

OWOSSO CITY COUNCIL

NOVEMBER 2, 2009

7:30 P.M.

PRESIDING OFFICER: MAYOR MICHAEL E. BRUFF
OPENING PRAYER: ALEX COFFEE
BOY SCOUT TROOP 85 SENIOR PATROL LEADER
PLEDGE OF ALLEGIANCE: BOY SCOUT TROOP 85
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 Cline to approve the agenda as presented with the following adjustments:

Move Consent 2. Bid Award to Item of Business 4.
Move Item of Business 4. Referendum Petition – Public Safety Director Position to Item of Business 6.
Note the next meeting is November 9, 2009.

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

APPROVAL OF THE MINUTES OF REGULAR MEETING OF OCTOBER 19, 2009

Motion by Councilperson Forster to approve the Minutes of the Regular Meeting of October 19, 2009 as presented.

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

Mayor Bruff noted all the new faces in the audience this evening. He explained the rules for addressing Council and asked that speakers approach the podium prior to making their comments.

PROCLAMATIONS AND SPECIAL PRESENTATIONS

PROCLAMATION – MARK D. OWEN

Mayor Bruff presented Mayor Pro-Tem Mark D. Owen with the following proclamation honoring him for his years of service to the City.

**A PROCLAMATION
OF THE MAYOR'S OFFICE OF THE CITY OF OWOSSO, MICHIGAN
RECOGNIZING
MARK D. OWEN**

WHEREAS, Mark D. Owen was first elected to the City Council in November 2001 and was re-elected in November 2003 and again in November 2007; and

WHEREAS, Mr. Owen has faithfully discharged the duties of the offices of Councilman and Mayor Pro-Tem during his eight years of service to the City by regularly attending meetings, serving on various boards and commissions and representing the City at official and community events; and

WHEREAS, it is fitting that this record of dedicated community service devoted to the interests of the citizens of Owosso be officially recognized.

NOW, THEREFORE, I, Mayor Michael E. Bruff, on behalf of my fellow Councilmembers and the residents of Owosso, do hereby acknowledge Mr. Owen's years of service to Owosso and thank him for contributing his time and energy to improving his community.

Proclaimed this 2nd day of November, 2009.

PROCLAMATION - ROBERT BLUEDORN

Mayor Bruff presented Robert Bluedorn with the following proclamation recognizing him for his contributions to SATA as a member of the SATA Board of Directors.

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

ROBERT BLUEDORN

- WHEREAS, Robert Bluedorn has dedicated his career to improving the quality of life for local senior citizens; and
- WHEREAS, Bob's focus on senior citizens lead him to participate in the development of a local public transportation system;
- WHEREAS, Bob was instrumental in the creation of the County's first public transit system; researching and collaborating with many people and organizations to see the idea come to fruition; and
- WHEREAS, Bob has served on the Board of Directors of the Shiawassee Area Transportation Agency since its inception in October of 1999, and serving as the Vice-Chair and Secretary for multiple terms; and
- WHEREAS, SATA has grown exponentially since its inception in part due to Bob's efforts, providing an invaluable service to area residents; and
- WHEREAS, it is the intent of this Office that his long time quiet, yet distinguished, service be recognized upon the occasion of his retirement from the SATA Board of Directors.

NOW, THEREFORE, BE IT PROCLAIMED that I, Michael E. Bruff, Mayor of the City of Owosso, on behalf of the City Council and the Citizens of Owosso, hereby recognize and thank Bob Bluedorn for his many years of contribution of honorable, loyal service to our community.

Proclaimed this 2nd day of November, 2009.

PROCLAMATION - ARBOR DAY

Mayor Bruff presented the following Mayoral Proclamation declaring November 10th as Arbor Day 2009 in the City of Owosso.

- WHEREAS, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and
- WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and
- WHEREAS, Arbor Day is now observed throughout the nation and the world, and
- WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and
- WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and
- WHEREAS, trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and
- WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal.

NOW, THEREFORE, I, Michael E. Bruff, Mayor of the City of Owosso, do hereby proclaim November 10, 2009 as Arbor Day in the City of Owosso, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

FURTHER, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Proclaimed this 2nd day of November, 2009.

PRESENTATION – PARKS & RECREATION DONATION

Councilperson Cline presented Mayor Bruff, on behalf of the Parks & Recreation Commission, with a \$1000 donation from Walmart for the Bentley Park Playscape.

PRESENTATION - JUNIOR COUNCIL LIAISON

Owosso High School senior Abbie Cook reported on events at the High School for the month of November including parent teacher conferences, the Trojan Spectacular, and the OHS Dance Concert. The Pillar of the Month is Citizenship.

