

OWOSSO CITY COUNCIL

JULY 20, 2009

7:30 P.M.

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

APPROVE AGENDA

Motion by Councilperson Frederick to approve the agenda as presented with the addition of two Items of Business to address MAGNET funding and the 5th Monday Meeting in August.

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

APPROVAL OF THE MINUTES OF REGULAR MEETING OF JULY 6, 2009

Motion by Councilperson Forster to approve the Minutes of the Regular Meeting of July 6, 2009 as presented.

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

PUBLIC HEARINGS

SPECIAL ASSESSMENT DISTRICT NO. 2009-04

KING STREET FROM DEWEY STREET TO GOULD STREET

The public hearing was conducted for the proposed project.

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

Norman Pugh, 3030 Copas Road, inquired why property owners on Exchange Street were not being specially assessed for the work on the Exchange Street parking lot. It was noted the parking lot improvements were within the DDA district and would be paid for with DDA funds, while the King Street improvements were in a residential area and the special assessment process would be used to repay part of the cost of the project.

Sue Bulson, 700 Wiltshire Drive, indicated she has lived in her house for over 50 years and has paid for the reconstruction of King street a number of times. She asked if the City would be digging up the new pavement to make repairs to the watermain. It was noted the watermain will be replaced prior to the repavement of the street to prevent the need to damage the road surface to allow watermain repairs.

Dawn Mersino, 702 North Dewey Street, indicated she has water in her basement and inquired whether the street repairs would alleviate this problem. City Engineer Ronald Baker noted there is a high water table in that area and street repairs would not resolve the issue. Ms. Mersino also inquired about a reduction in her assessment as she has a corner lot. Mr. Baker explained the City's policy of reducing the assessment for corner lots by 25%.

Kenneth Crawford, 701 Wilshire Drive, indicated he felt that King Street was in fine shape compared to some other streets in town and should not be reconstructed at this point. He went on to say he was fearful the reconstruction of the street would damage his home and he felt the interest rate charged on special assessment installment payments was outrageous.

David Hurd, 824 East King Street, indicated he has severe flooding in his basement and hoped the street reconstruction would involve the installation of larger storm sewer pipes. He also said he had heard that parking would only be allowed on one side of the street after reconstruction. It was noted this is note true.

Jane Crawford, 701 Wiltshire Drive, inquired about the scope of the work and what would be accomplished by replacing the water main. Utilities Director Gary Burk noted the current water main is made of cast iron and is placed at a shallow depth creating problems. The new main will be made of a more stable material, will be larger than the current main and will be placed at a deeper depth to better insulate it against surface shifting.

There was further discussion regarding whether the City would be paying for the replacement of the water main (it was noted it would). It was noted the City had no plans to replace the storm drain in the area but someone would contact Mr. Hurd to discuss his drainage issue.

There was also discussion regarding changing the 8% interest rate. Council noted they have discussed the subject in the past and agree they would like to see it changed.

Councilperson Cline noted there will be one more public hearing on the project prior to the beginning of any construction.

Mayor Bruff inquired how many households of those present objected to the project. One person indicated their objection.

Motion by Councilperson Forster to adopt the following resolution:

RESOLUTION NO. 38-2009

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

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

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council hereby determines to make and proceed with the following described public improvement and to defray a part or the whole cost, as more particularly hereinafter provided, by special assessment upon the property specially benefited: King Street from Dewey Street to Gould Street.
2. The City Council hereby approves the plans for the aforesaid public improvement as prepared and presented by the City Manager and determines the estimated cost of said public improvement to be \$139,623 and approves said estimated cost and determines that the estimated life of said public improvement is twenty (20) years.
3. The City Council determines that of said total estimated cost, the sum of \$12,708.75 be paid by special assessment upon the property specially benefited, as more particularly hereinafter described.
4. The City Council hereby designates the following described property as the special assessment district upon which the special assessment shall be levied: King Street from Dewey Street to Gould Street for street reconstruction.
5. The City Assessor shall prepare a special assessment roll including all lots and parcels of land within the special assessment district herein designated, and the Assessor shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district.

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

Motion supported by Councilperson Eveleth.

Roll Call Vote.

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

NAYS: Councilperson Cline.

SPECIAL ASSESSMENT DISTRICT NO. 2009-05

PARK STREET FROM MASON STREET TO MAIN STREET

The public hearing was conducted for the proposed project.

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

Norman Pugh, 3030 Copas Road, expressed his concern that the City seems to charge some people more than others for construction projects. It was noted the City follows the long-standing Special Assessment Policy when determining special assessments.

Kenneth Crawford, 701 Wiltshire Drive, asked the Council to consider tying the special assessment interest rate to the rate the City pays for debt.

Burton Fox, 216 East Oliver Street, thanked the Council for scheduling the reconstruction of North Park Street, saying the road was in serious need of repair.

