

OWOSSO CITY COUNCIL

MAY 4, 2009

7:30 P.M.

PRESIDING OFFICER: MAYOR MICHAEL E. BRUFF
OPENING PRAYER: MICHAEL TILLOTSON
PLEDGE OF ALLEGIANCE: COUNCILPERSON BENJAMIN R. FREDERICK
PRESENT: Mayor Michael E. Bruff, Mayor Pro-Tem Mark D. Owen, Councilpersons Michael N. Cline, Joni M. Forster, Benjamin R. Frederick, and Gary W. Martenis.
ABSENT: None.

APPROVE AGENDA

Motion by Councilperson Forster to approve the agenda as presented with the removal of Consent 1. Bid Award from the Consent Agenda and its addition to Items of Business as Item of Business 5.

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

APPROVAL OF THE MINUTES OF REGULAR MEETING OF APRIL 20, 2009

Motion by Councilperson Forster to approve the Minutes of the Regular Meeting of April 20, 2009 as presented with correction to the member making the motion to approve the Consent Agenda to reflect Councilperson Frederick as having made the motion.

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

PUBLIC HEARINGS

BUDGET HEARING

A Public Hearing was held pursuant to Chapter 8, Section 4 of the City Charter to receive citizen comments regarding proposed 2009-2010 Budget. The following person addressed the Council in regard to the proposed budget: Michigan State Police First Lieutenant Timothy Gill regarding MAGNET funding. There was discussion regarding challenges facing the budget in upcoming years. Council will consider approval of the budget during the May 18th meeting.

The Public Hearing pursuant to Chapter 8, Section 4 of the City Charter was conducted to receive citizen comments regarding the proposed 2009-2010 City Budget.

The following person addressed the Council regarding the proposed budget:

Michigan State Police Trooper First Lieutenant Timothy Gill, Section Commander of the MAGNET task force, distributed information on cases worked by the task force in 2008. He indicated there were 40 investigations performed within the City last year. He asked Council to consider providing a full time officer for the task force.

There was Council discussion regarding the potential gypsy moth problem in the hospital area and if there would be funding available to combat the pests if needed. City Manager Fivas noted the situation was under observation and arrangements would be made to fund treatment if it is needed.

There was further discussion regarding what the future will bring financially in the coming years. City Manager Fivas noted that property values had decreased by 11% this year and the City will see a distinct decline in revenues for the 2010-2011 fiscal year. It is also anticipated the State will cut revenue sharing payments in the current year. He noted he felt the City had not seen the worst of the financial difficulties and structural changes would need to be made in an effort to deal with the anticipated cuts in funding. He went on to say that open positions created by retirements and other vacancies will not be filled in the coming period. Mayor Bruff expressed his concern that the City not stop all forward progress by cutting back too aggressively. Mayor Pro Tem Owen expressed his concern that the City may reach a point where it is unable to maintain its infrastructure. He also expressed his hope the City could weather this storm with as little damage as possible. Councilperson Frederick noted that a number of regional jurisdictions had met over the previous year, he also expressed his feeling that a regional effort would be necessary to survive in the future.

Council decided against holding an additional meeting to discuss the budget, instead offering to consider an amendment to the budget if needed at some point in the future.

CITIZEN COMMENTS AND QUESTIONS

Burton Fox, 216 East Oliver Street, asked the Council to consider holding multi-jurisdictional meetings to discuss the development of a regional pool facility.

Kim Staples, 501 South M-52, agreed with the idea of developing a regional pool facility. She asked Council not to forget the young people in the community when they consider the budget.

Linda Keenan, Executive Director of the Owosso Community Players, detailed past efforts to raise funds for the rebuild of the Lebowsky Center indicating their efforts to quietly find a major donor were severely hampered by the downturn in the economy. They are now approaching several professional fund raisers/project coordinators to oversee the project from start to finish.

Cheryl Peterson, Co-Chair of the Lebowsky Rebuild, indicated she felt a performing arts center would enhance the quality of life in the community. She echoed the sentiments that the economic downturn has severely affected their fund raising results. She indicated they have contributions from approximately 134 businesses and individuals up to this point and fund raising efforts are on-going and continue evolve. She asked the Council for patience and offered to update them again in June.

Justin Horvath, Shiawassee Economic Development Partnership CEO, indicated the SEDP normally concentrates on business opportunities but felt the center is vital to the community and so offered to assist. He hoped to take advantage of contacts established by the SEDP to help the project along and offer a leadership role. He also hoped to find a candidate that would be able to put together a plan that would be able to leverage the different financial tools available to get the project completed.

Tony Sumbera, Sumbera Excavating, indicated he had forgotten to sign his bid for the 2009 Street Program and asked Council to waive the irregularity.

