

**OWOSSO CITY COUNCIL**

**JANUARY 19, 2010**

**7:30 P.M.**

**PRESIDING OFFICER:** MAYOR BENJAMIN R. FREDERICK

**OPENING PRAYER:** DEBORAH CLINE

**PLEDGE OF ALLEGIANCE:** HENRIETTA SPARKES  
COUNTY COMMISSION CHAIRWOMAN

**PRESENT:** Mayor Benjamin R. Frederick, Mayor Pro-Tem Cindy S. Popovitch, Councilpersons Thomas B. Cook, Michael J. Erfourth, Christopher T. Eveleth, Joni M. Forster, and Gary W. Martenis.

**ABSENT:** None.

**APPROVE AGENDA**

Motion by Councilperson Cook to approve the agenda as presented, pulling Consent Item 2. Boards and Commissions Appointments and placing it under Items of Business as item 3 and adding Item of Business 4. Employee Residency Requirements.

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

**APPROVAL OF THE MINUTES OF REGULAR MEETING OF JANUARY 4, 2010**

Motion by Councilperson Forster to approve the Minutes of the Regular Meeting of January 4, 2010 as presented.

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

**SPECIAL PRESENTATIONS**

None.

**PUBLIC HEARINGS**

None.

**CITIZEN COMMENTS AND QUESTIONS**

Shelva Cebulski, 1243 Marion Street, announced the Red Cross blood drive tomorrow at the Knight's of Columbus Hall. She also invited everyone to attend the open house for the new credit union east of town.

Henrietta Sparkes, County Commission Chairwoman, announced that due to budget cuts County offices would be closing at 4:00pm each day and would also closed from noon to 1:00pm for lunch. She also read aloud a letter detailing the facts behind the recall petitions now being circulated for each County Commissioner.

Eddie Urban, 601 Glenwood Avenue, said he had heard the price for the furnace that was such a point of contention between the Veterans Affairs Committee and the County Commission was misquoted and didn't cost \$17,000 but \$2,000. He also indicated he had attended a Veterans Affairs Committee meeting earlier and all members seemed to be working harmoniously.

Gary Belanger, Owosso resident, noted that he would like to see the Lebowsky Center torn down instead of spending money to rebuild it. He also noted his objection to a rumor that the police do not do their job and he highlighted the trouble at Rainbow Bar and the police response to issues there as proof.

Betty Coon, 1204 Palmer Street, said she felt the concrete planters on Exchange Street were too close to the parking spots making it impossible to move between the planters and parked cars. She also noted that snow piled in the Exchange Street parking lot obstructs parking spaces. She went on to say she felt that continuing a similar streetscape on Washington Street would be a mistake. Lastly she thanked the City for replacing the handicap parking sign in the City Hall parking lot.

Mayor Frederick wished City Manager Fivas all the best in his new position in North Carolina.

Councilperson Cook expressed his hope that Mr. Belanger's comments would be addressed. He also announced a show at the Arts Council starting this weekend. Tickets are \$20 for the pre-opening party, with proceeds going to art scholarships.

Councilperson Martenis indicated he had invited Mr. Belanger tonight so he could relay his comments about the trouble coming from the Rainbow Bar. He reminded Mr. Belanger of the proper times for addressing Council during the meetings. (After repeated outbursts Mr. Belanger left the meeting of his own accord.)

City Engineer Baker indicated Ms. Coon's concerns with the planters on Exchange Street had been addressed in the plans for the Washington Street streetscape by changing the design to allow more room for pedestrians.

Councilperson Martenis went on to say he felt it was a shame to see what was happening with the County Veterans Affairs Committee. He wondered why the Christmas lights were still on in the downtown and he noted service cuts proposed by the SATA Board in order to balance their budget.

Mayor Pro-Tem Popovitch noted there was a meeting this evening at Lincoln High School to address the problem of homeless students. She said it was sad this problem exists and said she would be happy to share any information she had with those wishing to help.

**CITY MANAGER REPORT**

City Manager Fivas indicated he would get back to Councilperson Martenis on his question on the lights downtown. He went on to say that he and Public Safety Director Compeau had had talks with other local governments regarding talks on a regional public safety effort. He said that everyone seemed to be receptive to the discussion and asked Council how they would like to proceed. Council indicated they would like to see the item on the agenda for the next Mid-County meeting. They further indicated they would like staff to develop a list of realistic options with their associated costs. Mr. Fivas went on to note the public forum on the Washington Street streetscape Wednesday at 6:30 pm; he encouraged all interested parties to attend. Lastly he noted that council priorities will be discussed at the Feb 1<sup>st</sup> meeting.

