

OWOSSO CITY COUNCIL

OCTOBER 19, 2009

7:30 P.M.

PRESIDING OFFICER: MAYOR MICHAEL E. BRUFF
OPENING PRAYER: OWOSSO PUBLIC SAFETY SERGEANT ROGER SQUIERS
PLEDGE OF ALLEGIANCE: COUNCILPERSON CHRISTOPHER T. EVELETH
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.

Mayor Pro-Tem Owen inquired about the conduct of a closed session, specifically asking whether his questions pertaining to employee contracts would have to be stated in open session. City Attorney William C. Brown noted it was his opinion closed session was not permitted for the review of a contract.

APPROVE AGENDA

Motion by Councilperson Eveleth to approve the agenda as presented with the addition of Presentation
3. Lincoln High School.

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

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

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

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

SPECIAL PRESENTATIONS

PROCLAMATION – JOHN F. ARCHER BRIDGE

Accepted Mayoral Proclamation dedicating the Oakwood Street Bridge as the John F. Archer Bridge as follows:

**A PROCLAMATION
OF THE MAYOR'S OFFICE
OF THE CITY OF OWOSSO, MICHIGAN**

**OFFICIALLY DEDICATING
THE JOHN F. ARCHER BRIDGE**

WHEREAS, we are gathered to recognize John F. Archer for all of his contributions to the City of Owosso; and

WHEREAS, John has shared his compassion, sense of humor, love of Christmas and his many talents, tools, and materials with the City. John's care and craftsmanship can be found all over town; and

WHEREAS, John has been instrumental in many projects around the City of Owosso, including the arches downtown, the pavilions and the bridge at Green Meadows Park, the salt barn at the Department of Public Works, the restoration of the Oakwood Street Bridge, and the construction of the dais in the City Council Chambers; and

WHEREAS, John has shown extreme generosity through his tireless efforts to beautify the City not only by donating his time and talents on various projects but by donating the materials for the Council Chamber dais and much of the decking for the Oakwood Street Bridge, using trees he cut and milled with the assistance of the Department of Public Works.

NOW, THEREFORE, BE IT PROCLAIMED that the Oakwood Street Bridge be and is hereby dedicated to John F. Archer for his dedication to improving the City of Owosso and his life long passion for bridges.

John has shared his time and talents with the City and its residents and we are better for it.

Proclaimed this 19th Day of October, 2009.

The Mayor went on to detail the dedication ceremony held earlier in the day saying it was a great celebration. Eddie Urban stepped forward and remarked that John is a good man that is well respected.

PUBLIC SAFETY AWARDS

Public Safety Director Michael Compeau presented certificates and awards recognizing those that helped during the recent shooting and investigation. Those recognized include:

Citizens: Alana Beamish, Sandra Bulemore, Kimberly Ross, Pamela Walker, Dean Rhine, and Frank Sampson who received Certificates of Appreciation.

Officers: Officer Michael Wheeler, Sergeant Roger Squiers, and Sergeant Kurt Moffit who received a Citation of Professional Excellence. Officer Michael McCloskey, Officer Doug Stanhope, and Officer Eric Cherry who received the department's highest honor the Citation of Valor.

Also honored was Property Clerk Wendy McPherson.

City Manager Fivas thanked everyone for their special efforts that day. He also gave a special thank you to Public Safety Director Compeau for his leadership during a difficult situation.

LINCOLN HIGH SCHOOL - JUNIOR COUNCIL MEMBERS

Student body President Justin McNamara and Vice President Ryan Goshke detailed the activities of the student body at Lincoln High School including fund raisers for the senior trip, community projects such as Make a Difference Day, School Improvement, Lincoln High athletics and the Character Counts program.

PUBLIC HEARINGS

ORDINANCE AMENDMENT

The public hearing was held to receive citizen comment regarding proposed ordinance amendment to Chapter 13, Fire Prevention and Protection, Article II, *Fire Prevention Code*, Section 13-8, Outdoor Wood-fired Boilers, of the Code of Ordinances of the City of Owosso, Michigan.

Neil White, 1214 Devonshire Court, commented saying he felt banning new boilers would be a mistake as the emissions from the newer units continues to decrease.