PUBLIC HEARINGS

None.

CITIZEN COMMENTS AND QUESTIONS

Gerri Poage, Chair of the Shiawassee County 9/12 Commission, extended a formal invitation to the Council to the 9/12 Commission rally to honor members of the military past and present this Saturday from 2 p.m. to 5 p.m. at Fayette Square.

Kevin Rhode of Hastings Air Energy Control asked that the bid award for the exhaust extraction system be pulled for discussion. He asked why their bid had been declined saying they thought they were the lowest bidder and had provided the City with assistance in making sure they had all the information needed to properly analyze the bids along with assistance in securing grant funding for the system. He went on to request the City either throw out all the bids and start the process over or award them the bid for \$62,500.

Mayor Bruff reminded everyone present of the traditional gathering of candidates and other interested parties in the Council Chambers the night of the election to observe returns as they come in.

Councilperson Frederick thanked Mayor Pro-Tem Owen for his service to the City and for encouraging him to run for City Council.

CITY MANAGER REPORT

City Manager Fivas explained the Arbor Day proclamation saying the City was applying for Tree City USA status and the proclamation embodies the City's support for the preservation of trees.

He went on to thank the Clerk's Office for their work in preparing for tomorrow's election.

CONSENT AGENDA

Motion by Mayor Pro-Tem Owen 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 November 16, 2009 to receive citizen comment regarding the proposed ordinance to amend Chapter 2, *Administration*, Section 2-51, Division of the Administrative Service, and Section 2-81, Department of Public Safety, of the Code of Ordinances of the City of Owosso, Michigan as follows:

AN ORDINANCE TO AMEND Chapter 2, *Administration*, Section 2-51, Division of the Administrative Service, and Section 2-81, Department of Public Safety, of the Code of Ordinances of the City of Owosso, Michigan to divide the duties of the Public Safety Director between a Police Chief and a Fire Chief.

THE CITY OF OWOSSO ORDAINS:

SECTION 1. THE CITY OF OWOSSO ORDAINS: That Section 2-51, Division of the Administrative Service, and Section 2-81, Department of Public Safety, Chapter 2, *Administration*, are hereby amended to read as follows:

Sec. 2-51. Division of the administrative service.

The administrative service of the city shall be under the supervision and direction of the city manager, except as provided by the City Charter, and shall be divided into the following offices and departments, each of which shall be the responsibility of and under the control of an administrative officer or department director as listed below opposite such office or department:

Department	Department Director(s)
Department of public safety	Police chief Fire chief
Department of utilities, engineering and public services	Director of utilities, engineering and public services
Department of economic development and neighborhood services	Director of economic development and neighborhood services

Department of financial and customer services	Director of financial and customer services
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Office	Officer/Director
Assessor's office	City assessor
Attorney's office	City attorney
Planning, building safety and code enforcement office	Director of planning, building safety and code enforcement
Clerk's office	City clerk
Human resources office	Director of human resources
Finance office	Finance director
Manager's office	City manager
Treasurer's office	City treasurer

Sec. 2-81. Department of public safety.

(a) The department of public safety shall be headed by a qualified police chief and a qualified fire chief who shall have the duties and responsibilities detailed for the offices of police chief and fire chief in the City Charter, this Code and state statutes and such other duties and responsibilities associated with management of police, fire and emergency medical response services in the city, and for such other responsibilities that shall be designated from time to time by the city manager to be performed by the department.

(b) The department of public safety shall consist of a police department and a fire department.

(c) The police department shall have the duties and responsibilities detailed for police departments in the City Charter, this Code and state statutes.

(1) The police chief shall promulgate rules for the government of police officers of the city, subject to approval by the city manager, which shall be entered in a book of police department rules and orders and may be amended or revoked by the police chief upon written notice to and approval of the city manager. Such rules may establish one (1) or more bureaus within the police department. Any such bureau shall be supervised by an officer of the police department who shall be responsible for the particular functions of the police department assigned to the particular bureau by the safety police chief or his designee. It shall be the duty of all members of the police department to comply with such rules and orders while effective.

(d) The fire department shall have the duties and responsibilities detailed for fire departments in the City Charter, this Code and state statutes.

(1) The fire chief shall promulgate rules and regulations for the government of the fire department, subject to the approval of the city manager, which shall be entered in a book of fire department rules and which may be amended or revoked by the fire chief upon written notice to and approval of the city manager. It shall be the duty of all members of the fire department to comply with such rules and orders while effective.

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

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

Payment Authorization. Authorize release of the \$2000 retainer for the 2008 Street Program consisting of a payment of \$1,063.50 to Collard Masonry for curb rework and return of the remaining \$936.50 to Novak Construction.