Motion by Councilperson Eveleth to adopt the following resolution:

RESOLUTION NO. 39-2009

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

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

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council hereby determines to make and proceed with the following described public improvement and to defray a part or the whole cost, as more particularly hereinafter provided, by special assessment upon the property specially benefited: Park Street from Mason Street to Main Street.
2. The City Council hereby approves the plans for the aforesaid public improvement as prepared and presented by the City Manager and determines the estimated cost of said public improvement to be \$141,636.00 and approves said estimated cost and determines that the estimated life of said public improvement is twenty (20) years.
3. The City Council determines that of said total estimated cost, the sum of \$27,463.35 be paid by special assessment upon the property specially benefited, as more particularly hereinafter described.
4. The City Council hereby designates the following described property as the special assessment district upon which the special assessment shall be levied: Park Street from Mason Street to Main Street for street reconstruction.
5. The City Assessor shall prepare a special assessment roll including all lots and parcels of land within the special assessment district herein designated, and the Assessor shall assess to each such lot or parcel of land such relative portion of the whole sum to be levied against all lands in the special assessment district as the benefit to such lot or parcel of land bears to the total benefits to all lands in such district.

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

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

CITIZEN COMMENTS AND QUESTIONS

Norman Pugh, 3030 Copas Road, inquired when the official flood map would be available.

Sheila Hockman, 705 Campbell Drive, asked again for action to further limit outdoor burning in the city indicating she felt citizens deserved a conclusion to a long standing concern.

Shelva Cebulski, 1243 Marion Street, indicated she was impressed with the Independent's coverage of the upcoming Train Festival. She remarked she felt the festival would be a great boost for the city. She went on to say she also would like to see more limits on open burning and she was highly impressed with the refurbished Oakwood footbridge and nearby elevated walkway.

Kenneth Crawford, 701 Wiltshire Drive, recommended the city tie the special assessment interest rate to the rate the city pays for debt. He also asked the Council not to change the burning ordinance as it saves people money by allowing them to burn. He also indicated he felt Mr. Pugh had a point when he expressed his feeling that businesses along Exchange Street should be specially assessed for the upgrades in the Exchange Street parking lot.

Henrietta Sparkes, County Commission Chairwoman, reminded citizens the Commission was working under its summer schedule and the meeting of the whole would take place on Thursday. She also indicated there would be a tire collection on August 8 and a household hazardous waste collection on August 22 at a location near the Mid-County Waste Water Treatment Plant.

Bozena Bienias, 1432 Mallard Circle, indicated she hoped the City would develop an international festival to be held in town. She also asked any interested parties to sign her informal petition asking the Library Board to ensure all computers at the library will be connected to internet filters.

David Hurd, 824 King Street, inquired whether parking will be allowed on both sides of the street once the reconstruction of King Street is completed. It was noted parking would continue to be allowed on both sides of the street. Mr. Hurd also commended the City for its snow removal practices.

William Martinez, 919 South Chipman Street, indicated he felt it is not necessary for open burning to occur as there are other ways of getting rid of papers and yard waste. He also inquired as to who is responsible for low hanging branches and shrubs growing over the sidewalk. It was noted the City would trim overhanging branches while property owners were responsible for trimming shrubs.

Cindy Popovitch, 705 North Chipman Street, indicated she is working on establishing a recycling program at the hospital and invited the City to join her in the effort. She also inquired whether a year-round tire drop off program could be developed to prevent tires from being dumped into the river.

Eddie Urban, 601 Glenwood Avenue, congratulated the City softball team for their victory at the recent regional softball tournament. He also said he heard a number of good things about the recent youth fishing tournament and hoped it would be held on an annual basis.

Burton Fox, 216 East Oliver Street, indicated he felt the City had the opportunity to "put itself on the map" through the Train Festival. He said he felt the city was doing a great job of sprucing things up though he had concerns about the signs in the Wesener Building detracting from the downtown.

Betty Coon, 1204 Palmer Avenue, indicated the people had voted to allow open burning and it should be left as it is. She also commented that she was happy Council meetings would be returning to City Hall. Lastly she asked that branches hanging over the No Left Turn sign at Baker College be trimmed so the sign could be seen better.

Jeff Daniels, 1104 Pearce Street, indicated he felt pollution was pollution and if open burning is banned the trains should be banned as well.

There was general discussion regarding who is responsible for trees that fall into the river. It was noted that property owners along the river are responsible for their removal.

Mayor Pro-Tem Owen noted his irritation with the continued discussions on open burning. He suggested any party interested in changing the ordinance organize a petition drive to have the question placed on the ballot.

Councilperson Cline commented on the success of the youth fishing tournament. He went on to indicate he plans on hosting the event again next year.

Councilperson Martenis indicated he also felt the fishing tournament was a success and generated good memories for all involved.

CITY MANAGER REPORT

City Manager Fivas updated the Council on the final preparations for Train Festival 2009 indicating planning for the event has been a collaborative effort with organizations throughout the county. He also noted the ribbon cutting ceremony for the refurbished Oakwood Bridge on Thursday morning at 9:00 am. Lastly he thanked all the staff members that participated in the annual softball tournament and congratulated them on their win.

