the property and collected as provided by law.

Sec. 8-158. Violations.

(a) If the owner or owner's representative does not correct a violation of any provision of this article, the building inspector may bring an action to seek the enforcement of this ordinance by an appropriate legal remedy. Any structure not in compliance with this article is deemed a nuisance.

(b) Any owner or owner's representative of a rental dwelling unit who violates any section of this ordinance for the first offense shall be responsible for a municipal civil infraction as provided for in Section 1-8 of this Code with the fines as stated in subsection (c) below.

(c) The fines for municipal civil infractions for violating this ordinance shall be: \$200.00 per occurrence for the first offense; \$400.00 for a second offense if it occurs within two (2) years of the prior offense even if it occurs at the same time as the prior offense. Each day that a violation continues shall be a separate offense.

(d) The building inspector, building official, code enforcement officer and any other person designated by the City Manager are hereby designated as the authorized individuals to issue municipal civil infraction citations for violations of this ordinance.

(e) In addition to any penalties imposed by law, a finding of responsibility by the court for a violation of this article, the City shall be entitled to immediately revoke any existing Certificate of Compliance and shall entitle the City to seek the issuance of a court order compelling the eviction of all persons and property upon the premises until a Certificate of Compliance is issued by the City.

(f) An owner or owner's representative may be charged with more than one violation of the provisions of this article in a single complaint or municipal civil infraction, provided that each violation so charged relates to the same property.

Section 2. This ordinance shall become effective April 5, 2009.

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 Martenis.

Roll Call Vote.

AYES: Councilpersons Martenis, Forster, Cline, Frederick, Simmons, and Mayor Bruff.

NAYS: Mayor Pro-Tem Owen.

RENTAL REGISTRATION PROGRAM FEE RESOLUTION

Motion by Councilperson Cline to adopt the following resolution to establish reasonable fees for acts and services performed as related to Owosso City Code Section 8-151 et seq., as amended.

**RESOLUTION NO. 12-2009
RENTAL UNIT REGISTRATION FEES**

WHEREAS the City of Owosso has adopted an amended Rental Registration Ordinance that requires that certain fees be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED THAT the following rental registration fees are adopted:

\$25.00 biennial registration fee per rental unit within a structure.

\$35.00 per complaint based inspection.

BE IT FURTHER RESOLVED THAT the above fees shall be effective April 5, 2009.

Motion supported by Councilperson Simmons.

Roll Call Vote.

AYES: Councilpersons Simmons, Forster, Cline, Frederick, Martenis, and Mayor Bruff.

NAYS: Mayor Pro-Tem Owen.

CITIZEN COMMENTS AND QUESTIONS

Shelva Cebulski, 1243 Marion Street, asked people to attend the blood drive at the Knight's of Columbus Hall on Wednesday. She also commended the City for establishing a phone line to handle pothole complaints.

Bruce Robb, County Commissioner District 2, distributed County office directories to the Council. Norman Pugh criticized some Council members for not commenting during the ordinance amendment public hearing. He went on to ask that the ordinances currently on the books be enforced and single family residences be held to the same standard as rental residences. He noted his feeling that the City instituted the rental registration program to raise money and suggested the City go to a part time building official to save money.

Burton Fox, 216 East Oliver Street, expressed his hope that in light of the recent appeals court ruling the water agreements with the City of Corunna and Caledonia Township would be reexamined along with the proposed agreement with Owosso Township. He also encouraged citizens to start looking at what they can do for their community, suggesting a neighborhood park system supported by volunteers.

Max Tait, 2351 West Garrison Road, expressed his feeling the rental registration program could be administered on the city website for free and that the ordinance amendment was presented as only a registration program, and not a means to pay for an educational effort or mapping opportunity. He said he was saddened by this and left the meeting. It was later noted the educational and mapping components were clearly stated from the beginning of the ordinance amendment process.

Kris Delaney, 1450 West Riley Road, indicated she was disappointed with the Council for approving the rental registration program and further indicated her feeling the registration fee is not going toward the registration program. She asked Council to just enforce the codes already on the books.

Eddie Urban, 601 Glenwood Avenue, indicated he did not like the way another audience member addressed the students of Lincoln School saying they do good things for the community, such as painting the Red Cross building. He also invited everyone to attend a screening of a film by Tony Hornus on the children of Afghanistan at the Corunna library. Lastly he spoke of awarding one current Owosso employee and one former Owosso employee with Purple Heart certificates for injuries incurred in the course of duty.