There was discussion regarding placing restrictions on existing outdoor wood-fired boilers such as prohibiting their use during the summer months, establishing an annual permit process, and prohibiting the use of an existing OWB should the property it is located on be transferred to a different owner. The Council decided to act on the proposed ordinance amendment and leave any changes regarding existing OWBs for a later time.

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

ORDINANCE NO. 714

AN ORDINANCE TO AMEND Chapter 13, Fire Prevention and Protection, Article II, *Fire Prevention Code*, Section 13-8, Outdoor Wood-fired Boilers, of the Code of Ordinances of the City of Owosso, Michigan to prohibit the installation of any further outdoor wood-fired boilers within the city.

THE CITY OF OWOSSO ORDAINS:

SECTION 1. THE CITY OF OWOSSO ORDAINS: That Chapter 13, Fire Prevention and Protection, Article II, *Fire Prevention Code*, Section 13-8, Outdoor Wood-fired Boilers, is hereby amended to read as follows:

Sec. 13-8. Outdoor wood-fired boilers.

No person or business shall install an outdoor wood-fired boiler within the city limits.

Section 2. This ordinance shall become effective November 8, 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 Eveleth.

Roll Call Vote.

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

NAYS: None.

Motion by Councilperson Eveleth to extend the moratorium on the installation of outdoor wood-fired boilers, originally authorized September 21, 2009, for 20 days.

Motion supported by Councilperson Cline.

Roll Call Vote.

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

NAYS: None.

CITIZEN COMMENTS AND QUESTIONS

Neil White, 1214 Devonshire Court, expressed his hope that Council would be open to amending the OWB ordinance to allow the installation of new boilers in the future when it is anticipated emissions from the devices will be significantly reduced.

Phyllis Daenser, president of Polio Network USA, expressed her feeling that crime is connected to poor medical care. She also indicated she was in possession of a device that could cure many different diseases and she hoped the hospital would consider buying one.

James Carmody, 123 West Main Street, expressed his concern about the legal implications of showing a program on channel 3 that was clearly held in a church. He also expressed his concern with a program that he felt was un-American. He hoped channel 3 would be used for positive things, not negative.

Eddie Urban, 601 Glenwood Avenue, indicated he tries not to take political stances in his show on channel 3. He also noted a recent article in the Argus Press detailing an 85 year old woman that shot her first buck, saying you should never give up in life.

Councilperson Martenis thanked Mr. White for his cooperative attitude at tonight's meeting. He went on to say that should any new regulations on existing OWBs be considered they would be thoroughly researched. He also thanked Mr. Carmody for bringing up the cable issue, saying he agreed he hoped the cable channel would be used for only positive comments. Lastly he noted a recent article in the Independent detailing a \$1000 donation from Walmart to the Parks & Recreation Commission.

CITY MANAGER REPORT

City Manager Fivas thanked Public Safety Director Michael Compeau, Deputy Public Safety Director – Police Division Michael Rau, and Deputy Public Safety Director – Fire Division Michael Bradley for their leadership on a daily basis.

He went on to note the presence of the state and national Main Street staffs in the City over the next couple of days. They will be performing a base-line assessment to assist in improving the downtown.

He also gave an update on the Lebowsky Center rebuild project saying the City had submitted a request to MSHDA asking that our agreement with them be restructured to allow the Lebowsky project to receive funding from the VSCI grant. He also noted the second annual Brush Up Owosso event to be held this weekend.

Lastly, he thanked Public Works Superintendent Mark Sedlak for all of his efforts this year accommodating many special projects while short staffed. He went on to say that most people do not know the sacrifices Mark makes for his job.

CONSENT AGENDA

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

Bid Award. Accept low bid of Ruthy's Cleaners for the dry cleaning bid for the remainder of the 2009-10 fiscal year.

Change Order. Approve Change Order No. 1 to the contract with Sumbera Excavating balancing the final quantities for the 2009 Street Program in the amount of \$4,406.35.

Payment Authorization. Authorize Final Payment to Sumbera Excavating for work performed on the 2009 Street Program in the amount of \$18,633.45.

