

CITY OF OWOSSO
REGULAR MEETING OF THE CITY COUNCIL
MONDAY, DECEMBER 02, 2013
7:30 P.M.

Meeting to be held at City Hall
301 West Main Street

AGENDA

OPENING PRAYER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OF THE AGENDA:

APPROVAL OF THE MINUTES OF REGULAR MEETING OF NOVEMBER 18, 2013:

ADDRESSING THE CITY COUNCIL

1. Your comments shall be made during times set aside for that purpose.
2. Stand or raise a hand to indicate that you wish to speak.
3. When recognized, give your name and address and direct your comments and/or questions to any City official in attendance.
4. Each person wishing to address the City Council and/or attending officials shall be afforded one opportunity of up to four (4) minutes duration during the first occasion for citizen comments and questions. Each person shall also be afforded one opportunity of up to three (3) minutes duration during the last occasion provided for citizen comments and questions and one opportunity of up to three (3) minutes duration during each public hearing. Comments made during public hearings shall be relevant to the subject for which the public hearings are held.
5. In addition to the opportunities described above, a citizen may respond to questions posed to him or her by the Mayor or members of the Council, provided members have been granted the floor to pose such questions.

STUDENT REPRESENTATIVE REPORT

PROCLAMATIONS / SPECIAL PRESENTATIONS

1. 2013 Amos Gould Outstanding Citizen Award. Presentation of the 2013 Amos Gould Outstanding Citizen Award to W. Shaffer Fox.

PUBLIC HEARINGS

1. Ordinance Repeal – Begging Ordinance. Conduct a Public Hearing to gather citizen comment on the proposed repeal of Chapter 19, Offenses, Article I, Section 19-3, *Begging*, of the Code of Ordinances of the City of Owosso to comply with the recent U.S. Court of Appeals ruling declaring begging a form of speech protected by the First Amendment.

CITIZEN COMMENTS AND QUESTIONS

CITY MANAGER REPORT

Project Status Report

CONSENT AGENDA

1. Special Assessment District No. 2013-04 – Hazards and Nuisances. Authorize Resolution No. 1 setting a public hearing for Monday, December 16, 2013 to receive citizen comment regarding Special Assessment District No. 2013-04, Hazards and Nuisances, as it relates to unpaid costs incurred in the altering, repairing, tearing down, abating or removing of hazards and nuisances.
2. First Reading & Set Public Hearing – PILOT Ordinance Amendment. Conduct first reading and set a public hearing for Monday, December 16, 2013 to receive citizen comment regarding the proposed amendment to Section 32-40, Establishment of annual service charge for Lincoln House, of the Code of Ordinances of the City of Owosso to reduce the Woda Group's annual payment in lieu of taxes to accommodate unforeseen changes in the Federal tax credits available to the project.
3. Boards and Commissions Appointment. Approve the Mayoral appointment of Shawn Kiley to the Historical Commission, for a term expiring December 31, 2016, effective January 1, 2014.
4. Downtown Infrastructure Grant Part II Application. Authorize the execution of the DIG Grant commitment letter and submission of a Part II application to the Michigan Economic Development Corporation.
5. Purchase Authorization – Variable Frequency Drives. Authorize the purchase of three variable frequency drives for the Waste Water Treatment Plant from McNaughton-McKay Electric Company in the amount of \$23,723.52 and further authorize payment upon receipt of the equipment.
6. Warrant No. 474. Authorize Warrant No. 474 as follows:

Vendor	Description	Fund	Amount
Michigan Municipal Risk Management Authority	Building and property insurance	General	\$59,109.75
Sungard Public Sector Inc	Software maintenance/licensing fees for public safety computer system – January 1, 2014 – December 31, 2014	General	\$ 9,134.07
Logicalis, Inc	Network engineering support- October 2013-revised amount	General	\$ 9,520.00

ITEMS OF BUSINESS

1. West Main Street Parking. Consider a contract with MDOT for the construction of additional parking on West Main Street in the amount of \$11,400.