Councilperson Frederick expressed his embarrassment that old ordinances were not enforced but indicated he felt the re-write of the rental registration ordinance was a positive step.

Mayor Pro-Tem Owen responded to the idea that the City makes large amounts of money from its water contracts with surrounding communities, saying the City was responsible for building, operating, and maintaining much of the infrastructure involved in providing water. He also indicated his irritation with comparisons to other municipalities saying we need to look within ourselves for solutions and not always follow what others are doing.

Councilperson Martenis complemented Mayor Bruff on his handling of the contemptuous public hearing.

The Council recessed from 9:21 p.m. to 9:30 p.m.

CITY MANAGER REPORT

City Manager Fivas indicated the City will be conducting curbside leaf pick up from April 6th – 9th. He also indicated preparations for Community Pride Week continue.

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 April 6, 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. That Chapter 27, *Soil Erosion and Sedimentation Control*, Sections 27-1 through 27-40 of the Code of Ordinances of the City of Owosso, Michigan shall be amended 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. Designation of the municipal enforcing agency and adoption of the statute and rules by reference.

- (a) The City Engineering Department shall be the municipal enforcing agency responsible for administering and enforcing this ordinance.
- (b) Part 91, *Soil Erosion and Sedimentation Control*, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended and the administrative rules promulgated under Part 91 are incorporated into this ordinance by reference.

Sec 27-3 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.

Waterway means a permanent non-enclosed channel that is designed to convey storm water runoff.

Sec. 27-4. 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. 27-5. 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 soil erosion and sedimentation control plans and specifications and completion of all permanent soil erosion control measures.

Sec. 27-6. Responsibility of permittee.

When undertaking earth change activities the permittee shall be responsible for:

- (1) The prevention of damage to any public utility or services within the limits of the earth change 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. 27-7. General requirements.

(a) All 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 27-8. 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.

Section 27-9. 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. 27-10. 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 27-11. 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 earth change.

(b) Upon satisfactory execution of all approved soil erosion and sedimentation control 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. 27-12. 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. 27-13--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 soil erosion and sedimentation control permit application shall contain the following data:

- (1) A map or maps at a scale of not more than 200 feet to the inch or as otherwise determined by the county or local enforcing agency. A map shall include a legal description and site location sketch that includes the proximity of any proposed earth change to lakes or streams, or both; predominant land features, and contour intervals or slope description.
- (2) A soils survey or a written description of the soil types of the exposed land area contemplated for the earth change.
- (3) Details for proposed earth changes including all of the following:
 - (a) A description and the location of the physical limits of each proposed earth change.
 - (b) A description and the location of all existing and proposed on-site drainage and dewatering facilities.
 - (c) The timing and sequence of each proposed earth change.
 - (d) A description and the location of all proposed temporary soil erosion and sedimentation control measures.
 - (e) The location and description for installing and removing all proposed permanent soil erosion and sedimentation control measures.
 - (f) A program proposal for the continued maintenance of all permanent soil erosion and sedimentation control measures that remain after project completion, including the designation of the person responsible for the maintenance. Maintenance responsibilities shall become a part of any sales or exchange agreement for the land on which the permanent soil erosion and sedimentation control measures are located.

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 soil erosion and sedimentation control permit, and shall complete all of the work contemplated under the soil erosion and sedimentation control permit within the time limit specified in the soil erosion and sedimentation control permit, or if no time limit is specified, within one hundred eighty (180) days after the date of the issuance of the soil erosion and sedimentation control 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.

Soil erosion and sedimentation control 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 soil erosion and sedimentation control plan. No soil erosion and sedimentation control work in connection with any proposed modification shall be permitted without the approval of the city engineer.

Sec. 27-40. Exceptions.

(a) In addition to the exceptions identified in Sec. 27-31, 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 or stream;

(b) Although no permits are required for earth changes identified under subsection (a), the earth change activities exempted from obtaining permits must comply with the rules and

regulations of this chapter.

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

First Reading and Set Public Hearing - Ordinance Amendment.

The First Reading on the proposed ordinance amendment was held.

