

OWOSSO CITY COUNCIL

AUGUST 2, 2010

7:30 P.M.

PRESIDING OFFICER: MAYOR BENJAMIN R. FREDERICK

OPENING PRAYER: MICHAEL TILLOTSON

PLEDGE OF ALLEGIANCE: DAYNA COMPEAU

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 Eveleth to approve the agenda as presented adding Item of Business 3. Fifth Monday Meeting Agenda and Item of Business 4. Agenda Process.

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

APPROVAL OF THE MINUTES OF REGULAR MEETING OF JULY 19, 2010

Motion by Councilperson Cook to approve the Minutes of the Regular Meeting of July 19, 2010 as presented.

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

SPECIAL PRESENTATIONS

None.

PUBLIC HEARINGS

PUBLIC HEARING – DOWNTOWN HISTORIC DISTRICT

The Historic District Study Committee called their meeting to order at 7:34 p.m.

Historic District Study Committee Chairman Thomas Cook presented the Committee's final report.

A joint public hearing with the Historic District Study Committee was conducted to receive citizen comment regarding the establishment of a Historic District in the downtown.

The following people addressed the Committee and the Council regarding the establishment of the district:

A Salem Lutheran Church representative, inquired whether they would need to seek permission to make changes to the addition on the addition to the church if the district were to be established. It was noted that they would simply need to make sure any changes were compatible to what was already constructed.

Guy Bazzani, President of Bazzani Building Company, commented on the intent of the district from the perspective of a former historic district director.

Eddie Urban, 601 Glenwood Avenue, spoke about the historic nature of the library.

Lorraine Weckwert, Historic District Study Committee member, asked that the district proceed as proposed, remarking that additional properties could be added at a later date.

Motion by Committee Member Weckwert to recommend the report with a correction to the boundaries to include the entire Middle School property.

Motion supported by Committee Member Fox and concurred in by unanimous vote.

PUBLIC HEARING – ORDINANCE AMENDMENT

The public hearing was held to receive citizen comment regarding the proposed amendment to Chapter 8, Buildings and Building Regulations, Article IX, *Historic Districts*, of the Code of Ordinances of the City of Owosso, Michigan.

There were no citizen comments.

There was Council discussion regarding non-contributory buildings and typical concerns of property owners within the district.

A letter of protest from property owner Robert Brewer was noted. It was pointed out the district should not hinder his ability to maintain his buildings and it would offer tax credits for any larger project he should undertake to improve the exterior of the buildings.

Whereas, the City Council, after due and legal notice, has met and there being no one to be heard, motion by Councilperson Cook to accept the Historic District Study Committee's report, amend the district boundaries to include the Middle School property and amend the current ordinance to reflect the new district as follows:

ORDINANCE NO. 717

AN ORDINANCE TO AMEND Chapter 8, Buildings and Building Regulations, Article IX, *Historic Districts*, of the Code of Ordinances of the City of Owosso, Michigan.

Section 1. That Chapter 8, Buildings and Building Regulations, Article IX, *Historic Districts*, of the Code of Ordinances of the City of Owosso, Michigan be amended as follows:

Section 2. The following definitions shall be deleted

Sec. 8-201. Definitions:

Center means the Michigan Historical Center of the Michigan Department of State.

Notice to proceed means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under section 8-208(f).

Ordinary maintenance means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for purposes of this act.

Standing committee means a permanent body established by the city council to conduct the activities of a historic district study committee on a continuing basis.

The following definitions shall be added to

Sec. 8-201. Definitions:

Department means the department of history, arts and libraries

Fire alarm system means a system designed to detect and annunciate the presence of fire or by-products of fire. Fire alarm system includes smoke alarms.

Notice to proceed means the written permission to issue a permit for work that is inappropriate and that adversely affects a resource, pursuant to a finding under Section 399.205(6) of Public Act 169 of 1970, as amended.

Ordinary maintenance means keeping a resource unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition. Ordinary maintenance does not change the external appearance of the resource except through the elimination of the usual and expected effects of weathering. Ordinary maintenance does not constitute work for the purposes of this article.

Smoke alarm means a single-station or multiple -station alarm responsive to smoke and not connected to a system. As used in this subdivision, a "single -station alarm" means an assembly incorporation a detector, the control equipment, and the alarm sounding device into a single unit, operated from a power supply either in the unit or obtained at the point of installation. "Multiple -station alarm" means two or more single-station alarms that are capable of interconnection such that actuation of one alarm causes all integrated separate audible alarms to operate.

