

**OWOSSO CITY COUNCIL**

**AUGUST 3, 2009**

**7:30 P.M.**

- PRESIDING OFFICER:** MAYOR MICHAEL E. BRUFF
- OPENING PRAYER:** DAVID ACTON
- PLEDGE OF ALLEGIANCE:** COUNCILPERSON GARY W. MARTENIS
- 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 Forster to approve the agenda as presented with the removal of Item of Business 2. Business Development.

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

City Manager Joseph A. Fivas indicated the Business Development item would be discussed at a later date allowing for more time to gather information.

**APPROVAL OF THE MINUTES OF REGULAR MEETING OF JULY 20, 2009**

Motion by Councilperson Frederick to approve the Minutes of the Regular Meeting of July 20, 2009 as presented.

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

**SPECIAL PRESENTATION**

**EMPLOYEE AWARDS**

Human Resource Director Jessica B. Unangst announced the Employees of the Month for February, March, April, May and June of 2009 as follows:

- February 2009 – Patrick Selleck, Water Filtration Plant, 30 years service
- March 2009 – Fredrick Dery, Water Meter Technician, 34 years service
- April 2009 – Paul Oberlin, Department of Public Works, 4 years service
- May 2009 – Bradley Groll, Department of Public Works, 30 years service
- June 2009 – Ronald Tobey, City Treasurer, 25 years service

**PUBLIC HEARINGS**

**SPECIAL ASSESSMENT DISTRICT NO. 2009-04**

**KING STREET FROM DEWEY STREET TO GOULD STREET**

The Public Hearing was conducted to receive citizen comment regarding authorization of Resolution No. 5 for Special Assessment District No. 2009-04, for King Street from Dewey Street to Gould Street for street reconstruction.

Kenneth Crawford, 701 Wiltshire Drive, distributed a letter to Council and indicated he had two original points of contention: one that the street did not need to be reconstructed (he had since been told the water main needs replacing to prevent further damage to the street and so was not going to object on that point), the second point being his objection to the 8% interest rate charged on installment payments. He asked Council not to proceed with the project until such time that they lower the interest rate.

It was noted the interest rate charge on special assessment balances would be discussed at the next Council meeting. It was also noted that Federal stimulus money would be used to pay a majority of the cost for this project.

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

**RESOLUTION NO. 42-2009**

WHEREAS, the City Council has met, after due and legal notice, and reviewed the special assessment roll prepared for the purpose of defraying the special assessment district's share of

the following described public improvement: King Street from Dewey Street to Gould Street Ball Street for street reconstruction, and

WHEREAS, after hearing all persons interested therein and after carefully reviewing said special assessment roll the Council deems said special assessment roll to be fair, just and equitable and that each of the assessments contained thereon results in the special assessment being in accordance with the benefits to be derived by the parcel of land assessed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll as prepared by the City Assessor in the amount of \$27,463.32 is hereby confirmed and shall be known as Special Assessment Roll No. 2009-04.
2. Said special assessment roll shall be divided into ten (10) equal annual installments, the first of which shall be due and payable on September 1, 2009, and the subsequent installments shall be due on September 1st of each and every year thereafter. Payment of the amount of the special assessment may be made in full without interest or penalty by December 1, 2009.
3. The installments of the special assessment rolls shall bear interest at the rate of 8% per annum; provided, however, if the bonds are issued in anticipation of said special assessments, then such unpaid special assessment shall bear interest at a rate of interest equal to 1% above the average rate of interest borne by said bonds. Such interest shall commence on September 1, 2009 and shall be paid annually on each installment due date.
4. Said special assessment roll shall be placed on file in the office of the City Clerk who shall attach his warrant to a certified copy thereof within ten (10) days commanding the Assessor to spread the various sums shown thereon as directed by the City Council.

Roll Call Vote.

AYES: Councilpersons Eveleth, Forster, Mayor Pro-Tem Owen, Councilpersons Martenis, Frederick, 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 to receive citizen comment regarding authorization of Resolution No. 5 for Special Assessment District No. 2009-05, for Park Street from Mason Street to Main Street for street reconstruction.

There were no citizen comments.