A public hearing was scheduled for April 6, 2009 to receive citizen comment regarding the proposed ordinance to amend Chapter 34, Utilities and Services, Article IV, Sewer Service, Section 34-102 of the Code of Ordinances of the City of Owosso, Michigan as follows:

AN ORDINANCE TO ADD THE DEFINITIONS OF "*BEST MANAGEMENT PRACTICES (BMPs)*", "*INSTANTANEOUS LIMIT*" AND "*PRETREATMENT REQUIREMENT*" AND TO REPLACE THE DEFINITION OF "*SIGNIFICANT NONCOMPLIANCE*" IN SECTION 34-102 OF THE CODE OF ORDINANCES OF THE CITY OF OWOSSO, MICHIGAN, IN ORDER TO BE CONSISTENT AND COMPLIANT WITH FEDERAL REGULATIONS AS CONTAINED IN 40 CFR 403.8 REGARDING INDUSTRIAL PRETREATMENT PROGRAM REQUIREMENTS FOR PUBLICLY OWNED WASTEWATER TREATMENT PLANTS

THE CITY OF OWOSSO ORDAINS:

Section 1. That Section 34-102 of Chapter 34 Utilities and Services of the Code of Ordinances of the City of Owosso, Michigan shall be amended by adding the definitions of "*Best management practices or BMPs*", "*Instantaneous limit*", and "*Pretreatment requirement*" and by replacing the definition of "*Significant noncompliance (SNC)*" as follows:

Best management practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 34-168. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Instantaneous limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Pretreatment requirement means any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

Significant noncompliance (SNC) means the noncompliance status of an industrial user with a violation or pattern of violations that meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6 month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including an instantaneous limit, as defined in Section 34-102;
- (2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6 month period equal or exceed the product of the numeric pretreatment standard or requirement including an instantaneous limit, as defined in Section 34-102, multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a pretreatment standard or requirement as defined in Section 34-102(daily maximum, long-term average, instantaneous limit, or narrative standard) that the public services director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health and safety of city personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in an emergency suspension of service to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within 30 days after the due date, required reports such as

baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

- (7) Failure to accurately report noncompliance;
- (8) Any other violation or group of violations, which may include a violation of Best management Practices, which the public services director determines will adversely affect the operation or implementation of the local pretreatment program.

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

First Reading and Set Public Hearing - Ordinance Amendment.

The First Reading on the proposed ordinance amendment was held.

A public hearing was scheduled for April 6, 2009 to receive citizen comment regarding the proposed ordinance to amend Chapter 34, Utilities and Services, Article IV, Sewer Service, Division 7, Enforcement, Sections 34-221 through 34-235 of the Code of Ordinances of the City of Owosso, Michigan as follows:

AN ORDINANCE TO AMEND CHAPTER 34, UTILITIES AND SERVICES, ARTICLE IV, SEWER SERVICE, DIVISION 7, ENFORCEMENT, SECTIONS 34-221 THROUGH 34-235 OF THE CODE OF ORDINANCES OF THE CITY OF OWOSSO, MICHIGAN.

THE CITY OF OWOSSO ORDAINS:

DIVISION 7.
ENFORCEMENT

Sec. 34-221. Violations.

(a) Any person found to be violating any provision of this article may be served by the public services director with a written notice stating the nature of the violation and either providing a reasonable time limit for the satisfactory correction thereof, or requiring the user to submit an action plan for the correction and prevention of such violation(s). Within the period of time stated in such notice, or in conformance with a compliance schedule in a subsequent Order to implement a corrective action plan, the person shall permanently cease all violations. Nothing in this section shall limit the authority of the public services director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(b) A violation of the provisions of this article shall be considered a public nuisance per se and any action authorized or permitted by law for the abatement of public nuisances may be instituted by the city in regard to such violation.

(c) Whenever a person has violated any provision of this article, the city may take any legal action necessary to recover damages sustained by the city as a result thereof. Such damages shall include, but are not limited to, lost revenues from the federal or state government and any fines or other penalties which are the result of the violation.

Sec. 34-222. Emergency suspension of service.

(a) In the case of discharges which present or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or cause interference with the operation of the sewage works, or otherwise constitutes a public nuisance or emergency, the city sewer service of any person causing or threatening to cause such discharge may be terminated by order of the public services director, pending further investigation and hearing under section 34-223.

(b) Any person so notified of the suspension of the city's sewer service shall, within the time specified in such notice, cease all discharges.