CONSENT AGENDA

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

Change Order. Approve Change Order to water main installation contract with Glaeser Dawes for replacement of water main, services and appurtenances on East King Street and North Park Street on a unit price basis not to exceed \$78,865.

Special Assessment District No. 2009-04.

Authorized Resolution No. 4 setting a public hearing for August 3, 2009 to receive citizen comment regarding Special Assessment District No. 2009-04 for King Street from Dewey Street to Gould Street for street reconstruction as follows:

RESOLUTION NO. 40-2009

WHEREAS, the Assessor has prepared a special assessment roll for the purpose of specially assessing that portion of the cost of the public improvements more particularly hereinafter described to the properties specially benefited by said public improvement, and the same has been presented to the Council by the City Clerk.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll is hereby accepted and shall be filed in the office of the City Clerk for public examination.
2. The Council shall meet at the Owosso City Hall, Owosso, Michigan at 7:30 o'clock p.m., on Monday, August 3, 2009 for the purpose of hearing all persons interested in said special assessment roll and reviewing the same.
3. The City Clerk is directed to publish the notice of said hearings once in the *Argus Press*, the official newspaper of the City of Owosso, not less than ten (10) days prior to said hearing and shall further cause notice of said hearing to be sent by first class mail to each owner of the property subject to assessment, as indicated by the records in the City Assessor's office as shown on the general tax rolls of the City, at least ten (10) days before the time of said hearing, said notice to be mailed to the addresses shown on said general tax rolls of the City.
4. The notice of said hearing to be published and mailed shall be in substantially the following form:

NOTICE OF HEARING TO REVIEW
 SPECIAL ASSESSMENT ROLL
 CITY OF OWOSSO
 COUNTY OF SHIAWASSEE, MICHIGAN

TO THE OWNERS OF THE OF THE FOLLOWING DESCRIBED PROPERTY:

KING STREET FROM DEWEY STREET TO GOULD STREET

TAKE NOTICE that a Special Assessment roll has been prepared for the purpose of defraying the Special Assessment district's share of the cost of the following described public improvements: Street Reconstruction.

The said Special Assessment roll is on file for public examination with the City Clerk and any objections to said Special Assessment roll must be filed in writing with the City Clerk prior to the close of the hearing to review said Special Assessment roll.

TAKE FURTHER NOTICE that appearance and protest at this hearing is required in order to appeal the amount of the special assessment to the State Tax Tribunal if an appeal should be desired. A property owner or party in interest, his or her agent, may appear in person at the hearing to protest the special assessment or may file his or her appearance by letter and his or her personal appearance shall not be required. The property owner or any person having an interest in the property subject to the proposed special assessments may file a written appeal of the special assessment with the State Tax Tribunal within thirty days after confirmation of the special assessment roll if that special assessment was protested at this hearing.

TAKE FURTHER NOTICE that the City Council will meet at the Owosso City Hall, Owosso, Michigan at 7:30 p.m. on Monday, August 3, 2009 for the purpose of reviewing said special assessment roll and for the purpose of considering all objections to said roll submitted in writing.

Special Assessment District No. 2009-05.

Authorized Resolution No. 4 setting a public hearing for August 3, 2009 to receive citizen comment regarding Special Assessment District No. 2009-05 for Park Street from Mason Street to Main Street for street reconstruction as follows:

RESOLUTION NO. 41-2009

WHEREAS, the Assessor has prepared a special assessment roll for the purpose of specially assessing that portion of the cost of the public improvements more particularly hereinafter described to the properties specially benefited by said public improvement, and the same has been presented to the Council by the City Clerk.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll is hereby accepted and shall be filed in the office of the City Clerk for public examination.

2. The Council shall meet at the Owosso City Hall, Owosso, Michigan at 7:30 o'clock p.m., on Monday, August 3, 2009 for the purpose of hearing all persons interested in said special assessment roll and reviewing the same.
3. The City Clerk is directed to publish the notice of said hearings once in the *Argus Press*, the official newspaper of the City of Owosso, not less than ten (10) days prior to said hearing and shall further cause notice of said hearing to be sent by first class mail to each owner of the property subject to assessment, as indicated by the records in the City Assessor's office as shown on the general tax rolls of the City, at least ten (10) days before the time of said hearing, said notice to be mailed to the addresses shown on said general tax rolls of the City.
4. The notice of said hearing to be published and mailed shall be in substantially the following form:

NOTICE OF HEARING TO REVIEW
SPECIAL ASSESSMENT ROLL
CITY OF OWOSSO
COUNTY OF SHIAWASSEE, MICHIGAN

TO THE OWNERS OF THE OF THE FOLLOWING DESCRIBED PROPERTY:

PARK STREET FROM MASON STREET TO MAIN STREET

TAKE NOTICE that a Special Assessment roll has been prepared for the purpose of defraying the Special Assessment district's share of the cost of the following described public improvements: Street Reconstruction.