Eddie Urban indicated the CROP walk went well this past Saturday. He went on to ask if the City would be willing to let someone use the wood he discovered at the rear of Collamer Park during the walk. Lastly he indicated he felt the proposed youth fishing tournament is a great idea.

CITY MANAGER REPORT

City Manager Fivas handed out a flyer detailing the automatic payment program that will be distributed to water customers in the coming month. He indicated the program will be rolled out soon and will be followed shortly by credit card payment capabilities and on-line payment abilities. He also noted the upcoming sesquicentennial celebration scheduled for May 16th.

CONSENT AGENDA

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

Traffic Control Order No. 1213 – Amended. Amended Traffic Control Order No. 1213 to change the closure of the Public Safety Parking lot (lot #8) from June 3, 2009 to June 2, 2009 for the annual Curwood Festival (noting only the area behind the Fire Department will be closed on June 2nd).

Motion supported by Councilperson Cline.

Roll Call Vote.

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

NAYS: None.

ITEMS OF BUSINESS

PBT TESTING FEE RESOLUTION

Motion by Councilperson Forster to authorize a resolution establishing fees for cost recovery of preliminary breath testing services performed by the Department of Public Safety as follows:

RESOLUTION NO. 27-2009

WHEREAS, the Owosso Department of Public Safety will administer Preliminary Breath Tests (PBT) related to conditional bonds, pre and post sentencing orders and probation, and;

WHEREAS, there is a cost associated with providing these testing services, and;

WHEREAS, the City is in need of a mechanism to assist in the recovery of these costs.

NOW THEREFORE BE IT RESOLVED that the Owosso Department of Public Safety is authorized to establish a two-tier fee schedule for Preliminary Breath Testing services.

BE IT FURTHER RESOLVED that individuals that need this service purchase on or before the 1st of each month a pass for \$30.00 from the clerk at the Public Safety Building that will be good for that month. A pro-rated \$15.00 pass will be available for those purchased after the 15th of the month.

Motion supported by Councilperson Cline.

Roll Call Vote.

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

NAYS: None.

ORDINANCE AMENDMENT – UTILITIES AND SERVICES

A public hearing was held to receive citizen comment regarding proposed ordinance amendment to Chapter 34, Utilities and Services, Article IV, *Sewer Service*, Section 34-102 of the Code of Ordinances of the City of Owosso, Michigan.

Utilities Director Gary Burk noted the public hearing on the two utilities ordinance amendments were conducted in April to allow for time for the DEQ to have its own hearings.

There were no citizen comments.

Whereas, the Council, after due and legal notice, has met and there being no one to be heard, motion by Councilperson Forster that the following ordinance be adopted:

ORDINANCE NO. 710

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

SECTION 1. THE CITY OF OWOSSO ORDAINS: 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 May 24, 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 Cline.

Roll Call Vote.

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

NAYS: None.

ORDINANCE AMENDMENT – UTILITIES AND SERVICES

A public hearing was held to receive citizen comment regarding proposed ordinance amendment to Chapter 34, Utilities and Services, Article IV, Sewer Service, Division 7, Enforcement, Sections 34-221 through 34-232 of the Code of Ordinances of the City of Owosso, Michigan.

Utilities Director Gary Burk noted the changes that were made to try to send an economic signal to violators. Fines will cover investigation costs and let violators know they are in non-compliance without resorting to court action.

Mayor Pro Tem Owen asked if alleged violators would have the opportunity for legal recourse should they not agree with the determination of violation. It was noted they can appeal to the City Council then to the court.

There were no citizen comments.

Whereas, the Council, after due and legal notice, has met and there being no one to be heard, motion by Councilperson Cline that the following ordinance be adopted:

ORDINANCE NO. 711

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.

SECTION 1. THE CITY OF OWOSSO ORDAINS: That 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 shall be amended as follows:

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. Enforcement Cost Recovery.

(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 charged costs associated with: investigation of the violation; issuance of notices and orders; follow-up inspections, sampling and analyses by the City; unplugging sewers and removal and disposal of wastes improperly discharged to the sewers. A schedule of standard charges may be established, and revised as appropriate, by resolution of the City Council. Where the standard charges are not appropriate, costs shall be charged in accordance with established City labor, material and equipment rental rates with labor charged at an overtime rate.

(b) Such charges shall be added to user's next scheduled sewer service billing, and subject to other collection rights and remedies as designated by law and this ordinance to collect said service charges. Unpaid charges shall constitute a lien against the individual user's property.

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 May 24, 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: Councilperson Frederick, Mayor Pro Tem Owen, Councilpersons Martenis, Cline, Forster, and Mayor Bruff.

NAYS: None.

HOPKINS LAKE YOUTH FISHING TOURNAMENT

Councilperson Cline introduced the topic saying the Parks and Recreation Commission had no funding to work with in their efforts to construct a playscape at Bentley Park and he thought a

youth fishing tournament would be a good way to raise funds. He proposed a tournament for those 12 and under at Hopkins Lake in Collamer Park. He hopes to have a turnout of approximately 200 youth with prizes will be afforded for all.