(c) In the event of failure of the person to voluntarily comply with the suspension order within the specified time, the city may commence an action or proceeding in any court of competent jurisdiction to compel the person's compliance with such order.

(d) The city shall reinstate the sewer service and terminate any judicial proceedings upon proof by the user to the satisfaction of the public services director of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger as set forth above.

Sec. 34-223. Termination of service.

(a) *Authority to terminate.* The public services director shall have the authority to terminate wastewater service to any user who attempts to violate or violates any provision of this article, or who in any way attempts to avoid, delay, prevent, or interfere with the execution or enforcement of any provision of this article, or who fails to pay any charges, levied against the user, whether regulator or extraordinary, under this article, or who attempts to violate or violates or attempts to avoid, delay, prevent or interfere with the execution or enforcement of any order, rule or regulation promulgated by the director for compliance with or in execution of this article, or who fails to appear at a hearing to meet a charge against him, her or it under this article.

(b) *Hearing procedures.*

- (1) In addition to any remedies provided elsewhere in this article, whenever the public services director has reason to believe that any user has committed or is committing an offense covered by subsection (a) he or she may serve upon the user a written notice stating the nature of the alleged violation and describing the time for and the nature of required correction.
- (2) If the violation is not corrected as prescribed in the notice, the director may issue an order to the user to appear for a hearing and show cause why service should not be terminated.
- (3) The notice and order to show cause shall be served upon the user by personal service, or in lieu thereof by certified mail, return receipt requested, to the user's last known address.
- (4) The hearing shall be conducted by the city manager or a hearing officer appointed by him or her, who shall render a written decision determining whether the user's service shall be terminated and stating reasons therefor. Admissibility of evidence at the hearing shall be within the discretion of the city manager or hearing officer.
- (5) The user shall be entitled to be represented at the hearing in person or by an attorney at his or her own expense and shall be entitled to examine witnesses for the city and present evidence on his or her own behalf. A record shall be made of the proceedings, but such record need not be verbatim.
- (6) The user whose service is terminated without prior hearing may request such a hearing as described in subsections (b)(4) and (5), to permit him to show why his or her service should not have been terminated and should be resumed. Such requests shall be granted but service will not be resumed unless so ordered by the city manager or hearing officer.

Sec. 34-224. Publication of enforcement actions.

The public services director shall publish, at least annually in the largest daily newspaper published in the service area of the wastewater system, a public notification of industrial users which are found to be in significant noncompliance, as defined in section 34-102, with applicable pretreatment requirements during the period since the previous publication.

Sec. 34-225. Right of appeal.

Any discharger or any interested party shall have the right to request in writing an interpretation or ruling by the city on any matter covered by this article, and shall be entitled to a prompt written reply. If such inquiry is by a discharger and deals with matters of performance or compliance with this article for which enforcement activity relating to an alleged violation which is the subject, receipt of a discharger's request, shall stay all enforcement proceedings pending receipt of the written reply. Appeal of any final judicial order entered pursuant to this article may be taken in accordance with local and state law.

Sec. 34-226. Temporary noncompliance; upset provisions.

(a) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (c) are met.

(c) An industrial user who wishes to establish the affirmative defense of upset shall

demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the industrial user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.
- (3) The industrial user has submitted the following information to the public services director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
 - a. A description of the discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - c. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- (d) In any enforcement proceeding the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
- (e) The industrial user shall control production or all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

Sec. 34-227. Recovery of costs incurred by city.

Any user violating any of the provisions of this article, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or interference with city's wastewater system shall be liable to the city for any expense, loss, or damage caused by such violation or discharge. The city shall bill the user for the costs incurred by the city for any cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this article enforceable under the provisions of this division.

Sec. 34-228. Administrative fines.

(a) Notwithstanding any other section of this Article, any user who is found to have violated any provision under this Article, or orders issued under this Article, may be fined up to an amount of five hundred (\$500) per day per violation, or the maximum allowable under state law per violation. A schedule of fines may be established and adopted as a rule in accordance with Section 34-203.

(b) Such assessments shall be added to user's next scheduled sewer service charge, and subject to other collection rights and remedies as designated by law and this ordinance to collect said service charges. Unpaid charges, fines, and penalties shall constitute a lien against the individual user's property. Users desiring to appeal such fines must comply with Section 34-225.

Sec. 34-229. Consent orders.