Section 3. The following shall be added to

Sec. 8-208. Permit required... (C)(5):

(5) Whether the applicant has certified in the application that the property where the work will be undertaken has, or will have, before the proposed project completion date, a fire alarm system or a smoke alarm system complying with the requirements of the Stille-DeRossett-Hale single state construction code act of 1972 (MCL 12.1501 to 125.1531).

Section 4. The title to Sec 8-212. Construction of act shall be changed to **Sec. 8-212. Ordinary maintenance.**

Section 5. Section 8.213. Appeal of decisions. Shall be deleted in its entirety and replaced with a new section as follows:

Sec. 8-213. Appeal of a commission decision.

(a) An applicant aggrieved by a decision of the commission concerning a permit application may file an appeal with the State Historic Preservation Review Board. The appeal shall be filed within sixty (60) calendar days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The State Historic Preservation Review Board shall consider an appeal at its first regularly scheduled meeting after receiving the appeal. A permit applicant aggrieved by the decision of the State Historic Preservation Review Board may appeal the decision to the circuit court having jurisdiction over the historic district commission whose decision was appealed to the State Historic Preservation Review Board.

(b) Any citizen or duly organized historic preservation organization in the city of Owosso, as well as resource property owners, jointly or severally aggrieved by a decision of the historic district commission may appeal the decision to the circuit court, except that a permit applicant aggrieved by a decision rendered under this article may not appeal to the court without first exhausting the right to appeal to the State Historic Preservation Review Board.

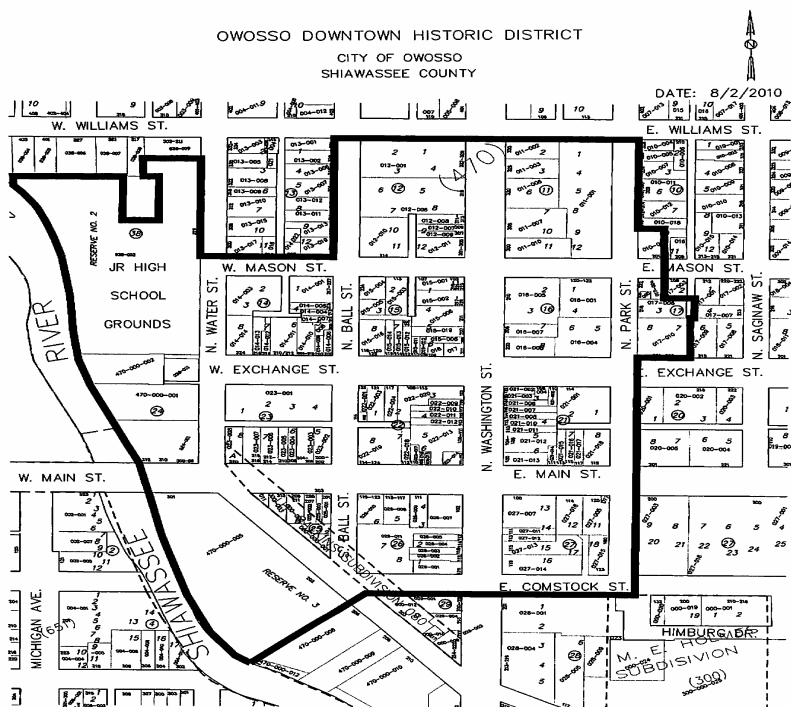
Section 6. The following shall be added as Sec. 8-216. Owosso Downtown Historic District.

Sec. 8-216. Owosso Downtown Historic District.

The Owosso Downtown Historic District shall be described as follows:

The plat of J.H. Calkins Subdivision of Reserve Number 7 of the City of Owosso, also the following blocks in the Original Plat of the Village, now City of Owosso, 11, 12, 14, 15, 16, 21, 22, 23, 24, 25, 26, Lots 11 through 18 in block 27, that portion of Reserve No. 1 and 2 south and west of the following described line, beginning at a point on the west line of Water Street where the north line of Mason Street, if extended, intersects said west line, then north along the west line of Water Street 326 feet, thence west parallel with the south line of William Street 143.8 feet thence south 62 feet parallel with the west line of Water Street, thence east parallel with the south line William Street 38 feet thence south parallel with the west line of Water Street 110 feet, thence west parallel with the south line of William Street 80 feet, thence north parallel to the west line of Water Street 110 feet, thence west parallel to the south line of William Street 292.7 feet thence south to the east bank of the Shiawassee River, and that portion of Reserve No. 3 that is north and west of a line perpendicular to the southwest line of Water Street that intersects the south line of Comstock Street and the Northeast line of Water Street and extends to the Shiawassee River. Also lots 8, 7, 3, and the west 1/2 of lot 2 in Block 17, and the west 82' of lot 11, and the west 82' of the south 33' of lot 10 in Block 10. This description also includes all street and alley right of ways in and adjoining these blocks and Reserves. Approximately 44.6 Acres.