Councilperson Cook asked that a format for the council priorities discussion be distributed to Council as soon as possible to facilitate discussion at the meeting on the 1<sup>st</sup>. He also inquired about the status of the Lebowsky Center rebuild project. Economic Development Director Morgan noted that he had recently met with MSHDA and they are getting ready to send bids out for reconstruction of the walls and roof. They are also in the process of putting together a Brownfield proposal for the site.

Councilperson Erfourth inquired how other communities clean up contamination left by methamphetamine labs. City Manager Fivas noted it is a complex process involving numerous regulations.

City Manager Fivas also noted the burned out house on Prindle Street had been demolished by the insurance company negating the need for the City to take care of it thanks to the diligence of City staff.

**CONSENT AGENDA**

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

2010 Income Threshold Poverty Exemptions. Adopt the 2010 Income Threshold Poverty Exemptions, as required by Public Act No. 390 of 1994 and further amended by PA 620 of 2002:

2010 Federal Income Standards Poverty Threshold

<i>Number of Persons residing in Homestead</i>	<i>Annual Allowable Income</i>
1 person	\$ 10,800
2 persons	14,600
3 persons	18,300
4 persons	22,100
5 persons	25,800
6 persons	29,500
7 persons	33,300
8 persons	37,000
Each additional person, add	3,700

Income of students under the age of 18 years **shall not** be included as income.

Warrant No. 396. Accept Warrant No. 396 as follows:

<b>Vendor</b>	<b>Description</b>	<b>Fund</b>	<b>Amount</b>
Caledonia Charter Township	Caledonia Utility Fund payment October 2009 – December 2009	Water	\$13,805.09
Brown & Stewart, PC	Professional Services December 15, 2009 – January 11, 2010	General	\$6,462.56

Motion supported by Councilperson Martenis.

Roll Call Vote.

AYES: Councilperson Forster, Mayor Pro-Tem Popovitch, Councilpersons Martenis, Cook, Eveleth, Erfourth, and Mayor Frederick.

NAYS: None.

**ITEMS OF BUSINESS**

**LOT SPLIT AUTHORIZATION – 114 SOUTH LANSING**

Motion by Councilperson Erfourth to authorize the division of City lot under Michigan Subdivision Control Act for platted lot described as LOT 18 ERASTUS BARNES ADD commonly known as 114 South Lansing Street as follows:

Lamphere, Scott  
114 S. Lansing Street  
050-050-000-027-00

Current Description Entire Parcel

LOT 18 ERASTUS BARNES ADD

New Description After Split, (114 S. Lansing St.) 050-050-000-027-00

PART OF LOT 18 ERASTUS BARNES ADD BEG AT THE SE COR OF SAID LOT 18, THE N89°54'56"W ALNG S LINE OF SAID LOT 127.42', TH N00°28'51"E 66' TO N LINE OF SAID LOT 18, TH S89°54'56"E 126.55' TO NE COR LOT 18, TH S00°16'44"E 66' TO POB.

Description of Split Parcel, (To be added to 050-050-000-013-00 after split)

PART OF LOT 18 ERASTUS BARNES ADD BEG AT A PT WH IS N89°54'56"W 127.42' FROM SE COR LOT 18, TH CONT N89°54'56"W 33.92' TO SW COR OF SAID LOT 18 AND E LN OF RR ROW, TH NWLY ALONG E LN OF SAID RR ROW AND W LN OF LOT 18, 68.25' TO NW COR OF SAID LOT 18, TH S89°54'56"E ALNG N LN OF LOT 18, 51.77', TH S00°28'51"W 66' TO POB

Description of 919 W. Main St (050-050-000-013-00) after combining split parcel

LOT 7 & PART OF LOT 18 ERASTUS BARNES ADD BEG AT A PT WH IS N89°54'56"W 127.42' FROM SE COR LOT 18, TH CONT N89°54'56"W 33.92' TO SW COR OF SAID LOT 18 AND E LN OF RR ROW, TH NWLY ALONG E LN OF SAID RR ROW AND W LN OF LOT 18, 68.25' TO NW COR OF SAID LOT 18, TH S89°54'56"E ALNG N LN OF LOT 18, 51.77', TH S00°28'51"W 66' TO POB

Motion supported by Councilperson Forster.