The public services director is hereby empowered to enter into consent orders establishing an agreement with an industrial user which is subject to enforcement action for noncompliance with this article. Consent orders may include compliance schedules, stipulated fines or penalties, remedial actions, other provisions agreed to by the parties, and signatures of the public services director and an authorized representative of the industrial user. Consent orders shall be considered a part of this article for the specific user and shall be enforceable in the same manner as this article.

Sec. 34-230. Show cause order.

In the event of a proposed enforcement action, other than termination of wastewater service under section 34-223, the public services director may order any user which causes or contributes to violation of this article to appear and show cause at a meeting with the director why the proposed enforcement action should not be taken. The notice of the meeting shall be served on the user personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the meeting. Whether or not a duly notified industrial user appears as noticed, enforcement action may be pursued as appropriate.

Sec. 34-231. Misdemeanor.

(a) A person who violates any provision of this chapter that is listed in subsection (b) below shall, upon conviction, be guilty of a misdemeanor. Such misdemeanors are subject to a fine of not more than five hundred dollars (\$500) or the maximum allowable under state law, plus costs and other sanctions, or by imprisonment for a period not to exceed ninety (90) days, or both.

(b) Misdemeanor violations include:

- (1) Intentional unpermitted discharge, including but not limited to intentional unpermitted dumping of wastes or wastewater to any manhole, any sewer, drain or natural outlet,
- (2) Making any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article, or falsification, tampering with, or rendering inaccurate any monitoring device or analytical test method required under this article,
- (3) Improper sampling, with evidence of intent to falsify or mislead,
- (4) Intentional introduction of any substances into the wastewater system that causes personal injury or property damage,
- (5) Any recurring violation that results in a determination of significant noncompliance that continues after application of administrative enforcement remedies, and
- (6) Illegal discharge when the discharge causes interference with the wastewater system and there is evidence of intent.

Sec. 34-232. Municipal civil infraction.

(a) Except for a violation which is specifically designated in this Article as a misdemeanor subject to criminal prosecution, any person, firm or corporation who violates or fails to comply with any provision of this Article, or Order issued hereunder, or any other Pretreatment Standard or Requirement is responsible for a municipal civil infraction and is subject to the civil fines set forth below and costs and other sanctions that may be imposed by the Court. Each act of violation and each day upon which such violation occurs shall constitute a separate violation.

(b) The public services director, utilities director and industrial pretreatment coordinator are hereby designated as authorized city officials to issue municipal civil infraction citations and notices under this Article.

(c) The penalty for a violation of this Article that is a municipal civil infraction is a civil fine in accordance with the schedule that follows, plus costs, damages, expenses and other sanctions that may be imposed by the Court. A Category I violation is a major violation by any person or firm that causes interference with the wastewater system, or endangers the health and safety of City personnel or the general public, or otherwise necessitates an emergency termination of wastewater service to halt or prevent such a discharge. A Category II violation is any non-Category I violation, by any person or firm classified as a Significant Industrial User pursuant to Section 34-201. A Category III violation is any non-Category I violation by a person or firm other than a Significant Industrial User.

Violation Type	First Offense	First Repeat Offense	Subsequent Repeat Offense
Category I	\$1,000	\$2,500	\$5,000
Category II	\$250	\$500	\$1,000
Category III	\$100	\$250	\$500

Sec. 34-233. Injunctive relief.

At the request of the public services director, the city attorney may petition any court of competent jurisdiction for the abatement of any nuisance, and to seek relief for any violations of this Article, or Order issued under this Article. The city attorney may seek, and the court may impose, temporary or permanent injunctive relief, damages, civil penalties as provided in Section 34-234, costs and such other relief as the court may order.

Sec. 34-234. Judicial civil penalties.

In an action brought by the city against a person for violation of this Article, or Order issued under this Article, a court of competent jurisdiction may impose a civil penalty of up to \$5,000 per day per violation. In calculating the amount of the penalty, the court may consider the frequency, magnitude and duration of violation(s) by the person, the impact of the violation(s) on public health and the environment, the economic benefit to the person gained by the violation(s), the compliance history of the person, and other factors deemed appropriate by the court.

Sec. 34-235. Remedies nonexclusive.

The remedies provided for in this division are not exclusive. The director may take any, all, or any combination of these actions against a noncompliant person. Prosecution of a criminal offense against a person shall not be dependent upon or held in abeyance during any civil proceeding regarding such person.