Position Development. Authorize the development and posting of an "Assistant Superintendent" position at the Wastewater Treatment Plant.

Motion supported by Councilperson Cline.

Roll Call Vote.

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

NAYS: None.

ITEMS OF BUSINESS

SALE OF COMMON STOCK

Motion by Mayor Pro-Tem Owen to authorize a resolution to surrender common stock from Great American Financial Resources, Inc. received as a part of a bankruptcy filing in exchange for a cash settlement of \$1,102.50 as follows:

RESOLUTION NO. 60-2009

WHEREAS, the City Treasurer received a distribution of common stock from a newly organized corporation emerging from bankruptcy court as settlement for an unpaid special assessment; and

WHEREAS, the successor corporation of the now defunct Penn Central Railroad traded over the counter as a "penny stock" and the nominal market value at the time was insufficient to pay off the special assessment; and

WHEREAS, through a series of mergers and acquisitions the share price of the acquiring corporation, Great American Financial Resources, has been accretive; and

WHEREAS, Great American Financial Resources Inc., has been acquired by American Financial Group, Inc. and shares held by the City represent fractional ownership of the new corporation and as such will not be traded;

NOW THEREFORE, by action of this resolution authorization is granted to the officers of the City to surrender 45 shares of common stock in Great American Financial Resources, Inc. in exchange for cash settlement of \$1,102.50 and said proceeds be applied to the balance of the unpaid assessment.

Motion supported by Councilperson Martenis.

Roll Call Vote.

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

NAYS: None.

ELECTRIC RATE AGREEMENT – CONSUMERS ENERGY

Motion by Councilperson Forster to authorize a resolution formalizing an agreement with Consumers Energy for a reduced rate for the wastewater pump station at 828 North Gould Street and further authorize the Mayor and City Clerk to sign appropriate documents as follows:

RESOLUTION NO. 61-2009

RESOLVED, that is hereby deemed advisable to enter into a contract with Consumers Energy Company of Jackson, Michigan, for furnishing electric service within the City of Owosso for a period of one (1) year and thereafter from year to year, in accordance with the terms of the contract heretofore submitted to and considered by this Council.

RESOLVED, further, that the Mayor and the Clerk be and are authorized and directed to execute such contract on behalf of the City.

Motion supported by Councilperson Cline.

Roll Call Vote.

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

NAYS: None.

SOUTH M-52 DETOUR

City Manager Fivas explained the State has separated the project to reconstruct south M-52 into two phases. Phase I will involve the replacement of the railroad tracks south of Cass Street and will require the complete closure of a portion of south M-52 for approximately 6 weeks. The State has proposed a detour route sending traffic onto Gute Street, then Washington Street, and finally Corunna Avenue.

City Engineer Ronald Baker proposed accepting the State's suggested route for north bound traffic but proposed directing south bound traffic from Washington Street onto Stewart Street then M-52 utilizing a portion of the current truck route.

There was discussion regarding suspending enforcement of the established truck route and making the intersection of Washington and Stewart Streets a four-way stop.

Motion by Councilperson Martenis to establish a detour route for the reconstruction of the railroad tracks crossing south M-52 directing northbound traffic to Gute, Washington, and Water Streets and southbound traffic to Water, Washington, and Stewart Streets.

Motion supported by Councilperson Eveleth.

Roll Call Vote.

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

NAYS: None.

BID AWARD – EXHAUST EXTRACTION SYSTEM

This item was pulled from the Consent Agenda for discussion. Deputy Director of Public Safety – Fire Division Michael Bradley explained this item has been an on-going issue for some time. He went on to say bids were submitted to Finance Director Richard Williams in June. Since that time Mr. Williams has spent a significant number of hours performing due diligence on the bid to determine the best option for the City. Only one bidder met 100% of the specifications listed in the bid request with no exceptions. That bid was from Air Cleaning Specialists and is the recommended vendor this evening. Mr. Bradley went on to note some of the exceptions in the bids from other vendors.

Two Council members noted their desire to rely on staff's expertise in this case, while some members indicated their desire to hear the representatives from bidder Hastings.

Hastings representative Kevin Rhode stated they are the largest vendor of exhaust systems in the Midwest and he believes they are the best. He noted the City had rescinded its original bid award. He also noted Hastings had been present at the bid opening and had helped the City obtain grant funding for the purchase. He explained they had received phone calls from the City in regard to their exceptions but were not told there was a problem with their bid and as the next lowest bidder they felt the bid would be theirs. Lastly, he said he hoped the City would install a system as soon as possible for the health and safety of the workers and guests on the apparatus floor.