The said Special Assessment roll is on file for public examination with the City Clerk and any objections to said Special Assessment roll must be filed in writing with the City Clerk prior to the close of the hearing to review said Special Assessment roll.

TAKE FURTHER NOTICE that appearance and protest at this hearing is required in order to appeal the amount of the special assessment to the State Tax Tribunal if an appeal should be desired. A property owner or party in interest, his or her agent, may appear in person at the hearing to protest the special assessment or may file his or her appearance by letter and his or her personal appearance shall not be required. The property owner or any person having an interest in the property subject to the proposed special assessments may file a written appeal of the special assessment with the State Tax Tribunal within thirty days after confirmation of the special assessment roll if that special assessment was protested at this hearing.

TAKE FURTHER NOTICE that the City Council will meet at the Owosso City Hall, Owosso, Michigan at 7:30 p.m. on Monday, August 3, 2009 for the purpose of reviewing said special assessment roll and for the purpose of considering all objections to said roll submitted in writing.

Payment Authorization. Authorize Progress Payment No. 3 to Perrin Construction for Phase III of the Vibrant Small Cities Initiative Grant Project in the amount of \$68,528.54.

Warrant No. 387. Accept Warrant No. 387 as follows:

Vendor	Description	Fund	Amount
BS&A Software	Internet Services	General	\$5,500.00
Caledonia Charter Township	Caledonia Utility Fund payment	Water	\$13,536.58
Brown & Stewart, PC	Professional Services June 9, 2009 – July 13, 2009	General	\$9,626.16

Motion supported by Councilperson Martenis.

Roll Call Vote.

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

NAYS: None.

ITEMS OF BUSINESS

MDOT CONTRACT – KING STREET AND PARK STREET RECONSTRUCTION

Motion by Mayor Pro-Tem Owen to approve the Contract with MDOT for Reconstruction of Park Street and King Street as follows:

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of _____, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF OWOSSO, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Owosso, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated June 25, 2009, attached hereto and made a part hereof:

PART A-ARUL 76421; JOB #107075; ARRA 0976(212); JJ3489

Hot mix asphalt cold milling and resurfacing work along Park Street from Highway M-21 to Mason Street; including pavement repairs, earthwork, and concrete curb and gutter work; and all together with necessary related work.

PART B-ARUL 76421; JOB #107076; ARRA 0976(211); JJ3488

Hot mix asphalt cold milling and resurfacing work along King Street from Gould Street to Dewey Street; including pavement repairs, earthwork, and concrete curb and gutter work; and all together with necessary related work.

WITNESSETH:

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

WHEREAS, the reference "FHWA" in PART I and PART II refers to the United States Department of Transportation, Federal Highway Administration; and

WHEREAS, the PROJECT, or portions of the PROJECT, at the request of the REQUESTING PARTY, are being programmed with the FHWA, for implementation with the use of Federal Funds under the following Federal program(s) or funding:

AMERICAN RECOVERY AND REINVESTMENT ACT

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT, including any other costs incurred by the DEPARTMENT as a result of this contract, except construction engineering and inspection.

No charges will be made by the DEPARTMENT to the PROJECT for any inspection work or construction engineering.

The costs incurred by the REQUESTING PARTY for preliminary engineering, construction engineering, construction materials testing, inspection, and right-of-way are excluded from the PROJECT COST as defined by this contract.

3. The DEPARTMENT is authorized by the REQUESTING PARTY to administer on behalf of the REQUESTING PARTY all phases of the PROJECT, including advertising and awarding the construction contract for the PROJECT or portions of the PROJECT. Such administration shall be in accordance with PART II, Section II of this contract.

Any items of the PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

4. The REQUESTING PARTY, at no cost to the PROJECT or to the DEPARTMENT, shall:

- A. Design or cause to be designed the plans for the PROJECT.
- B. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.
- C. Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PROJECT.

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

5. The PROJECT COST shall be met in accordance with the following:

PART A

Federal American Recovery and Reinvestment Act Funds shall be applied to the eligible items of the PART A portion of the PROJECT COST up to the lesser of: (1) \$100,000, or (2) an amount such that 100 percent, the normal Federal participation ratio for such funds, for the PART A portion of the PROJECT is not exceeded at the time of the award of the construction contract. The balance of the PART A portion of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PART B

Federal American Recovery and Reinvestment Act Funds shall be applied to the eligible items of the PART B portion of the PROJECT COST up to the lesser of: (1) \$100,000, or (2) an amount such that 100 percent, the normal Federal participation ratio for such funds, for the PART B portion of the PROJECT is not exceeded at the time of the award of the construction contract. The balance of the PART B portion of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

Any items of PROJECT COST not reimbursed by Federal Funds will be the sole responsibility of the REQUESTING PARTY.