A map of the Owosso Downtown Historic District is attached as Exhibit A.



Section 7. This ordinance shall become effective August 22, 2010.

Section 8. 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 Erfourth.

Roll Call Vote.

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

NAYS: Councilperson Eveleth.

CITIZEN COMMENTS AND QUESTIONS

Chuck Fellows, resident of Livingston County, introduced himself and indicated that he is a candidate for the State Senate seat in the 22nd District.

Guy Bazzani, President of Bazzani Building Company, expressed his praise for the Council's action to establish a downtown historic district saying he has extensive experience with historic districts and their benefits.

Linda Keenan, Executive Director of the Owosso Community Players, expressed her thanks to Council for their establishment of the downtown historic district.

Justin Horvath, President/CEO of the SEDP, indicated that the tax credits available to property owners within the historic district are important to spurring development and redevelopment.

David Acton, 4941 Chippewa Court, expressed his excitement on the establishment of the historic district saying he had recently made a purchase offer on a property downtown that he hopes to eventually live in and the tax credits will assist in rebuilding the structure.

Shelva Cebulski, 1243 Marion Street, said she was happy to see progress being made on the Lebowsky Center. She also inquired about the timing of Executive Sessions within a meeting.

Thomas Manke, 2912 West M-21, announced that Bike Fest will be held Saturday, August 8th in the parking lot behind the House of Wheels.

Burton Fox, 216 East Oliver Street, said that design flaws in the new streetscape on Washington Street create tripping hazards.

Lorraine Weckwert, 1011 North Shiawassee Street, encouraged everyone to read the Historic District Study Committee Report.

Mayor Frederick thanked everyone that participated in the river clean-up event.

Mayor Pro-Tem Popovitch inquired if there was a program to help the Elks Lodge maintain the old train depot.

Councilperson Cook commended the Study Committee for all of their hard work. He said he was excited about all of the benefits the historic district could provide to the area.

Councilperson Eveleth encouraged everyone to vote during the Primary Election on Tuesday.

Mayor Frederick indicated he is looking for candidates for the Historic District Commission.

CITY MANAGER REPORT

Interim City Manager Crawford provided a drawing of the proposed BMX track and indicated the area had been staked out. He went on to note that 144 homes had participated in the first monthly brush pick-up with a list being formed for next month.

CONSENT AGENDA

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

Set Public Hearing – Grant Closeout. Set a public hearing for August 16, 2010 to receive citizen comment regarding the close-out of the CDBG Infrastructure Capacity Enhancement for water system capacity and reliability improvements.

Bike Fest Permission. Approve application of the Westown Corridor Improvement Authority for use of the City parking lot north of the 800 block of West Main Street (Lot #11) from 7:00 a.m. until 3:00 pm on Sunday August 8, 2010 and authorize Traffic Control Order No. 1245 formalizing the request.

Payment Authorization. Authorize Progress Payment No. 1 to Wigen, Tincknell, Meyer & Associates, Inc. in the amount of \$2,745.75 for work completed on the façade project at 114 West Exchange Street as follows:

RESOLUTION NO. 86-2010

**AUTHORIZING PAYMENT TO
WIGEN, TINCKNELL, MEYER & ASSOCIATES, INC.
FOR WORK COMPLETED ON
THE 114 WEST EXCHANGE STREET FAÇADE PROJECT**

WHEREAS, the city of Owosso, Shiawassee County, Michigan, has received from the State of Michigan a Vibrant Small Cities Initiative Grant; and

WHEREAS, façade improvements are eligible for funding under the terms of the grant; and

WHEREAS, the owners of 114 West Exchange Street have undertaken a project to refurbish the façade of their location; and

WHEREAS, a portion of the work has been completed and is now eligible for reimbursement through the grant; and