Secs. 34-236--34-245. Reserved.

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

Set Public Hearing – Brownfield Plan Amendment. Set a public hearing for April 6, 2009 to receive citizen comment regarding an amendment to Brownfield Redevelopment Plan, District #12, Woodard Station Lofts, LLC.

Special Assessment District No. 2009-02 Ball Street from Jennett Street to Galusha Street

RESOLUTION NO. 13-2009

WHEREAS, the City Council of the City of Owosso deems it necessary to acquire and construct the following described improvement:

**Ball Street from Jennett Street to Galusha Street
Street Reconstruction**

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The matter of making said public improvement is hereby referred to the City Manager, who shall prepare a report thereon, which shall include plans and detailed estimates of the cost thereof and a description of the special assessment district and such other pertinent information as will permit the City Council to decide the cost, extent and necessity of the public improvement and what proportion of the cost should be paid by the City at large.

The City Manager shall present said report to the City Council when same has been prepared.

Special Assessment District No. ~~2009-06~~ 2009-03* Water Street from Galusha Street to North Street

*Amended 04-20-2009

RESOLUTION NO. 14-2009

WHEREAS, the City Council of the City of Owosso deems it necessary to acquire and construct the following described improvement:

**Water Street from Galusha Street to North Street
Street Reconstruction**

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The matter of making said public improvement is hereby referred to the City Manager, who shall prepare a report thereon, which shall include plans and detailed estimates of the cost thereof and a description of the special assessment district and such other pertinent information as will permit the City Council to decide the cost, extent and necessity of the public improvement and what proportion of the cost should be paid by the City at large.

The City Manager shall present said report to the City Council when same has been prepared.

Special Assessment District No. 2009-02 Ball Street from Jennett Street to Galusha Street

RESOLUTION NO. 15-2009

WHEREAS, the City Council has ordered the City Manager to prepare a report for public improvement, more particularly hereinafter described; and

**Ball Street from Jennett Street to Galusha Street
Street Reconstruction**

WHEREAS, the City Manager prepared said report and the same has been filed with the City Council as required by the Special Assessment Ordinance of the City of Owosso and the Council has reviewed said report.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The plans and estimate of cost and the report of the City Manager for said public improvement shall be filed in the office of the City Clerk and shall be available for public examination.
2. The City Council hereby determines that the Public Improvement hereinafter set forth is necessary.
3. The City Council hereby approves the estimate of cost of said public improvement to be \$35,000.00 and determines that \$18,719.64 thereof shall be paid by special assessment imposed on the lots and parcels of land more particularly hereinafter set forth, which lots and parcels of land are hereby designated to be all of the lots and parcels of land to be benefited by said improvements and determines that \$16,280.36 of the cost thereof shall be paid by the City at large because of benefit to the City at large.
4. The City Council hereby determines that the portion of the cost of said public improvement to be specially assessed shall be assessed in accordance with the benefits to be received.
5. The City Council shall meet at the Owosso City Hall Council Chambers on Monday, April 6, 2009 for the purpose of hearing all persons to be affected by the proposed public improvement.
6. The City Clerk is hereby directed to cause notice of the time and place of the hearing to be published once in The Argus Press, the official newspaper of the City of Owosso, not less than seven (7) days prior to the date of said hearing and shall further cause notice of said hearing to be sent by first class mail to each owner of property subject to assessment, as indicated by the records in the City Assessor's Office as shown on the general tax roll of the City, at least (10) full days before the time of said hearing, said notice to be mailed to the addresses shown on said general tax rolls of the City.
7. The notice of said hearing to be published and mailed shall be in substantially the following form:

NOTICE OF SPECIAL ASSESSMENT HEARING
CITY OF OWOSSO, MICHIGAN

TO THE OWNERS OF THE FOLLOWING DESCRIBED PROPERTY:

Ball Street from Jennett Street to Galusha Street

TAKE NOTICE that the City Council intends to acquire and construct the following described public improvement: **Street Reconstruction.**

The City Council intends to defray apart or all of the cost of the above-described public improvement by special assessment against the above described property.

TAKE FURTHER NOTICE that City Council has caused plans and an estimate of the cost and report for the above described public improvement to be prepared and made by the City Manager and the same is on file with the City Clerk and available for public examination.