Roll Call Vote.

AYES: Councilpersons Eveleth, Cook, Mayor Pro-Tem Popovitch, Councilpersons Martenis, Erfourth, Forster, and Mayor Frederick.

NAYS: None.

**ENTERTAINMENT PERMIT REQUEST – HICKORY LOUNGE**

Public Safety Director Michael T. Compeau explained the Hickory Lounge had already been granted a temporary entertainment permit to conduct games of chance and have comedians on specified dates. This request grants them permanent permission to hold such events.

There was discussion regarding what other types of entertainment would be allowed under the permit. It was noted no topless activity would be allowed, but it would permit contract dancers to perform. There was concern expressed over granting permanent permission to allow groups like Chippendales to perform. There was question about how many violations have occurred at the Hickory over the last year. Public Safety Director Compeau indicated he did not have the numbers in front of him but remembered it being very low, along the lines of 1 call in the past year. It was suggested the motion be postponed until the end of Items of Business to allow more time for Council to consider the item.

Motion by Councilperson Cook to postpone the entertainment permit request for the Hickory Lounge until the end of Items of Business this evening.

Motion supported by Mayor Pro-Tem Popovitch.

Roll Call Vote.

AYES: Councilpersons Cook, Erfourth, Martenis, Eveleth, Forster, Mayor Pro-Tem Popovitch, and Mayor Frederick.

NAYS: None.

**BOARDS AND COMMISSIONS APPOINTMENTS**

Councilperson Forster expressed concern that it appears there are two Council members on the Historical Commission. She wanted it noted that Councilperson Eveleth would be resigning from the Commission. She also asked about Councilperson Cook as a member of the Historic District Study Committee saying she thought it was supposed to be a citizen based organization. She also asked about potential conflicts of interest as Councilperson Cook is involved with the Owosso Community Players and the Lebowsky Center rebuild project.

It was noted that the Mayor had asked Councilperson Cook to be a part of the Historic District Study Committee and that because he had no direct financial benefit from his work with the Owosso Community Players there was no conflict of interest.

Motion by Councilperson Eveleth to approve the following Mayoral boards and commissions appointments:

<b>Name</b>	<b>Board/Commission</b>	<b>Term Expires</b>
W. Shaffer Fox	Historical Commission	12-31-2010
Michael Erfourth	Historical Commission	Term of office
Lorraine Weckwert	Historical Commission	12-31-2012
Thomas Cook	Historic District Study Committee	Council Determination
James Eaton	Historic District Study Committee	Council Determination
Scott Newman	Historic District Study Committee	Council Determination
W. Shaffer Fox	Historic District Study Committee	Council Determination
Donald Marrah	Historic District Study Committee	Council Determination
Gary Wilson	Historic District Study Committee	Council Determination
Lorraine Weckwert	Historic District Study Committee	Council Determination
James Civile	Historic District Study Committee	Council Determination
Maurice Shattuck	Historic District Study Committee	Council Determination

Motion supported by Councilperson Cook.

Roll Call Vote.

AYES: Councilpersons Forster, Eveleth, Cook, Erfourth, Martenis, Mayor Pro-Tem Popovitch, and Mayor Frederick.

NAYS: None.

**EMPLOYEE RESIDENCY REQUIREMENTS**

Councilperson Erfourth indicated he had asked the City Attorney about the City's residency requirements for City officers.

City Attorney William C. Brown distributed a written opinion dated November 24, 2009 detailing the requirements listed in the Charter and the prevailing State Law. It was noted that the Charter requires City officers to be residents of the City while State Law indicates officers can only be required to live within a 20 mile radius of the City. It was further noted that case law indicates that where a City Charter conflicts with State Law, the State Law prevails.

Mayor Frederick thanked City Attorney Brown for looking into the matter. He also said he would like to have our next City Manager live in the City, but it was important for the public to know the limits on residency.

There was further question whether an individual contract would prevail over State Law. City Attorney Brown indicated he would look into the matter.