WHEREAS, Wigen, Tincknell, Meyer & Associates, Inc. has applied to the City for payment.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Owosso, Shiawassee County, Michigan that:

- FIRST: The city of Owosso has heretofore determined that it is advisable, necessary and in the public interest to pay Wigen, Tincknell, Meyer & Associates, Inc. for eligible costs incurred in the course of refurbishing the façade of the business located at 114 West Main Street via the Vibrant Small Cities Initiative Grant.
- SECOND: The accounts payable department is authorized to submit payment to Wigen, Tincknell, Meyer & Associates, Inc. in the amount of \$2,745.75 as detailed on the attached Payment Request.
- THIRD: The above expenses shall be paid from the CDBG Fund with reimbursement from a VSCI Grant drawdown and the property owner.

Payment Authorization. Authorize Progress Payment No. 4 to the Owosso Community Players for the Lebowsky Center Façade Project in the amount of \$10,690.00, to be repaid by a VSCI Grant drawdown as follows:

RESOLUTION NO. 87-2010

**AUTHORIZING PAYMENT TO
THE OWOSSO COMMUNITY PLAYERS
FOR WORK COMPLETED ON
THE LEBOWSKY CENTER FAÇADE PROJECT
PAYMENT #4**

WHEREAS, the city of Owosso, Shiawassee County, Michigan, has received from the State of Michigan a Vibrant Small Cities Initiative Grant; and

WHEREAS, façade improvements are eligible for funding under the terms of the grant; and

WHEREAS, the Owosso Community Players have undertaken a project to rebuild the Lebowsky Center theater, of which façade improvements are a part; and

WHEREAS, a portion of the work has been completed and is now eligible for reimbursement through the grant; and

WHEREAS, project manager Bazzani Building Company has applied to the City for reimbursement

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Owosso, Shiawassee County, Michigan that:

- FIRST: The city of Owosso has heretofore determined that it is advisable, necessary and in the public interest to reimburse the Owosso Community Players for eligible funds spent in the course of reconstructing the façade of the theater via the Vibrant Small Cities Initiative Grant.
- SECOND: The accounts payable department is authorized to submit payment to the

Owosso Community Players in the amount of \$10,690.00 as detailed on the attached Payment Request 5.

THIRD: The above expenses shall be paid from the CDBG Fund with reimbursement from a VSCI Grant drawdown.

Warrant No. 407. Accepted Warrant No. 407 as follows:

Vendor	Description	Fund	Amount
Shiawassee Economic Development Partnership	Annual Economic Development Investment	General	\$15,713.00
Caledonia Charter Township	Caledonia Utility Fund payment April – June 2010	Water	\$15,383.74

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

ITEMS OF BUSINESS

LOT SPLIT AUTHORIZATION – 203 & 207 NORTH CEDAR STREET AND 812 BRADLEY STREET

Motion by Councilperson Eveleth to authorize the division of City lots under Michigan Subdivision Control Act for platted lots commonly known as 203 & 207 North Cedar Street and 812 Bradley Street as follows:

RESOLUTION NO. 88-2010

APPROVING AN ADMINISTRATIVE LOT SPLIT FOR JAMES PARK

WHEREAS, James Park has petitioned the city of Owosso for an administrative lot split of two lots under his ownership; and

WHEREAS, the request has been reviewed by the city engineer who has determined that public improvements are complete and satisfactory to serve the proposed configuration; and

WHEREAS, the city council reviewed the request for an administrative lot split on August 2, 2010.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Owosso hereby approves an administrative lot split as represented by James Park and shown on the attached exhibit.

Current lot descriptions:

207 North Cedar Street
050-660-011-004-00
LOT 3 BLK 11 AL & B O WILLIAMS ADD

812 Bradley Street
050-660-011-005-00
LOT 4 ALSO E 57' LOT 6 ALSO E 1/2 LOT 5 BLK 11 A L & B O WILLIAMS ADDN

New lot descriptions after split:

203 North Cedar Street
050-660-011-005-00
LOT 4 BLK 11 A L & B O WILLIAMS ADD (EXCEPT W 40')

207 North Cedar Street
050-660-011-004-00
LOT 3 BLK 11 A L & B O WILLIAMS ADD (EXCEPT W 40')

812 Bradley Street
050-660-011-006-00 new parcel 2011
W40' LOTS 4 & 5, ALSO E 57' LOT 6 ALSO E 1/2 LOT 5 BLK 11 A L & B O WILLIAMS ADD

Motion supported by Councilperson Erfourth.