COMMUNICATIONS

1. Parks & Recreation Commission. 2013 Parks Report & 2014 Action Plan.
2. Downtown Development Authority/Main Street. Minutes of November 6, 2013.
3. Historical Commission. Minutes of November 12, 2013.

CITIZEN COMMENTS AND QUESTIONS

NEXT MEETING

Monday, December 16, 2013

BOARDS AND COMMISSIONS OPENINGS

Planning Commission, term expires 06-30-2016

ADJOURNMENT

The City of Owosso will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon seventy-two (72) hours notice to the City of Owosso. Individuals with disabilities requiring auxiliary aids or services should contact the City of Owosso by writing or calling the following: Amy K. Kirkland, City Clerk, 301 West Main Street, Owosso, MI 48867 or at (989) 725-0500. The City of Owosso Website address is www.ci.owosso.mi.us.

OWOSSO CITY COUNCIL

NOVEMBER 18, 2013

7:30 P.M.

PRESIDING OFFICER: MAYOR BENJAMIN R. FREDERICK

A moment of silence was held in memory of Matthew Guetschow, son of former City Manager Gregg Guetschow, on the occasion of his passing.

OPENING PRAYER: REVEREND WESLEY COFFEY
OWOSSO WESLEYAN CHURCH

PLEDGE OF ALLEGIANCE: MARSHA LADD
FORMER PARKS & RECREATION COMMISSION CHAIR

PRESENT: Mayor Benjamin R. Frederick, Mayor Pro-Tem Christopher T. Eveleth, Councilpersons Loreen F. Bailey, David B. Bandkau, Burton D. Fox, John V. Greenway, and Robert J. Teich, Jr.

ABSENT: None.

APPROVE AGENDA

Motion by Mayor Pro-Tem Eveleth to approve the agenda with the addition of Item of Business 3. Animal Control Ordinance.

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

APPROVAL OF THE MINUTES OF REGULAR MEETING OF NOVEMBER 4, 2013

Motion by Councilperson Bailey to approve the Minutes of the Regular Meeting of November 4, 2013 as presented.

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

APPROVAL OF THE MINUTES OF ORGANIZATIONAL MEETING OF NOVEMBER 12, 2013

Motion by Councilperson Bailey to approve the Minutes of the Organizational Meeting of November 12, 2013 as presented.

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

STUDENT REPRESENTATIVE REPORT

None.

PROCLAMATIONS / SPECIAL PRESENTATIONS

SAFE CENTER PRESENTATION

(This presentation was postponed to a later date by request of the presenter.)

PUBLIC HEARINGS

None.

CITIZEN COMMENTS AND QUESTIONS

Marsha Ladd, 735 Lingle Avenue, said she wanted to explain to Council why she and her husband felt they could not vote for the street bond, saying she felt it was too ambitious to include sidewalks and trails, the pay-back period was too long, and she wanted to see more streets in her neighborhood targeted for repair. She said that if the Council were to propose another bond that did not include sidewalks and trails and included more streets in her neighborhood she would consider voting for it.

Tom Manke, business owner at 118 South Washington Street, said he had posted Neil White's comments from the last meeting on his Facebook page and 100% of those that commented on his post were opposed to the City's new regulations on new construction. He asked Council to repeal the regulations.

Councilperson Bailey thanked all the volunteers and organizers that came together to decorate the downtown for the Glow, saying it was not only productive but fun.

Mayor Frederick sought clarification on the design standards asking if the color of paint was actually dictated by the ordinance (it was indicated it was not) and he asked if the newly adopted rules regarding shrubs were a restatement of the previous regulations (it was indicated that they were a restatement of what was already on the books). He said he would encourage debate on the issue but felt that first steps should be taken to clear up any misconceptions about the newly adopted standards.

Councilperson Fox said he had feared the inclusion of trails in the street bond question would cause its demise. He said Council needed to examine what to do going forward now that the bond has been defeated at the polls. He suggested possibly refining the question and putting it in front of voters again in 2014.