Motion by Councilperson Erfourth to annotate the Charter to indicate the ruling on the residency requirement as follows:

Editors Note: Charter Section 4.2

State Law, Act 212 of 1999 (MCL 15.602), dictates residency can only be restricted to an area within 20 miles of the nearest boundary of the public employer.

Motion supported by Councilperson Martenis.

Roll Call Vote.

AYES: Mayor Pro-Tem Popovitch, Councilpersons Erfourth, Eveleth, Forster, Cook, Martenis, and Mayor Frederick.

NAYS: None.

### **ENTERTAINMENT PERMIT REQUEST – HICKORY LOUNGE (continued)**

There was inquiry whether any other establishments had entertainment permits. Public Safety Director Compeau indicated he did not have that information with him.

It was noted the permit also allows the play of motion pictures. Councilperson Erfourth wanted to know if the City had any decency clauses in the code. City Attorney Brown recollected decency ordinances were adopted in the 1990's. He also indicated he thought there were other establishments in the City with entertainment permits.

There was continued concern as to what would be allowed under the scope of the entertainment permit. It was noted that Council would not be able to approve the permit with restrictions.

Motion by Councilperson Cook to postpone the request of the Hickory Corp. for a New Entertainment Permit to be held in conjunction with 2009 Class C Licensed Business with Dance Permit located at 311 Corunna Avenue, Owosso, Michigan 48867, Shiawassee County until February 1, 2010.

Motion supported by Councilperson Erfourth.

Roll Call Vote.

AYES: Councilpersons Cook, Eveleth, Erfourth, Martenis, Mayor Pro-Tem Popovitch, Councilperson Forster, and Mayor Frederick.

NAYS: None.

### **COMMUNICATIONS**

Owosso Community Airport. 2009 Annual Report.  
Sarah Warren-Riley, Housing & Neighborhood Development Coordinator. Tree City USA Grant.  
Ronald G. Baker, City Engineer. Update on Washington Street Streetscape comments.  
Ronald G. Baker, City Engineer. 2009 Street Condition Report.  
Gary Palmer, Building Official. December 2009 Building Department Report.  
Gary Palmer, Building Official. December 2009 Code Violations Report.  
Michael T. Compeau, Public Safety Director. December 2009 Police Department Report.  
Michael T. Compeau, Public Safety Director. December 2009 Fire Department Report.  
Cable Access Advisory Commission. Minutes of meeting of December 14, 2009.

Councilperson Forster noted that she enjoyed the Annual Airport Report. She also inquired whether there was more than one person trained to inspect buildings for fire safety issues. It was noted there are two trained employees available to conduct inspections.

Councilperson Martenis noted the increases in various crimes within the City and asked if the increase was a reflection of the economic conditions of the area. It was noted that some crimes tend to be tied to the economy while others tend to run in streaks.

Mayor Pro-Tem Popovitch said she appreciated the feedback on the Washington Street streetscape noting the great positive comments and the strong support for the project from the downtown. She also said she really appreciated the street condition report as we go into budget season. Lastly she noted her concern regarding the Cable Commission after reading the minutes of the December meeting.

Mayor Frederick noted his concern for the Cable Commission as well and indicated he had become involved in the situation in order to help move things forward. He went on to say that the January Cable Commission meeting went very well.

Councilperson Martenis noted he had also attended the January Cable Commission meeting and echoed the Mayor's comments regarding progress.

### **CITIZEN COMMENTS AND QUESTIONS**

Shaffer Fox, 510 East Oliver Street, commented on the cable commission and the operation of the cable channels. He expressed his support for the purchase of cable broadcast equipment so the City could take over broadcasting responsibilities and utilize the channel for promotion of the City.

Tom Manke, 2912 West M-21, indicated he had been involved in the cable channels back when the City first received them. He said he would like to see broadcasting responsibilities consolidated once again as they were originally.

Eddie Urban, 601 Glenwood Avenue, thanked County Commissioner Sparkes for her comments on the Veterans Affairs fund. He also indicated his television show covering the local "Buck Night" would be broadcast tomorrow. He also showed his patches for getting deer this year.

Councilperson Erfourth thanked the Public Safety Director for his prompt attention to the methamphetamine lab discovered on Williams Street. He also asked if the Director had met with the owners of the Rainbow Bar yet. It was noted other local bar owners wanted to attend the meeting as well and some were out of town until February so the meeting was postponed until that time.