Roll Call Vote.

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

NAYS: None.

MEDICAL MARIJUANA MORATORIUM DISCUSSION

There was a lengthy discussion regarding a possible moratorium for medical marijuana related businesses. Concern was expressed that the situation did not fit the definition for an emergency and thus a moratorium ordinance could not be immediately effective. There was further discussion regarding the actions taken by other municipalities, the lack of direction by the State, and potential litigation stemming from overly stringent regulation.

Christina Sharon relayed to the Council the nature of her medical marijuana related facility and how it helps those that are not helped by other more traditional treatments.

Patrick Kenney, owner of a medical marijuana related business, spoke about the stigma of marijuana use and how it could offer a reasonable alternative for pain relief than heavier narcotics.

There was discussion regarding referring the issue to the Planning Commission. Chairperson Burton Fox commented that he felt it was not appropriate for the Planning Commission to handle the issue.

The Council talked about forming a subcommittee to research appropriate regulations for medical marijuana facilities.

Motion by Councilperson Eveleth to form a subcommittee made up of Council members, ZBA members, health care representatives and Public Safety representatives to research appropriate regulations for facilities deemed legal by the new medical marijuana law. Further the committee will relay its goals within a 15 day period and complete its task within 30 days.

Motion supported by Mayor Pro-Tem Popovitch.

Roll Call Vote.

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

NAYS: None.

Mayor Frederick inquired whether the Council desired a moratorium on medical marijuana facilities.

Motion by Councilperson Cook to adopt an ordinance establishing a moratorium on facilities designed to grow or dispense medical marijuana for a period of 90 days.

Motion fails for lack of support.

5TH MONDAY MEETING

The Council asked for a staff update for the August 30th meeting detailing the status of the rental registration program, a list of next steps for enforcement of the program, possible housing programs that could be utilized, and potential aid for mixed use housing developments.

AGENDA PROCESS

There was discussion regarding the process for agenda formulation as well as its timeline. The Mayor suggested that subcommittees be formed to research the individual items of interest for Council members. He also suggested establishing timelines for projects as they arise.

There was further discussion regarding receiving project updates on a monthly basis, receiving the agenda packets on Wednesday, as well as publishing the agenda.

COMMUNICATIONS

Owosso Main Street/Downtown Development Authority. Minutes of Meeting of June 2, 2010.

Owosso Main Street/Downtown Development Authority. Minutes of Meeting of July 7, 2010.

Owosso Historical Commission. Minutes of the Meeting of July 20, 2010.

Westown Corridor Improvement Authority. Minutes of the Meeting of May 12, 2010.

Westown Corridor Improvement Authority. Minutes of the Meeting of June 9, 2010.

Westown Corridor Improvement Authority. Minutes of the Meeting of July 14, 2010.

CITIZEN COMMENTS AND QUESTIONS

Annjolie Cohoon, 800 Ryan Street, inquired about the updated flood map and its possible affect on her property. Interim City Manager Crawford took her information and indicated he would look into the matter.

Burton Fox, 216 East Oliver Street, indicated work has started on the installation of a monument dedicated to the Korean War in Fayette Square. He encouraged interested parties to donate funds toward the project.

Eddie Urban, 601 Glenwood Avenue, indicated VA hospitals and clinics can prescribe medical marijuana to patients.

Michael Tillotson, 1299 South Shiawassee Street, relayed his experience with drug users at the Department of Corrections. He asked Council not to allow medical marijuana businesses in the City.

Justin Horvath, president/CEO of the SEDP, indicated his organization would assist with any housing discussion the Council wants to pursue.

Raymond Cohoon, 800 Ryan Street, inquired whether the medical marijuana moratorium discussed this evening would affect businesses only or if it would affect patients and caregivers too. It was noted that question would be answered in the subcommittee.

Mayor Frederick gave an update on the rededication of the Fayette Square monuments.

Councilperson commented that the Council had a responsibility to uphold the laws of the State of Michigan regardless of their personal opinion on a particular law.

NEXT MEETING

August 16, 2010

BOARDS AND COMMISSIONS OPENINGS

None.

ADJOURNMENT

Motion by Councilperson Eveleth for adjournment at 10:16 p.m.

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

Benjamin R. Frederick, Mayor

Amy K. Kohagen, City Clerk