6. No working capital deposit will be required for this PROJECT.

In order to fulfill the obligations assumed by the REQUESTING PARTY under the provisions of this contract, the REQUESTING PARTY shall make prompt payments of its share of the PROJECT COST upon receipt of progress billings from the DEPARTMENT as herein provided. All payments will be made within 30 days of receipt of billings, from the DEPARTMENT. Billings to the REQUESTING PARTY will be based upon the REQUESTING PARTY'S share of the actual costs incurred less Federal Funds earned as the PROJECT progresses.

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

7. At such time as traffic volumes and safety requirements warrant, the REQUESTING PARTY will cause to be enacted and enforced such ordinances as may be necessary to prohibit parking in the traveled roadway throughout the limits of the PROJECT.

8. The performance of the entire PROJECT under this contract, whether Federally funded or not, will be subject to the provisions and requirements of PART II that are applicable to a Federally funded project.

Buy American Requirements (23 CFR 635.410) shall apply to the PROJECT and will be adhered to, as applicable, by the parties hereto.

9. The REQUESTING PARTY certifies that a) it is a person under 1995 PA 71 and is not aware of and has no reason to believe that the property is a facility as defined in MSA 13A.20101(l)(l); b) the REQUESTING PARTY further certifies that it has completed the tasks required by MCL 324.20126 (3)(h); MSA 13A.20126(3)(h); c) it conducted a visual inspection of property within the existing right of way on which construction is to be performed to determine if any hazardous substances were present; and at sites on which historically were located businesses that involved hazardous substances, it performed a reasonable investigation to determine whether hazardous substances exist. This reasonable investigation should include, at a minimum, contact with local, state and federal environmental agencies to determine if the site has been identified as, or potentially as, a site containing hazardous substances; d) it did not cause or contribute to the release or threat of release of any hazardous substance found within the PROJECT limits.

The REQUESTING PARTY also certifies that, in addition to reporting the presence of any hazardous substances to the Department of Environmental Quality, it has advised the DEPARTMENT of the presence of any and all hazardous substances which the REQUESTING PARTY found within the PROJECT limits, as a result of performing the investigation and visual inspection required herein. The REQUESTING PARTY also certifies that it has been unable to identify any entity who may be liable for the cost of remediation. As a result, the REQUESTING PARTY has included all estimated costs of remediation of such hazardous substances in its estimated cost of construction of the PROJECT.

10. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Department of Environmental Quality, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that 05/06/09 remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

11. If federal and/or state funds administered by the DEPARTMENT are used to pay the cost of remediating any hazardous substances discovered after the execution of this contract and if there is a reasonable likelihood of recovery, the REQUESTING PARTY, in cooperation with the Department of Environmental Quality and the DEPARTMENT, shall make a diligent effort to recover such costs from all other possible entities. If recovery is made, the DEPARTMENT shall be reimbursed from such recovery for the proportionate share of the amount paid by the FHWA and/or the DEPARTMENT and the DEPARTMENT shall credit such sums to the appropriate funding source.

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

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT or its agents pursuant to the terms of this contract are done to assist the REQUESTING PARTY in meeting program guidelines in order to qualify for available funds. Such approvals, reviews, inspections and recommendations by the DEPARTMENT or its agents shall not relieve the REQUESTING PARTY and the local agencies, as applicable, of their ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT or its agents is assuming any liability, control or jurisdiction.

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

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT or its agents is performing a governmental function, as that term is defined in MCL 691.1401; MSA 3.996(101), which is incidental to the completion of the PROJECT.

13. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402; MSA 3.996(102). Exclusive jurisdiction of such highway for the purposes of MCL 691.1402; MSA 3.996(102) rests with the REQUESTING PARTY and other local agencies having respective jurisdiction.

14. The REQUESTING PARTY shall approve all of the plans and specifications to be used on the PROJECT and shall be deemed to have approved all changes to the plans and specifications when put into effect. It is agreed that ultimate responsibility and control over the PROJECT rests with the REQUESTING PARTY and local agencies, as applicable.

15. The REQUESTING PARTY agrees that the costs reported to the DEPARTMENT for this contract will represent only those items that are properly chargeable in accordance with this contract. The REQUESTING PARTY also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

16. The parties shall promptly provide comprehensive assistance and cooperation in defending and resolving any claims brought against the DEPARTMENT by the contractor, vendors or suppliers as a result of the DEPARTMENT'S award of the construction contract for the PROJECT. Costs incurred by the DEPARTMENT in defending or resolving such claims shall be considered PROJECT COSTS.

17. The DEPARTMENT shall require the contractor who is awarded the contract for the construction of the PROJECT to provide insurance in the amounts specified and in accordance with the DEPARTMENT'S current Standard Specifications for Construction and to:

- A. Maintain bodily injury and property damage insurance for the duration of the PROJECT.