There was some confusion as to the exceptions listed in the Hastings bid as previously described by Mr. Bradley. He noted that he had listed exceptions as a whole, not for one particular company. It was also noted that City Council had received only one page of the bid tabulation sheets in error.

There was a question as to whether all bidders had received the same bid request information, noting the bids for magnetic systems and pneumatic systems. Mr. Bradley noted that all bidders had received the same information packet requesting a magnetic system.

Motion by Councilperson Martenis to wait two more weeks to allow Hastings to speak with Mr. Williams again to gain clarification on the status of their bid.

Motion supported by Councilperson Frederick.

Roll Call Vote.

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

NAYS: Councilperson Forster and Mayor Bruff.

EXECUTIVE SESSION

Motion to hold Executive Session for the purpose of reviewing a written opinion from legal counsel.

Roll Call Vote.

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

NAYS: None.

RECESSED TO THE CONFERENCE ROOM FOR EXECUTIVE SESSION AT 8:44 PM.

RETURNED FROM EXECUTIVE SESSION AT 9:47 PM.

APPROVAL OF EXECUTIVE SESSION MINUTES OF AUGUST 17, 2009

Motion by Mayor Pro-Tem Owen to approve the Executive Session Minutes of August 17, 2009 as presented.

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

REFERENDUM PETITION - PUBLIC SAFETY DIRECTOR POSITION

Motion by Councilperson Martenis to deem the ordinance establishing the position of Public Safety Director to be an administrative ordinance, thus rendering the petition to remove the Public Safety Director position moot.

He went on to note that the public hearing scheduled for November 16, 2009 would provide a setting for public comment on the proposed ordinance amendment to divide the duties of the Public Safety Director between a separate Police Chief and Fire Chief and action on the issue would potentially take place at a later date.

Motion supported by Councilperson Cline.

Mayor Pro-Tem noted for the audience that Council has the right to determine whether an ordinance is administrative or legislative and thus whether or not it is subject to petition. Councilperson Martenis's motion deems the ordinance to be administrative in nature making the petition not legally binding. He went on to note that a public hearing had been set for November 16th to hear public comment on the separation of the Department of Public Safety.

Councilperson Frederick expressed his feeling that the Council was pursuing a faulty course in deeming the petition moot yet setting a public hearing for a proposal to change the ordinance as requested in the petition. He went on to say he would have preferred a public hearing while maintaining the option of putting the matter before the voters.

Roll Call Vote.

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

NAYS: Councilpersons Eveleth, Frederick, and Forster.

COMMUNICATIONS

Gary M. Burk, Utilities Director. Emergency repairs to Corunna Avenue sewer line.

Richard C. Williams, Finance Director. September 2009 Revenue and Expenditure Report.

Brownfield Redevelopment Authority. Minutes of Meeting of March 11, 2009.

Brownfield Redevelopment Authority. Minutes of Meeting of October 6, 2009.

Zoning Board of Appeals. Minutes of Meeting of October 20, 2009 (draft).

Owosso Historical Commission. Minutes of Meeting of October 20, 2009 (draft).

CITIZEN COMMENTS AND QUESTIONS

Joe Ibarra, President of the Community Radio Watch, indicated he and the rest of the chapter came in support of Public Safety Director Compeau. He went on to say he felt it was sad that another employee was being targeted.

James Duntley, 1302 Mansfield Street, inquired about the status of the burned out house on Prindle Street saying it was an eyesore. He also said he felt the Council should not consider the issue brought forward by the petition as it was administrative in nature.

Rex Button III, Citizens Radio Watch member, indicated he did not see the reason for a change in the Public Safety Director position. He went on to say the decision should be left to the voters.

Eddie Urban, 601 Glenwood Avenue, expressed his appreciation for CRW saying they do a valuable job during various events in town. He also asked the City to recommend a fast growing shade tree to replace the tree he recently cut down in his yard. An audience member recommended a sycamore.

Councilperson Cline explained that insurance money from the Prindle Street house was being held by the City until the house is torn down. Should the owners refuse to tear it down the money will be used to pay for the cost of demolition.

Mayor Pro-Tem Owen expressed his disappointment that discussions regarding restructuring had not gone forward saying that if we had executed on those discussions we would have avoided the current situation brought about by the petition. He went on to say the City needs to stay ahead of the game in the future so we do not end up in a situation like GM.

NEXT MEETING

November 9, 2009 – Organizational Meeting
November 16, 2009 – Regular Meeting

BOARDS AND COMMISSIONS OPENINGS

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

ADJOURNMENT

Motion by Councilperson Cline for adjournment at 10:05 p.m.

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

Michael E. Bruff, Mayor

Amy K. Kohagen, City Clerk