Motion by Mayor Pro Tem Owen to allow the use of Hopkins Lake for a youth fishing tournament July 11, 2009.

Motion supported by Councilperson Martenis.

Roll Call Vote.

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

NAYS: None.

BID AWARD – 2009 STREET PROGRAM

It was indicated that Lois Kay Construction was the low bidder for the 2009 Street Program but when local preference was factored in Sumbera became the low bidder. Sumbera did not sign their bid documents and was asking Council to waive the irregularities and accept their bid. Councilperson Cline indicated he felt the Council needed to do everything they could to support local businesses.

Motion by Councilperson Frederick to waive bid irregularities and authorize bid award to Sumbera Excavating for the 2009 Street Program in the amount of \$139,878.80.

Motion supported by Councilperson Cline.

Roll Call Vote.

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

NAYS: None.

LEBOWSKY CENTER DISCUSSION

Community Development Director Brent Morgan gave a brief overview of the projects undertaken as a result of the receipt of the Vibrant Small Cities Initiative Grant. He noted \$350,000 had been set aside to assist the Owosso Community Players to rebuild the frame of the Lebowsky Center. The State required a \$350,000 match from OCP be placed in an escrow account prior to the award of the grant funds. Since that time OCP has been unable to meet the match for various reasons, in spite of a 5 month deadline extension. Council is now faced with the choice of how to proceed. Director Morgan outlined three options: give the money back to the State, negotiate with the State to develop different projects for the money, or proceed with the Lebowsky Center project. Council discussed the following at length: a timeline for developing new projects, the possibility of OCP being able to raise the needed funds by the June 1 deadline, attempting to maintain our good standing with MSHDA for future grant consideration, delaying a decision on the Lebowsky Center project, fundraising issues OCP has encountered over the last 12 months, efforts OCP is undertaking to increase fund raising and coordinate the rebuild effort, whether \$700,000 is enough funding to provide walls and a roof for the Lebowsky Center, and developing a deadline for the Lebowsky Center rebuild.

Motion by Councilperson Cline to direct staff to negotiate with the State a new set of downtown projects or add to the current downtown projects to utilize the \$350,000.

Motion supported by Mayor Pro Tem Owen.

It was noted Council would have to sign off on any proposed projects thereby allowing the Owosso Community Players the opportunity to continue their current fund raising efforts in a bid to get the originally agreed \$350,000.

Roll Call Vote.

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

NAYS: None.

EXECUTIVE SESSION

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

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

COMMUNICATIONS

Owosso Historical Commission. Minutes of Meeting of April 21, 2009.

Councilperson Forster inquired when the Carriage House roof project would be coming before Council. It was noted that the bids had come in under \$5000 and did not require Council approval.

CITIZEN COMMENTS AND QUESTIONS

Linda Keenan, OCP Executive Director, thanked the Council for their discussion and decision on the Lebowsky Center.

Eddie Urban, 601 Glenwood Avenue, suggested the City have a rummage sale to help raise funds for the Bentley Park playscape.

Councilperson Cline inquired whether there was anything that could be done about the tree sales business that is located on TiAl Product's property along south M-52, indicating he felt the business was taking advantage of other businesses in the area that have to pay taxes. It was noted staff had researched whether the business was in violation of any City ordinance and it was discovered it was not. Councilperson Cline suggested the Planning Commission review the issue and make a recommendation to Council. He later withdrew the suggestion and indicated he would talk to the owners of TiAl Products to see if anything could be done.

Councilperson Martenis noted that City Manager Fivas and City staff have been quick to respond to issues around the City.

Mayor Bruff noted there were 6 applicants for the open Council seat and expressed his hope they would attend the next Council meeting.

ADJOURNED TO EXECUTIVE SESSION AT 10:26 PM

RETURNED FROM EXECUTIVE SESSION AT 10:46 PM

APPROVAL OF EXECUTIVE SESSION MINUTES OF MARCH 16, 2009

Motion by Mayor Pro Tem Owen to approve the Executive Session Minutes of March 16, 2009.

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

POLICE OFFICERS LABOR COUNCIL CONTRACT AGREEMENT – COMMAND DIVISION

Motion by Mayor Pro Tem Owen to approve the labor agreement with the Police Officers Labor Council, Command Division covering the time period of July 1, 2008 through June 30, 2011.

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

NEXT MEETING

May 18, 2009

BOARDS AND COMMISSIONS OPENINGS

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

ADJOURNMENT

Motion by Mayor Pro-Tem Owen for adjournment at 10:47 p.m.

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

Michael E. Bruff, Mayor

Amy K. Kohagen, City Clerk