- B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT and its officials, agents and employees, the REQUESTING PARTY and any other county, county road commission, or municipality in whose jurisdiction the PROJECT is located, and their employees, for the duration of the PROJECT and to provide, upon request, copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owner's protective liability insurance policy.
- C. Comply with the requirements of notice of cancellation and reduction of insurance set forth in the current standard specifications for construction and to provide, upon request, copies of notices and reports prepared to those insured.

18. In accordance with the American Recovery and Reinvestment Act of 2009 (ARRA), the following language is made a part of this contract and is to be made a part of all tier subcontracts or consultant contracts for work covered by this contract funded with funds appropriated or otherwise made available by the ARRA:

Pursuant to Section 902 of the ARRA, the United States Comptroller and any of his representatives have the authority:

- (1) to examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- (2) to interview any officer or employee of the contractor or any of its subcontractors, or any State or local government agency administering the contract, regarding the transactions.

The United States Comptroller and his representatives have the authority and rights provided under Section 902 of the ARRA with respect to this contract. As provided in Section 902 of the ARRA, nothing in Section 902 of the ARRA shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

Pursuant to Section 1515 of the ARRA, any representatives of the Inspector General have the authority:

- (1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract, that pertain to, and involve transactions relating to the contract, subcontract, grant, or subgrant; and
- (2) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

Nothing set forth in Section 1515 of the ARRA shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

19. As a part of the ARRA, Davis-Bacon prevailing wage requirements apply to all ARRA funded construction projects regardless of location (including projects on local roads or rural minor collectors, and Transportation Enhancement projects outside the highway right-of-way) and will be adhered to, as applicable, by the parties hereto.

20. Within ten (10) days after the end of each month in which ARRA funded PROJECT work is performed, the REQUESTING PARTY shall provide the DEPARTMENT a monthly report, in a format and on forms approved by the DEPARTMENT, which shall include, for such work performed by the REQUESTING PARTY, the contractor, and all tier subcontractors and consultants in that preceding month:

- * The total number of employees who performed work on this contract
- * The total number of hours worked by employees who performed work on this contract
- * The total wages of employees who performed work on this contract

If necessary to conform to guidance provided by the FHWA concerning the ARRA reporting requirements, the REQUESTING PARTY will revise their reporting as directed by the DEPARTMENT. Failure to comply with the reporting requirements under ARRA would jeopardize the DEPARTMENT'S continued receipt of ARRA funding. Should the REQUESTING PARTY fail to comply with the above monthly reporting, the DEPARTMENT

may withhold reimbursement of federal funds for the PROJECT work until compliance is achieved.

21. In accordance with the ARRA, the following language is made a part of this contract and is to be made a part of all tier subcontracts or consultant contracts for work covered by this contract funded with funds appropriated or otherwise made available by the ARRA:

Pursuant to Section 1553 of the ARRA, all non-federal employers receiving ARRA funds, including the State of Michigan, all contractors and grantees of the State of Michigan, and all subcontractors and subgrantees, are prohibited from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of:

- (1) gross mismanagement of a contract or grant relating to ARRA funds;
- (2) a gross waste of ARRA funds;
- (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds;
- (4) an abuse of authority related to the implementation or use of ARRA funds; or
- (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to ARRA funds.

Any employer receiving ARRA funds must post notice of the rights and remedies available to employees under Section 1553 of the ARRA.

22. This contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the parties hereto and upon the adoption of the necessary resolutions approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, a certified copy of which resolution shall be attached to this contract.

EXHIBIT I

ESTIMATED COST

CONTRACTED WORK

Estimated Cost	<u>PART A</u>	<u>PART B</u>	<u>TOTAL</u>
	\$139,600	\$141,600	\$281,200
 <u>COST PARTICIPATION</u>			
GRAND TOTAL ESTIMATED COST	\$ 139,600	\$141,600	\$ 281,200
Less Federal Funds*	<u>\$100,000</u>	<u>\$100,000</u>	<u>\$200,000</u>
BALANCE (REQUESTING PARTY'S SHARE)	<u>\$ 39,600</u>	<u>\$ 41,600</u>	<u>\$ 81,200</u>

*Federal Funds for the PART A and B portions of the PROJECT are limited to the amounts as described in Section 5.

NO DEPOSIT

Motion supported by Councilperson Cline.

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

NAYS: None.

RETIREMENT INCENTIVES

City Manager Fivas presented a draft of an early retirement incentive program to Council indicating he was not looking for action tonight but for any concerns the Council may have with the proposed plan.

The plan, as proposed, would allow non-union employees at least 58 years old by December 31, 2009 with ten or more years of service to retire immediately. Retirees under this program would also receive a \$10,000 bonus that would figure into their final average compensation. Mr. Fivas went on to indicate he felt the City could save money in the future by allowing some of the older employees to retire early.

There was discussion regarding concerns with institutional memory loss. City Manager Fivas indicated he would be looking at strategies to retain memory by contracting with the new retirees. He also pointed out that due to the high average age of the staff the City would be subject to institutional memory loss risk due to retirements with or without the program.