The following preamble and resolution were offered by Councilperson Cline and supported by Councilperson Eveleth:

#### **RESOLUTION NO. 43-2009**

WHEREAS, the City Council has met, after due and legal notice, and reviewed the special assessment roll prepared for the purpose of defraying the special assessment district's share of the following described public improvement: Park Street from Mason Street to Main Street for street reconstruction, and

WHEREAS, there being no one to be heard and after carefully reviewing said special assessment roll the Council deems said special assessment roll to be fair, just and equitable and that each of the assessments contained thereon results in the special assessment being in accordance with the benefits to be derived by the parcel of land assessed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll as prepared by the City Assessor in the amount of \$12,708.75 is hereby confirmed and shall be known as Special Assessment Roll No. 2009-05.
2. Said special assessment roll shall be divided into ten (10) equal annual installments, the first of which shall be due and payable on September 1, 2009, and the subsequent installments shall be due on September 1st of each and every year thereafter. Payment of the amount of the special assessment may be made in full without interest or penalty by December 1, 2009.
3. The installments of the special assessment rolls shall bear interest at the rate of 8% per annum; provided, however, if the bonds are issued in anticipation of said special assessments, then such unpaid special assessment shall bear interest at a rate of interest equal to 1% above the average rate of interest borne by said bonds. Such

interest shall commence on September 1, 2009 and shall be paid annually on each installment due date.

4. Said special assessment roll shall be placed on file in the office of the City Clerk who shall attach his warrant to a certified copy thereof within ten (10) days commanding the Assessor to spread the various sums shown thereon as directed by the City Council.

Roll Call Vote.

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

NAYS: None.

#### **CITIZEN COMMENTS AND QUESTIONS**

Cindy Popovitch, 704 North Chipman Street, noted her appreciation for the small group that organized to clean tires out of the river recently after she had lamented about the number of tires she encountered on a canoe trip. She went on to say she admired the dedication of those that helped. Lastly, she noted the upcoming river clean-up on Saturday, August 8, 2009 and invited anyone that was interested in helping.

Nicole Bruff, 409 North Chipman Street, indicated he mother was having difficulty with the water department with high bills and a non-working water meter. She went on to say she felt City staff did not treat her well when she inquired about the matter. City Manager Fivas apologized to her and indicated he would look into it.

Carolyn O'Connell, 1128 West Stewart Street, expressed her appreciation for the Train Festival saying it was a great event, but that she was concerned with the late hours of operation for the beer tent at Chip's Place on South Chipman Street. She indicated a band performing in the tent played until well after midnight. She noted that such events bring needed business to the area but felt the establishment should have abided by the ordinance and ended the performance by 11:00 p.m. Public Safety Director Compeau indicated he would speak to the owners of the establishment to insure they would abide by the ordinance should they apply for a beer tent in the future.

Maurice Shattuck, representative of Emery Pratt, indicated Emery Pratt was interested in connecting to the City water system and encouraged the Council to continue with negotiations to bring municipal water to the area.

Dave Gingerich, 7933 Wildcat Road, Ovid, indicated he is involved with KoK Broadcasting and is concerned with the changes proposed for channel 3. He went on to say he would like to see things stay the way they are and suggested new programming be placed on channel 16. He noted that KoK and OCTS have invested their own time and money over the years and he felt the City was not treating them properly in taking over the channel.

Betty Coon, 1204 Palmer Avenue, asked that her street not be used as a bus route should the Train Festival return to Owosso. She felt the street was not constructed to handle the heavy loads from bus traffic. She also commended Councilperson Cline for his organization of the recent youth fishing tournament. City Manager Fivas noted the City had no review of proposed bus routes prior to the Train Festival. He went on to say that should the Train Festival return to the City they will make sure the bus routes are preapproved.

Eddie Urban, Cable Access Advisory Commission member, indicated that channel 3 is a public, education and government channel and channel 16 is a bulletin board for local community events. He went on to note that channel 3 currently provides religious based programming 6 days per week and may not be representative of everyone in the community. Lastly, he asked that people become involved instead of just repeating what they've heard.

City Manager Fivas noted the Cable Commission had invited experts in to advise them and speak to them regarding management structure options for the cable system. He went on to say that the Council would be kept apprised of any progress and proposed changes.

Mayor Bruff noted the band at Chip's Place during the Train Festival was indeed loud and it was his understanding the police had responded to the situation. He indicated that while they may have gotten caught up in the moment, but there was not excuse for the music continuing until after midnight.