Purchase Authorization. Authorize the purchase of sixteen precast concrete planters from Wausau Tile Co. for use in the downtown in the amount of \$7,449.85 including freight.

Payment Authorization. Authorize Payment No. 4 to the Michigan Department of Transportation for the City portion of the Elevated Walkway Project in the amount of \$4,681.98.

Payment Authorization. Authorize Contract Payment No. 2 to Glaeser Dawes for work performed on the 2009 water main installation project in the amount of \$34,058.00.

Emergency Purchase Acceptance. Accept emergency purchase for water pump for the sewer jetter/vac truck from Jack Doheny Supplies, Inc. in the amount of \$7,681.45.

Warrant No. 392. Accept Warrant No. 392 as follows:

Vendor	Description	Fund	Amount
Caledonia Charter Township	Caledonia Utility Fund payment	Water	\$15,088.11
Brown & Stewart, PC	Professional Services September 15, 2009 – October 19, 2009	General	\$9,231.56

Motion supported by Councilperson Eveleth.

Roll Call Vote.

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

NAYS: None.

There was a brief recess at 9:00 pm.

The meeting resumed at 9:07 pm.

ITEMS OF BUSINESS

WEBSITE RFP

City Manager Fivas presented a Request for Proposal for the City website indicating he intends to send out the bid within the coming weeks. He said his hope is to develop a site that allows the City to connect with residents and give them a vehicle to communicate with City Council and Staff. The proposal includes applications allowing video streaming, requests for service and payments to be made on line. He went on to say that due to the complexity of the endeavor it is anticipated it would take 4-6 months to put everything together. He asked that the Council contact him with any questions or concerns on the proposal.

REFERENDUM PETITION - PUBLIC SAFETY DIRECTOR POSITION

Mayor Bruff apologized to Public Safety Director Compeau, saying it was unfortunate that the status of his employment had to be discussed in open session.

Mayor Pro-Tem Owen said he felt it was unfortunate things had gotten to this point as he had hoped a resolution could be reached. He had the following questions for the City Attorney regarding the specifics of the contract with Mr. Compeau: What in the contract prevents the City from making changes to this position? What is guaranteed by the contract? A specific term of employment? A particular job title? A particular salary level? What terms of employment are at the discretion of the City Manager? Is there recourse against the previous City Manager should the contract result in financial damage to the City? City Attorney Brown indicated he would research the questions and have answers at the next meeting.

There was further discussion regarding whether actions by Council could negate the need to go to the voters, what actions by Council would meet the specifics of the request in the petition, concern about leaving the issue for the incoming Council, costs associated with holding an election, and the time needed to conduct a full legal review of the issue.

Mayor Bruff asked City Attorney Brown whether he had had the opportunity to determine if the ordinance in question was deemed administrative or legislative. City Attorney Brown indicated the question was difficult, as the administrative plan of the City is dictated by ordinance and case law provided little guidance.

City Manager Fivas pointed out that numerous questions had been raised and inquired as to the depth of the analysis Council was looking for, whether it be a review of the question before them or an in depth review of the optimal structure for the Public Safety Department over the course of the next 20 years. He noted that both issues would have to be examined at some point. He went on to recommend that in light of the fact the issue deals directly with personnel the Council consider holding off on a decision on the petition request until all questions had been answered.

Mayor Bruff expressed his concern over the precedent this petition could result in, saying it would essentially allow citizens to petition for the removal of a specific employee rather than leaving those decisions to the authority of the City Manager per the Charter. He went on to say that the Council's authority extends over the City Manager but no other City employees. He encouraged a thorough legal review of the issue. He indicated he talked to a number of people that signed the petition and they did not fully understand the issue. Lastly, he said he wanted more open discussion regarding all of the facets of the issue.

Councilperson Frederick said he was troubled by the precedent the petition may set. He went on to say it was of utmost importance to get all of the facts before making a decision, while at the same time preparing for the idea the petition may in fact prove to be legal.

Councilperson Cline expressed his frustration asking if employees would be allowed to petition council for the removal of their supervisor. He also accused one of the petition circulators of intentionally misleading citizens into signing.

Councilperson Martenis noted the petition process is a way in which people can voice their displeasure with their representatives. He went on to say it is not an easy feat to collect all of the signatures needed and thus was not an easy way to effect change.