City Manager Fivas indicated he would be presenting a more comprehensive outline for the program at the August 3, 2009 meeting.

BUSINESS DEVELOPMENT & BUSINESS INCUBATORS

There was a brief discussion regarding what the City currently does to develop businesses and different models for business development used by other communities. Due to the late hour Council indicated they would like to see the item return for the August 3, 2009 meeting along with a memo containing an overview and potential models for business incubators.

JAMES MINER TRAIL SIGNAGE

The Friends of the Shiawassee River had developed a potential design for signage for the James Miner Rivertrail and submitted a proposal to make and install the signage prior to the Train Festival July 23-26. Council was concerned that the proposed signage was not considered by the DDA or the Parks & Recreation Commission. "Friends" member Gary Burk reminded Council the trail does not belong only to the City but currently runs through 3 different jurisdictions with plans to incorporate more communities along the Shiawassee River. The organization wanted to see signs tailored to the Riverwalk not necessarily the jurisdictions the path runs through.

Council was concerned that proper procedure was bypassed in that the item was not considered by another board for recommendation to Council.

Motion by Mayor Pro-Tem Owen to refer the signage proposal to the Parks and Recreation Commission.

Motion supported by Councilperson Cline.

There was further discussion regarding submitting the idea to the DDA in light of their discussion on branding.

Motion by Councilperson Eveleth to amend the original motion to include referring the item to the Downtown Development Authority.

Motion supported by Mayor Pro-Tem Owen.

Roll Call Vote on amendment.

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

NAYS: None.

Roll Call Vote on main motion.

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

NAYS: None.

ELECTRICAL AGREEMENT – PALMER WELL FIELD

Motion by Mayor Pro-Tem Owen to authorize an Electric Line Agreement with Consumers Energy in the amount of \$33,481 for Palmer Well Field electric service replacement.*

Motion supported by Councilperson Eveleth.

Roll Call Vote.

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

NAYS: None.

*Full text of the agreement is on file in the Clerk's Office.

PRIVATE SECTOR FOOTING DRAIN SEPARATION PROPOSAL

Utilities Director Gary M. Burk gave a brief summary of the Sanitary Sewer Overflow Control Program noting the City is under order by the Michigan Department of Environmental Quality to reduce sanitary sewer overflows into the Shiawassee River. The program has targeted areas where storm water run off is allowed to enter the sanitary sewer system. Corrections to the public portion of the system are ongoing in the form of manhole rehabilitation and sewer pipe inspections. The next phase of the program entails correction of private sector issues including the illicit connection of sump pumps and roof drains to the sanitary sewer system. The intent is to target areas of the city with higher water tables to maximize the effect on the system.

There was discussion regarding financing mechanisms, the timing of inspections, surcharges for those with illicit connections, and overflows from the Townships. It was noted the City hopes to provide some financial assistance to private property owners to help correct storm water connections to the sanitary system. It was also noted that the Townships and the City of Corunna are undertaking their own measures to reduce storm water inflows to the sanitary system. Mr. Burk indicated that the timing of inspections and surcharges for those with illicit connections will be considered formally by Council at a later date. He went to indicate that if the Council had any questions or concerns on the program he would be happy to address them.

A formal proposal on the details of the program will be presented to Council for consideration at a later date.

MAIN STREET PLAZA – DDA USAGE

Motion by Councilperson Eveleth to approve the Main Street Plaza Kids' Activity Corner Rules & Regulations governing the use of the Main Street Plaza during Train Festival 2009 (July 23-26, 2009) as follows:

MAIN STREET PLAZA KIDS' ACTIVITY CORNER RULES & REGULATIONS

MAIN STREET PLAZA KIDS' ACTIVITY CORNER is located in Downtown Owosso at the intersection of Main and Washington Streets, and will operate from 11am until 7pm on from Thursday, July 23 thru Sunday, July 26. Each vendor is required to arrive at that location between 10am and 11am and shall vacate by 7:30pm. On-stage performers will be asked to arrive one hour prior to their scheduled performance and shall vacate within one hour of the end of their scheduled performance. Violation of Kids' Activity Corner rules, as determined by the Owosso DDA, will preclude the vendor from future Main Street Plaza activities. Prior to becoming a vendor each vendor must read and sign a copy of the Kids' Activity Corner Rules. **THE MISSION OF KIDS' ACTIVITY CORNER** is to create an atmosphere of activity and vibrancy in Downtown Owosso during Train Festival 2009, as well as allowing local non-profit organizations a place to fundraise for their cause in conjunction with a kid-friendly activity.