TAKE FURTHER NOTICE that the City Council will meet at the Owosso City Hall Council Chambers, Owosso, Michigan at 7:30 o'clock p.m. on Monday, April 6, 2009 for the purpose of hearing any person to be affected by the proposed public improvement.

Special Assessment District No. ~~2009-06~~ 2009-03*

Water Street from Galusha Street to
North Street

*Amended 04-20-2009

RESOLUTION NO. 16-2009

WHEREAS, the City Council has ordered the City Manager to prepare a report for public improvement, more particularly hereinafter described; and

**Water Street from Galusha Street to North Street
Street Reconstruction**

WHEREAS, the City Manager prepared said report and the same has been filed with the City Council as required by the Special Assessment Ordinance of the City of Owosso and the Council has reviewed said report.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The plans and estimate of cost and the report of the City Manager for said public improvement shall be filed in the office of the City Clerk and shall be available for public examination.
2. The City Council hereby determines that the Public Improvement hereinafter set forth is necessary.
3. The City Council hereby approves the estimate of cost of said public improvement to be \$108,700.00 and determines that \$42,739.62 thereof shall be paid by special assessment imposed on the lots and parcels of land more particularly hereinafter set forth, which lots and parcels of land are hereby designated to be all of the lots and parcels of land to be benefited by said improvements and determines that \$65,960.38 of the cost thereof shall be paid by the City at large because of benefit to the City at large.
4. The City Council hereby determines that the portion of the cost of said public improvement to be specially assessed shall be assessed in accordance with the benefits to be received.
5. The City Council shall meet at the Owosso City Hall Council Chambers on Monday, April 6, 2009 for the purpose of hearing all persons to be affected by the proposed public improvement.
6. The City Clerk is hereby directed to cause notice of the time and place of the hearing to be published once in The Argus Press, the official newspaper of the City of Owosso, not less than seven (7) days prior to the date of said hearing and shall further cause notice of said hearing to be sent by first class mail to each owner of property subject to assessment, as indicated by the records in the City Assessor's Office as shown on the general tax roll of the City, at least (10) full days before the time of said hearing, said notice to be mailed to the addresses shown on said general tax rolls of the City.
7. The notice of said hearing to be published and mailed shall be in substantially the following form:

NOTICE OF SPECIAL ASSESSMENT HEARING
CITY OF OWOSSO, MICHIGAN

TO THE OWNERS OF THE FOLLOWING DESCRIBED PROPERTY:

Water Street from Galusha Street to North Street

TAKE NOTICE that the City Council intends to acquire and construct the following described public improvement: **Street Reconstruction.**

The City Council intends to defray apart or all of the cost of the above-described public improvement by special assessment against the above described property.

TAKE FURTHER NOTICE that City Council has caused plans and an estimate of the cost and report for the above described public improvement to be prepared and made by the City Manager and the same is on file with the City Clerk and available for public examination.

TAKE FURTHER NOTICE that the City Council will meet at the Owosso City Hall Council Chambers, Owosso, Michigan at 7:30 o'clock p.m. on Monday, April 6, 2009 for the purpose of hearing any person to be affected by the proposed public improvement.

Change Order. Authorized Change Order to the back-up salt purchase order with Morton International for an additional 134 tons and further authorized additional payment of \$6,536.73.

Purchase Authorization. Authorized the purchase of the Assessing, Tax System, Special Assessment and Delinquent Personal Property applications for the Dot.Net program from BS&A Software in the amount of \$15,206.00.

Warrant No. 381. Accepted Warrant No. 381 as follows:

Vendor	Description	Fund	Amount
Brown & Stewart, PC	Professional Services February 10, 2009 – March 9, 2009	General	\$9,694.62

Motion supported by Councilperson Cline.

Roll Call Vote.

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

NAYS: None.

ITEMS OF BUSINESS

RECORDS RETENTION SCHEDULES

Motion by Mayor Pro-Tem Owen to authorize the following resolution to approve Schedules #23 and #24 governing the retention and destruction of election records and records housed by the Clerk's Office.