Councilperson Martenis noted that Michael Gillett had been named State Trooper of the Year and his mother was a Martenis.

## **DISCUSSION ITEMS**

### **CABLE EQUIPMENT PURCHASE**

City Manager Fivas started the conversation saying cable broadcast is a very powerful communication tool. He went on to point out ownership of broadcasting equipment could assist the City in its efforts to market itself and would allow citizens greater access to meetings via video on demand. He also indicated that the purchase of recording equipment could open doors even further, allowing all meetings taking place in the Council Chambers to potentially be recorded and broadcast bringing government to the public in a way it hasn't in the past.

He went on to say that the City is open to discussion about in-house operation or contracting out for operation, but he stressed the importance of purchasing equipment so the City is able to control the station and mitigate liability issues. He indicated the purchase would be financed through franchise fees received from Charter Cable.

Mayor Frederick indicated he was in support of the proposal to purchase broadcast equipment, saying he didn't see a way to ensure equitable access and move forward without the purchase.

Mayor Pro-Tem Popovitch inquired whether Charter has an obligation to broadcast programming on behalf of the City and whether we would be purchasing broadcast equipment or recording equipment. She also inquired if the new equipment would ensure a more professional look to programs. It was noted that Charter is under no obligation to provide broadcasting services for the City. It was also noted the desire is to purchase both broadcast and recording equipment. City Manager Fivas indicated that while he didn't see City staff taking over the recording of things he did envision some organizations, Owosso Main Street for example, creating content that would advertise Owosso and all it has to offer.

While most Council members seemed supportive of the idea there was concern as to the cost. Councilperson Cook wanted to know if there would be potential for cost recovery and how much staff time would be involved in overseeing the station. He wondered if the same \$20,000 would be better spent on a two way form of communication such as internet access or surveys and newsletters.

There was discussion regarding the level of viewership, the opportunities in using the channel, on-going maintenance costs for a broadcast system, web broadcasting, equipment obsolescence, attracting other cable companies to Owosso, and being at the mercy of one cable provider.

Mayor Frederick pointed out there was a lot of transferability between cable and the internet and if we do not take some sort of action we risk having the channel eventually taken away.

City Manager Fivas noted there was no expectation of a decision tonight, the item was merely meant to introduce the discussion.

There was a brief recess at 9:26 p.m.

The session resumed at 9:35 p.m.

### **CITY MANAGER REPLACEMENT PROCESS**

Two handouts were distributed to Council, a timeline of the previous City Manager search and search information from the MML (it was noted the distribution of MML material was not intended as an endorsement of a particular search firm but used purely for informational purposes). City Manager Fivas began the discussion saying the Council had a number of decisions to make in the coming weeks including the hire of an interim manager and beginning the search for a permanent city manager. He indicated he would be as helpful with the search as possible, but suggested Council choose a staff member to serve as the main contact for both searches.

There was discussion regarding internal and external candidates for interim City Manager, any recommendations for interim the current City Manager may have, and moving the process of searching for a permanent City Manager along as quickly as possible.

There was further discussion as to how to proceed with the interim City Manager search. There was concern that due to low staffing levels qualified internal candidates may find it difficult to cover their current duties in addition to the City Manager responsibilities. Council indicated they would like to see information on both internal and external candidates. Internal candidates should submit an application, letter of interest, and resume in time for the next Council meeting. External candidates should submit a letter of interest and a resume. Council will review applicants at the February 1<sup>st</sup> meeting with interviews on the 16<sup>th</sup>.

Council went on to indicate they were anxious to move forward with the search for a permanent City Manager. They requested a copy of the profile developed during the last City Manager search and any other profiles published by professional organizations.

Former Councilperson Michael Cline gave a few insights into the last City Manager search saying the City could save money by doing some of the work themselves, such as having the police department perform the background check.

**NEXT MEETING**

February 1, 2010

**BOARDS AND COMMISSIONS OPENINGS**

Zoning Board of Appeals – Alternate, term expires 06-30-2012

**ADJOURNMENT**

Motion by Councilperson Eveleth for adjournment at 10:10 p.m.

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

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Benjamin R. Frederick, Mayor

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Amy K. Kohagen, City Clerk