TYPE OF ACTIVITY

The goal of the DDA is to provide entertainment and activities geared toward kids and families. All vendors will be encouraged to offer a kid-friendly activity in conjunction with their booth. In addition, for-profit businesses may give away products and distribute marketing materials, though no money may be exchanged. Non-profit organizations may exchange money for fundraising purposes. Entertainers will donate their time to the Kids' Activity corner, but will be allowed to accept donations for their services and sell merchandise affiliated with their talent that is not available from any merchant within the DDA. Vendors are required to comply with all Michigan Department of Agriculture Rules and Regulations. The department can be reached at 1-800-292-3939. Selling overripe, spoiled or unusable produce is not permitted. Vendors selling food products must provide a copy of their license to verify their product is prepared and cooked in a licensed kitchen.

RATES

There will be no charge for vending during this event.

VENDOR APPEAL PROCESS

The DDA Director shall have the authority to oversee and enforce the rules and regulations, including the right to refuse a vendor and/or entertainer's participation if the applicant is not in compliance, subject to appeal to the Downtown Development Authority Board.*

VENDOR INFORMATION

- From 10-11 each morning, the vehicle entrance to MS Plaza will be open for unloading. After that point, please use the pedestrian entrance off the South ally as your main access route.
- Parking will be a challenge! Because of this we want to be especially conscious of our out-of-town visitors. After unloading, please park your car in City Hall parking lot near the corner of South Water and West Main. This will allow for our guests to utilize our downtown parking.
- The hours of the Kids' Activity Corner are from 11-7, Friday through Sunday.
- Please make sure your book has a kid-friendly activity!
- If you need power for you activity, please let me know so I can place you near an outlet.
- I will be helping to coordinate several activity areas during Train Festival, though I plan to make myself as available to you as possible for questions. Anytime during the event, feel free to contact me on my cell at: 734-474-4999.
-

THE PLAZA COMMITTEE RESERVES THE RIGHT TO DENY VENDOR PRIVILEGES TO ANY VENDOR THAT FAILS TO COMPLY WITH THESE VENDOR RULES OR FOR ANY VIOLATIONS OR CITY, STATE OR FEDERAL LAWS RELATED TO VENDOR ACTIVITIES DURING MARKET.

*Any disputes should be made in writing and addressed to the Owosso DDA, 301 W. Main St, Owosso, MI 48867

Motion supported by Mayor Pro-Tem Owen.

Roll Call Vote.

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

NAYS: None.

MAGNET FUNDING

There was discussion regarding whether the City was getting the maximum benefit from the MAGNET program considering its current structure and the City's financial position. Some concern was expressed with the fact that MAGNET is a cooperative effort between Shiawassee and Gratiot Counties and most of the drug traffic in the area comes from Flint and Saginaw. There was further discussion regarding the lack of funding from other communities receiving benefits from MAGNET and concern that the City is unable to afford all the services it is currently providing. Council indicated they would like to hear from Public Safety Director Michael Compeau as to his opinion of the efficacy of the current MAGNET structure and possible options for improving the arrangement. Public Safety Director Compeau will make his report the second meeting in August.

AUGUST 5TH MONDAY MEETING

There was a brief discussion regarding whether Council members had any matters of importance they wished to discuss at the 5th Monday meeting in August.

Motion by Mayor Pro-Tem Owen to cancel the meeting scheduled for August 31, 2009.

Motion supported by Councilperson Eveleth.

Roll Call Vote.

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

NAYS: None.

COMMUNICATIONS

John F. Archer, Building Official. June 2009 Building Department Report.

John F. Archer, Building Official. June 2009 Code Violations Report.

Michael T. Compeau, Public Safety Director. June 2009 Police Department Report.

Michael T. Compeau, Public Safety Director. June 2009 Fire Department Report.

Downtown Development Authority. Minutes of Meeting of June 3, 2009.

Councilperson Martenis inquired about increases in petty crime as noted in the Police Report. Deputy Police Chief Michael Rau noted there had been an increase in petty crimes in the last year.

CITIZEN COMMENTS AND QUESTIONS

Sheila Hockman, 705 Campbell Drive, indicated that the people had voted on burning 6 years ago and positions may have changed. She said she had supplied Council with proof that open burning is harmful to one's health and asked Council once again to take action.

Betty Coon, 1204 Palmer Avenue, indicated she supported Council's action on the walkway signage saying she felt the system had been manipulated. She also thanked school staff for providing chairs for this evening's meeting.

Eddie Urban, 601 Glenwood Avenue, congratulated the softball team on their victory.

Councilperson Martenis indicated he thought it was admirable for the Council to reach out to different neighborhoods and hold meetings outside of City Hall but he was disappointed that very few new people seemed to attend the meetings.

Mayor Bruff thanked the school staff for their gracious accommodations and further thanked school representative Chad for his help with the sound system this evening.

NEXT MEETING

August 3, 2009

BOARDS AND COMMISSIONS OPENINGS

Zoning Board of Appeals – Alternate, term expires 06-30-2012
Historical Commission, term expires 12-31-2010
Cable Access Advisory Commission, term expires 06-30-2012

ADJOURNMENT

Motion by Mayor Pro-Tem Owen for adjournment at 10:32 p.m.

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

Michael E. Bruff, Mayor

Amy K. Kohagen, City Clerk