Councilperson Teich sought some clarification on the hedge issue asking what had prompted the examination of the ordinance in the first place. Mayor Frederick indicated that a review of the Zoning Ordinance was undertaken as a part of the implementation of the Master Plan and the revisions stemmed from that review.

Mayor Pro-Tem Eveleth clarified the ordinance amendment process for the new Council members saying that the language on hedges was repealed and reinstated as a part of a larger overall amendment to the pertinent section of the Code. He went on to say that the intent of the ordinance was only to regulate those hedges that caused an issue with traffic visibility.

CITY MANAGER REPORT

City Manager Crawford indicated that MDOT had recently completed a study of the traffic signal at the corner of Gould Street and Main Street and had concluded that a left-turn arrow was not necessary for those traveling north and south on Gould Street, but that a change to the timing of the light was warranted. Since then the timing has been adjusted and traffic seems to be moving smoothly through the intersection.

Councilperson Fox said he had received a couple of phone calls from folks concerned that the intersection of Gould Street and Main Street had become dangerous with the recent power outage. He wanted to know if the City had the authority to place temporary stop signs on a State highway in such an event. DPW Director Mark Sedlak indicated that MDOT strongly discouraged the practice of placing temporary stop signs because when the power is restored to the light drivers are unsure which traffic signal to follow leading to accidents and potential liability issues. He said he would consider placing temporary signs at an intersection when it is anticipated power will be out for a number of days.

CONSENT AGENDA

Motion by Mayor Pro-Tem Eveleth to approve the Consent Agenda as follows:

Conduct First Reading and Set Public Hearing – Begging Ordinance. Conduct First Reading and Set a Public Hearing for Monday, December 2, 2013 to gather citizen comment on the proposed repeal of Chapter 19, Offenses, Article I, Section 19-3, *Begging*, of the Code of Ordinances of the City of Owosso to comply with the recent U.S. Court of Appeals ruling declaring begging a form of speech protected by the First Amendment as follows:

RESOLUTION NO. 131-2013

**TO CONDUCT THE FIRST READING AND SET A PUBLIC HEARING FOR
AN ORDINANCE TO REPEAL OWOSSO
CITY CODE SECTION 19-3 BEGGING**

WHEREAS, the City of Owosso has an ordinance on its books prohibiting begging; and

WHEREAS, a recent ruling by the United States Court of Appeals has ruled that begging is a form of free speech protected by the First Amendment; and

WHEREAS, in light of this ruling, the City has an obligation to repeal the local ordinance.

NOW, THEREFORE BE IT RESOLVED, THE CITY OF OWOSSO ORDAINS that Chapter 19, Offenses, Article I, Section 19-3, *Begging*, of the Code of the City of Owosso be amended as follows:

SECTION 1. REPEAL. That Section 19-3 of the Owosso City Code pertaining to begging is repealed.

~~Sec. 19-3. Begging.~~

~~It shall be unlawful for any person to beg in any public place.~~

SECTION 2. EFFECTIVE DATE. This amendment shall become effective 20 days after passage.

SECTION 3. AVAILABILITY. This ordinance may be purchased or inspected in the city clerks' office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

SECTION 4. PUBLIC HEARING. A public hearing is set for Monday, December 2, 2013 at approximately 7:30 p.m. in the City Hall Council Chambers to hear citizen comment regarding the proposed amendment.