Mayor Pro-Tem Owen thanked City Attorney William C. Brown for his opinion on whether the City could institute an ordinance making seat belt infractions a secondary offense for which someone could not be pulled over. He went on to say he felt it was a waste of time for officers to pull someone over just for not wearing a seatbelt. There was discussion whether the city would lose money if such an ordinance were enacted. It was pointed out the city does receive grant funding allowing officers to work overtime to participate in programs targeting unbelted drivers. Councilperson Martenis expressed his opposition to such an ordinance amendment saying the safety of seatbelts had been proven and as a former driver education teacher he felt they are

essential to safety. There was further discussion regarding at what point government will stop regulating the life of its citizens.

Motion by Mayor Pro-Tem Owen to propose a seatbelt ordinance making seatbelt infractions a secondary offense for which a driver could not be pulled over, the first reading of which would take place August 17, 2009.

Motion supported by Councilperson Eveleth.

Roll Call Vote.

AYES: Councilperson Eveleth and Mayor Pro-Tem Owen.

NAYS: Councilpersons Frederick, Forster, Martenis, Cline, and Mayor Bruff.

The motion fails.

Councilperson Martenis complimented City staff for their work on the Train Festival and said he was very proud to be from Owosso.

Mayor Bruff asked Council if they would see fit to organize a night in which all City Council candidates for the November election could address the meeting from the podium. His desire was to allow them a forum to express their platform while not bogging down each meeting with election campaigning.

### **CITY MANAGER REPORT**

City Manager Fivas thanked City staff and the many volunteers that worked on the Train Festival indicating it was a great accomplishment for the area with collaboration being the key. He expressed his hope that something similar could be done in the future.

He also noted that meetings are taking place to plan the next Brush Up Owosso.

Mayor Bruff asked Burton Fox if he would be performing his biennial interview of council candidates before the November election. Mr. Fox indicated that because he is a candidate for City Council he would not be performing the interviews but suggested a guest host could do so.

There was a question as to how long an advertising sign for a construction company could remain up. It was noted the sign was permissible as long as construction was taking place.

### **CONSENT AGENDA**

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

First Reading and Set Public Hearing – Ordinance Amendment.

The First Reading on the proposed ordinance amendment was held.

A public hearing was scheduled for August 17, 2009 to receive citizen comment regarding the proposed ordinance to amend Chapter 28, *Special Assessments*, Section 28-15, Partial Payments, of the Code of Ordinances of the City of Owosso, Michigan as follows:

AN ORDINANCE TO AMEND Chapter 28, *Special Assessments*, Section 28-15, Partial Payments, of the Code of Ordinances of the City of Owosso, Michigan to adjust the interest rate charged on special assessment balances.

THE CITY OF OWOSSO ORDAINS:

SECTION 1. THE CITY OF OWOSSO ORDAINS: That Section 28-15, Partial Payments of Chapter 28, *Special Assessments*, is hereby amended to read as follows:

#### **Sec. 28-15. Partial payments.**

The council may provide for the payment of special assessments in annual installments. Such annual installments shall not exceed twenty (20) in number. The first and subsequent installments of a special assessment roll shall be due upon such dates as the council shall fix in the resolution confirming the special assessment. The installments of the special assessment rolls shall bear interest at the rate of six (6) percent per annum; provided, however, if the bonds are issued in anticipation of the special assessments, then such unpaid special assessment shall bear interest at a rate of interest equal to one (1) percent above the average rate of interest borne by the bonds. Such interest shall commence on the date of the first installment and shall be paid annually on each installment due date. The full amount of all or any deferred installments, with interest accrued thereon to the date of payment, may be paid in advance of the due dates thereof. Deferred installments shall be collected without penalty until ninety (90) days after the

due date thereof, after which time such installments shall be considered as delinquent and such penalties on the installments shall be collected as are provided in the Charter to be collected on delinquent general city taxes.

Section 2. This ordinance shall take effect 20 days after its adoption.

Section 3. This ordinance may be purchased or inspected in the City Clerk's office Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

Bid Award. Accept low bid of Michigan Pipe and Valve for the purchase of 2200 linear feet of 8-inch ductile iron water main in the amount of \$13.52 per foot and authorize payment up to \$29,744.00.

Contract Payment. Authorize Progress Payment No. 1 to Sumbera Excavating in the amount of \$60,440.95 for work completed on the 2009 Street Program.

Payment Authorization. Authorize Progress Payment No. 4 to Perrin Construction for Phase III of the Vibrant Small Cities Initiative Grant Project in the amount of \$37,395.36.