Motion by Councilperson Frederick to acknowledge receipt of the Certificate of Authenticity and Sufficiency from the City Clerk as it relates to a referendum petition submitted requesting the amendment or submittal to the electors for vote to amend Owosso City Code Section 2-81 and rescind all ordinances and portions of ordinances as they pertain to the position of Director of Public Safety.

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

SPECIAL MEETING DATE

Motion by Councilperson Cline to set a special meeting date of Monday, November 9, 2009 at 7:30 p.m. for an organizational meeting as required by Section 5.3 of the City Charter.

Motion supported by Councilperson Martenis.

Roll Call Vote.

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

NAYS: None.

COMMUNICATIONS

Robert Bluedorn. Retirement from the SATA Board of Directors.

Joseph A. Fivas, City Manager. Annual Liquor License Inspection Report.

Richard C. Williams, Finance Director. August 2009 Revenue and Expenditure Reports.

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

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

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

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

Owosso Main Street/DDA. Minutes of Meeting of September 2, 2009.

Owosso Main Street/DDA. Minutes of Meeting of October 7, 2009.

Shiawassee Area Transportation Agency. Minutes of Meeting of September 22, 2009.

Shiawassee Area Transportation Agency. October 13, 2009 Agenda and ridership information.

Councilperson Martenis indicated that the SATA information found in the packet was included at his request. He went on to say that any questions regarding SATA could be directed to him. Lastly, he listed the reasons for the decline in ridership in September 2009 as compared to September 2008.

CITIZEN COMMENTS AND QUESTIONS

Shelva Cebulski, 1243 Marion Street, commended the Council for holding off on a decision on the Public Safety petition, she went on to say she hopes the issue is examined carefully. She has a son in law that is a detective and is very proud to have a member of the force in her family.

Neil White, 1214 Devonshire Court, indicated that no one is more interested in improving outdoor wood-fired boilers than he is. He said he is now working with a manufacturer to make more improvements to the way the furnace works. He indicated he has served the community with his furnace taking down trees for an elderly lady and a church to use as fuel. Lastly he noted his plans to improve the appearance of his property through the construction of a long brick wall designed to conceal the furnace and corresponding wood piles.

Bozena Bienias, 1432 Mallard Circle, said she appreciated Council's comments regarding the petition presented this evening.

Phyllis Daenser, 771 Hollywood Drive, said she is working toward free public health care. She also spoke about abuse by caregivers saying legislation needs to be enacted on the matter.

Betty Coon, 1204 Palmer Avenue, wished John Archer a satisfying retirement. She indicated he was always willing to talk and explain things and she is disappointed she will not be able to bug him anymore.

Burton Fox, 216 East Oliver Street, commended Mr. Archer for a job well done saying he appreciated all his work. He went on to say the statement attributed to him by Councilperson Cline was false.

Eddie Urban, 601 Glenwood Avenue, said most people don't realize that John Archer is a disabled veteran. He went on to say he will miss him.

Michael Tillotson, 1299 South Shiawassee Street, said he supports Public Safety Director Compeau in all his efforts. He went on to comment about the Council/Manager form of government and asked Council to be careful when considering a petition such as the one before them because he thinks it is a vendetta.

Councilperson Martenis indicated he spoke with Mr. White and found him to be a reasonable man. He went on to say that any proposed requirements for existing OWBs would be thoroughly researched. Lastly, he noted his appreciation for the Council members he has had the opportunity to work with the last two years and wished the best to all those running for election.

Mayor Bruff read aloud tips on how to use the panic button on your car key fob to protect yourself at home as recently distributed over the Nixle network. He indicated he hoped everyone knew about Nixle as it is very helpful and it is free.

Councilperson Martenis reminded everyone of the Neighborhood Watch meeting on Thursday, October 22 at 7:00 pm in the Council Chambers.

NEXT MEETING

November 2, 2009

BOARDS AND COMMISSIONS OPENINGS

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

ADJOURNMENT

Motion by Mayor Pro-Tem Owen for adjournment at 10:07 p.m.

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

Michael E. Bruff, Mayor

Amy K. Kohagen, City Clerk