Boards and Commissions Appointments. Consider the following Mayoral Boards and Commissions appointments:

Name	Board/Commission	Term Expires
Amber Fuller*	Board of Review	12-31-2018
Sally Sue Gale*	Board of Review	12-31-2018
David Bandkau	Planning Commission (Council representative)	11-13-2017
Sue Ludington	Historical Commission (effective 01-01-2013)	12-31-2016

* indicates a reappointment

Service Agreement – BidNet. Authorize service agreement with International Data Base Corp., d/b/a Interactive Procurement Technologies by BidNet for web-based solicitation and bidding services with an initial term of 36 months as follows:

RESOLUTION NO. 132-2013

AUTHORIZING A SERVICE AGREEMENT WITH

**INTERNATIONAL DATA BASE CORP.,
D/B/A INTERACTIVE PROCUREMENT TECHNOLOGIES BY BIDNET
FOR WEB-BASED SOLICITATION AND BIDDING SERVICES**

WHEREAS, International Data Base Corporation, doing business internationally under the registered name of BidNet, has developed a web based solicitation and bidding system that provides a portal for buyers and suppliers to conduct business on-line, and

WHEREAS, nine local units of government organized to form the Michigan Inter-Governmental Trade Network (MITN) and adopted the proprietary software developed by BidNet to facilitate an electronic marketplace for local governments and suppliers, and

WHEREAS, MITN has been in existence long enough to demonstrate sustainability and market recognition and currently has 121 local government members in Michigan, and

WHEREAS, increasingly suppliers to Michigan local governments are subscribing to MITN and participating in on-line bid solicitations, offering a more efficient and competitive market, and

WHEREAS, there are no annual fees for the City to become a member of the Michigan Inter-Governmental Trade Network except a five percent commission if the City sells surplus equipment, and

WHEREAS, participation in MITN will serve to supplement existing direct mail bid solicitations, local newspaper advertising, and posting on the City's website for merchants not currently involved in electronic commerce.

NOW THEREFORE BE IT RESOLVED:

- FIRST: the City of Owosso is hereby authorized to become a member of the Michigan Inter-Governmental Trade Network under the terms of the agreement attached.
- SECOND: the City is authorized to reimburse BidNet approximately ninety-five dollars for a direct mailing to every vendor on our existing bid list.
- THIRD: the City is authorized to pay a five percent commission upon the successful sale and payment for surplus equipment.
- FOURTH: the City is authorized to promote and encourage participation in MITN with our current vendors.

Bid Award – Ambulance Supplies. Waive competitive bidding requirements and authorize contract with the holder of the State contract for ambulance supplies, J&B Medical Supply Co., Inc. for the 2013-14 fiscal year in an amount not to exceed \$15,000.00 as follows:

RESOLUTION NO. 133-2013

**RESOLUTION WAIVING THE COMPETITIVE BID PROCESS AND
AUTHORIZING CONTRACT WITH J & B MEDICAL SUPPLY CO., INC. AND
FURTHER AUTHORIZING PAYMENT FOR AMBULANCE SUPPLIES**

WHEREAS, the City of Owosso, Shiawassee County, Michigan, has an ambulance service that requires the purchase of ambulance supplies; and

WHEREAS, J & B Medical Supply Co., Inc. has the State of Michigan contract for ambulance supplies; and

WHEREAS, the Code of Ordinances provides an exception to competitive bidding requirements when

doing so will benefit the city.

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

- FIRST: The competitive bidding requirements are hereby waived as prescribed in the City of Owosso Code of Ordinances Section 2-345 (3).
- SECOND: The City of Owosso is authorized to enter into a contract with J & B Medical Supply Co., Inc. for an amount not to exceed \$15,000.00 for ambulance supplies for the 2013-2014 fiscal year.
- THIRD: Payment to J & B Medical Supply Co., Inc. is hereby authorized in an amount not to exceed \$15,000.00 from account 101-335-728.100.
- FOURTH: The mayor and the City Clerk are instructed and authorized to sign the document substantially in the form attached, Contract for Services between the City of Owosso, Michigan and J & B Medical Supply Co., Inc.