**RESOLUTION NO. 17-2009
A RESOLUTION APPROVING AND ESTABLISHING
A RECORDS RETENTION SCHEDULE FOR THE CLERK'S OFFICE
OF THE CITY OF OWOSSO, MICHIGAN**

WHEREAS, it would be in the best interest of the City of Owosso, Michigan to have a specialized records management policy for the Clerk's Office approved by the City Council in accordance with Section 2-79 of the Code of Ordinances of the City of Owosso, Michigan; and

WHEREAS, Michigan Compiled Law 750.491 addresses the disposal of public records under the guidelines of a properly adopted retention schedule;

NOW, THEREFORE, the City Council of the City of Owosso, Michigan, determined, resolves and orders as follows:

1. that the records described in General Schedules #23 and #24 are deemed necessary for the continued effective operation of the City of Owosso government, to constitute an adequate and proper recording of its activities and to protect the legal rights of the City of Owosso and of the people; and
2. that the City would benefit from a specialized schedule governing the retention and destruction of election materials and other important documents housed in the Clerk's Office; and
3. that the City of Owosso, Michigan hereby adopts General Schedules #23 and #24 governing election records and the records housed by the City Clerk's Office respectively. These schedules having been developed by the Michigan Association of Municipal Clerks and the Bureau of Elections in cooperation with the State Archives of Michigan, Michigan Department of State, as a guide to records retention and disposal where applicable; and
4. that City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

Motion supported by Councilperson Simmons.

Roll Call Vote.

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

NAYS: None.

HISTORIC DISTRICT STUDY COMMITTEE

There was discussion regarding the establishment of a Historic District Study Committee. City Manager Fivas indicated it would be advantageous to get the input of organizations in the downtown, such as the Main Street Program and the Chamber of Commerce, to avoid the duplication of services and coordinate efforts among the groups.

Motion by Councilperson Forster to postpone the formation of a Historic District Study Committee for the downtown until the Main Street Program and the Chamber of Commerce can provide input.

Motion supported by Councilperson Cline.

Roll Call Vote.

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

NAYS: None.

EXECUTIVE SESSION

Motion by Mayor Pro-Tem Owen to approve the holding of executive session at the conclusion of regular business for collective bargaining purposes.

Motion supported by Councilperson Simmons.

Roll Call Vote.

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

NAYS: None.

COMMUNICATIONS

Amy K. Kohagen, City Clerk. Notice of transfer of SDD license location.
John F. Archer, Building Official. February 2009 Building Department Report.
John F. Archer, Building Official. February 2009 Code Violations Report.
Michael T. Compeau, Public Safety Director. February 2009 Police Department Report.
Michael T. Compeau, Public Safety Director. February 2009 Fire Department Report.
Downtown Development Authority. Minutes of Meeting of February 4, 2009.

CITIZEN COMMENTS AND QUESTIONS

Shelva Cebulski, 1243 Marion Street, said she was happy the leaf pick up program will be extended into the spring.

Betty Coon, 1204 Palmer Avenue, extended her appreciation for the diligence the City has displayed in its water agreement discussions.

Greg Weinert, 530 Martin Street, commended Council for their work and thanked them for serving.

Eddie Urban, 601 Glenwood Avenue, inquired whether the city will be picking up brush also. It was noted the extended leaf program would have the same rules as the fall leaf pick up program.

It was noted pine cones could be included for pick up with leaves at the curb.

Councilperson Forster also noted that brush and leaves will be picked up as a part of Community Pride Week.

RECESSED TO EXECUTIVE SESSION AT 9:44 P.M.

RETURNED FROM EXECUTIVE SESSION AT 10:14 P.M.

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS CONTRACT AGREEMENT

Motion by Mayor Pro-Tem Owen to accept the labor agreement with the International Association of Firefighters, AFL-CIO Local 504 covering the time period of July 1, 2008 through June 30, 2011.

Motion supported by Councilperson Frederick.

Roll Call Vote.

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

NAYS: None.

*Full text of the agreement can be found on file in the Clerk's Office.

APPROVAL OF EXECUTIVE SESSION MINUTES OF FEBRUARY 17, 2009

Motion by Councilperson Simmons to approve the Executive Session Minutes of February 17, 2009 as presented.

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

NEXT MEETING

April 6, 2009

BOARDS AND COMMISSIONS OPENINGS

Zoning Board of Appeals – Alternate, term expires 06-30-2009
Historical Commission, term expires 12-31-2010
Parks and Recreation Commission, term expires 06-30-2010

ADJOURNMENT

Motion by Councilperson Frederick for adjournment at 10:18 p.m.

Motion supported by Mayor Pro-Tem Owen and concurred in by unanimous vote.

Michael E. Bruff, Mayor

Amy K. Kohagen, City Clerk