Payment Authorization. Authorize Payment No. 3 to the Michigan Department of Transportation for the City portion of the Elevated Walkway Project in the amount of \$29,928.54.

Boards and Commissions Appointment. Approve the Mayoral reappointment of G. Donald Moore to the Parks and Recreation Commission for a term expiring June 30, 2011.

Warrant No. 388. Accept Warrant No. 388 as follows:

Vendor	Description	Fund	Amount
JP Kulhanek & Sons Construction, LLC	Gould House Carriage House Roof Repairs	Historical Commission	\$6,006.00

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

**ITEMS OF BUSINESS**

**REZONING REQUEST – 503 SOUTH CHIPMAN STREET**

Tabled from the meeting of June 15, 2009.

Applicant: Michael & Kimberly Crawford  
Address: 503 South Chipman Street

Described as: LOTS 1 & 2 & N 1/2 OF LOT 3 BLK 12 CITY ASSESSORS PLAT 3

From: B-4, General Business District  
To: R-1, Single Family Residential District

Building Official John F. Archer detailed the deliberations by the Planning Commission indicating they held a lengthy examination of the issue. The Planning Commission unanimously recommended denial of the request because it would set a precedent for spot zoning.

He also noted that an adjoining I-2 parcel would become unusable if the property in question were to be rezoned, as the I-2 property would be too small to accommodate the set back requirements forced by the adjoining R-1.

Motion by Councilperson Martenis to deny the request to rezone the parcel at 503 South Chipman Street.

Motion supported by Councilperson Eveleth.

Roll Call Vote.

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

NAYS: None.

## **COMMUNICATIONS**

Michigan Department of Natural Resources. Satisfactory inspection of grant sites.  
Owosso Historical Commission. Minutes of Meeting of July 21, 2009.

## **CITIZEN COMMENTS AND QUESTIONS**

Cindy Popovitch, 704 North Chipman Street, inquired whether there were continued discussions with the Owosso Community Players regarding the reconstruction of the Lebowsky Center. It was noted discussions were continuing. The plan was to gather engineering estimates for the cost of renovating the building and possibly use VSCI Grant monies or other grant funding to assist in the project. Mayor Bruff noted that it was a misconception that the City had taken the VSCI Grant funds away from the Lebowsky rebuild project noting that the current plan was dual track. The City would pursue plans for other projects for the money but if OCP were to be able to fulfill their end of the grant agreement they may be able to avail themselves of the funds.

Michael Tillotson, 1299 South Shiawassee Street, passed around a paper that he received from a fireman encouraging people to sign a petition asking for the removal of the Public Safety Director position. He indicated firemen had gone door to door in his apartment building and he did not feel their actions were appropriate. He was also concerned about an older woman in his building who was scared by the firemen coming to her door. He also stated he felt the petition was a personal vendetta.

Shelva Cebulski, 1243 Marion Street, said she and her family had enjoyed the Train Festival very much, but she had suffered greatly due to the smoke. She indicated the only negative comment she had heard was in regard to parking when frequenting local businesses. She wondered if small areas could be roped off for business parking should something like the Train Festival come to town again.

Burton Fox, 216 East Oliver Street, again indicated that due to the fact he was a Council candidate he would not be conducting his usual candidate interviews but said he would welcome a guest host to do the honors. He also indicated that his petition requesting the dissolution of the Public Safety Director position was not personal but related to budget concerns.

Councilperson Frederick expressed his pleasure with the Train Festival saying it was a great weekend for all involved. He went on to note that there shouldn't be concern that grant money for the Lebowsky Center rebuild has been forgotten saying the City was following a dual track with regard to VSCI funding. Lastly, he indicated he was anxious for the discussion on the special assessment interest rate and hoped that logistics would not be an issue in the decision.

Mayor Bruff expressed his frustration with complaints regarding parking, indicating there were open spots in many portions of town if people were just willing to walk a short distance to get to their desired location. He did note that he felt there were certain areas that could possibly be blocked off for business patrons, such as those spots bordering doctor's offices.

There was a brief discussion regarding the petition to dissolve the Public Safety Director position.

Councilperson Eveleth and Mayor Pro-Tem Owen commented on their feeling the Train Festival was great.

## **ADJOURNMENT**

Motion by Mayor Pro-Tem Owen for adjournment at 9:04 p.m.

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

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Michael E. Bruff, Mayor

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Amy K. Kohagen, City Clerk