Change Order No. 1 – Gould Street Bridge Engineering Services Contract. Authorize Change Order No. 1 to the contract with Fishbeck, Thompson, Carr & Huber, Inc. for engineering services for the repair of the Gould Street Bridge, increasing the contract in the amount of \$3,100.00 for additional repairs beyond the original contractual scope of services as follows:

RESOLUTION NO. 134-2013

**RESOLUTION AUTHORIZING CHANGE ORDER #1 TO THE CONTRACT WITH
FISHBECK, THOMPSON, CARR & HUBER, INC.
FOR
BRIDGE ENGINEERING SERVICES FOR GOULD STREET BRIDGE
OVER SHIAWASSEE RIVER**

WHEREAS, the City of Owosso, Shiawassee County, Michigan, approved a contract with Fishbeck, Thompson, Carr & Huber, Inc. on August 5, 2013 for Bridge Engineering Services for the Gould Street Bridge over the Shiawassee River; and

WHEREAS the consultant has analyzed the bridge and finds it necessary to perform additional work beyond the original contractual scope of services; and

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

- FIRST: The City of Owosso has theretofore determined that it is advisable, necessary and in the public interest to amend the contract with Fishbeck, Thompson, Carr & Huber, Inc. for a cost to the City of Owosso of \$3,100.00.
- SECOND: The mayor and city clerk are instructed and authorized to sign the document substantially in the form attached, Amendment #1 to the Contract between the City of Owosso, Michigan and Fishbeck, Thompson, Carr & Huber, Inc.
- THIRD: The above expenses shall be paid from the Major Street Construction Contractual Services Fund, account 202-451-818000.

Change Order No. 2 – 2013 Street Paving Program. Authorize Change Order No. 2 – Final to the contract with Michigan Paving and Materials Company decreasing the amount by \$8,025.06 to account for the use of less material than originally estimated as follows:

RESOLUTION NO. 135-2013

**AUTHORIZING CHANGE ORDER #2-FINAL
TO THE CONTRACT WITH
MICHIGAN PAVING AND MATERIALS COMPANY
FOR THE 2013 STREET PAVING PROGRAM**

WHEREAS, the city of Owosso, Shiawassee County, Michigan, approved a contract Michigan Paving and Materials Company on August 19, 2013 for the 2013 Street Paving Program; and

WHEREAS, less material was required for the sidewalk and driveway removal and replacement on Krust Drive from Dewey Street to North Street, the patch work on Stewart Street, and the mill and fill on Lafayette Boulevard.

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

FIRST: The City of Owosso amends the contract with Michigan Paving and Materials Company to decrease the materials on their contract.

SECOND: The mayor and city clerk are instructed and authorized to sign the document substantially in form attached, Amendment to the Contract for services between the City of Owosso and Michigan Paving & Materials Company decreasing the total amount by \$8,025.06.

Progress Payment – 2013 Street Paving Program. Authorize Progress Payment No. 1 – Final to Michigan Paving and Materials Company for work completed on the 2013 Street Paving Program, as amended by Change Orders No. 1 & 2 in the amount of \$230,188.30 as follows:

RESOLUTION NO. 136-2013

**AUTHORIZING PAYMENT TO
MICHIGAN PAVING AND MATERIALS COMPANY
FOR WORK COMPLETED ON THE
2013 STREET PAVING PROGRAM
AS AMENDED BY CHANGE ORDERS #1 & #2-FINAL**

WHEREAS, the city of Owosso, Shiawassee County, Michigan, entered into a unit price contract with Michigan Paving and Materials Company for the 2013 Street Paving Program; and

WHEREAS, the work is complete and is now eligible for payment; and

WHEREAS, the City project manager recommends Pay Estimate #1-Final in the amount of \$230,188.30 for work completed through November 1, 2013, with said unit quantities and amounts agreed to by Michigan Paving and Materials Company.

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

FIRST: The City of Owosso has hereto determined that it is advisable, necessary and in the public interest to pay Michigan Paving and Materials Company for work completed on the 2013 Street Paving Program as amended by Change Orders #1 & #2-Final.

SECOND: The accounts payable department is authorized to submit payment to Michigan Paving and Materials Company in the amount of \$230,188.30 as detailed on attached Payment Estimate #1-Final.

THIRD: The above expenses shall be paid from the 2010 General Obligation Unlimited Tax Bonds.

Change Order No. 1 – 2013 Slurry Seal & Double Chip Seal Program. Authorize Change Order No. 1-Final to the contract with Highway Maintenance and Construction Company for the 2013 Slurry Seal & Double Chip Seal Program decreasing the contract amount by \$2,051.58 because less material was needed to complete the program than originally estimated as follows:

RESOLUTION NO. 137-2013

**RESOLUTION AUTHORIZING CHANGE ORDER #1-FINAL
TO THE CONTRACT WITH
HIGHWAY MAINTENANCE AND CONSTRUCTION COMPANY
FOR THE 2013 SLURRY SEAL & DOUBLE CHIP SEAL PROGRAM**

WHEREAS, the City of Owosso, Shiawassee County, Michigan, approved a contract with Highway Maintenance and Construction Company on August 19, 2013 for the 2013 Slurry Seal & Double Chip Seal Program; and

WHEREAS, Highway Maintenance and Construction Company has completed the program using less material than estimated in the original contract.

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

FIRST: The City of Owosso has theretofore determined that it is advisable, necessary and in the public interest to amend the contract with Highway Maintenance and Construction Company for work completed on the 2013 Slurry Seal & Double Chip Seal Program.

SECOND: The mayor and city clerk are instructed and authorized to sign the document substantially in the form attached, Amendment to the Contract for services between the City of Owosso, Michigan and Highway Maintenance and Construction Company, decreasing the total amount of the original contract by \$2,051.58.

Progress Payment – 2013 Slurry Seal & Double Chip Seal Program. Authorize Progress Payment No. 1-Final to Highway Maintenance and Construction Company for work completed on the 2013 Slurry Seal & Double Chip Seal Program contract, as amended by Change Order No. 1-Final, in the amount of \$178,108.46 as follows:

RESOLUTION NO. 138-2013

**RESOLUTION AUTHORIZING PAYMENT TO
HIGHWAY MAINTENANCE AND CONSTRUCTION COMPANY
FOR WORK COMPLETED ON THE
2013 SLURRY SEAL & DOUBLE CHIP SEAL PROGRAM
AS AMENDED BY CHANGE ORDER #1-FINAL**

WHEREAS, the City of Owosso, Shiawassee County, Michigan, approved a contract with Highway Maintenance and Construction Company on August 19, 2013 for the 2013 Slurry Seal and Double Chip Seal Program; and

WHEREAS, the work is completed and is now eligible for payment; and

WHEREAS, the City project manager recommends Pay Estimate #1-Final in the amount of \$178,108.56 for work completed through October 15, 2013, with said units and quantities agreed to by Highway Maintenance and Construction Company.

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

FIRST: The City of Owosso has theretofore determined that it is advisable, necessary and in the public interest to pay Highway Maintenance and Construction Company for work completed on the 2013 Slurry Seal & Double Chip Seal Program, as amended by Change Order #1-Final.

SECOND: The Accounts Payable Department is authorized to submit payment to Highway Maintenance and Construction Company in the amount of \$178,108.56 as detailed on attached Pay Estimate #1-Final.

THIRD: The above expenses shall be paid from the Major and Local Street Maintenance Funds (Account numbers: 202-463-818000 & 203-463-818000).

Warrant No. 473. Authorize Warrant No. 473 as follows:

Vendor	Description	Fund	Amount
Logicalis, Inc	Network engineering support- October 2013	General	\$ 7,616.00
State of Michigan	Annual MDEQ fee for public water supplies	Water	\$ 5,358.66
McNaughton-McKay Electric Company	Emergency busway replacement at the Waste Water Treatment Plant	WWTP	\$24,000.00
Halligan Electric, Inc.	Emergency installation of an electrical busway at the Waste Water Treatment Plant	WWTP	\$ 6,840.00
Brown & Stewart, PC	Professional services- October 15, 2013 – November 18, 2013	General	\$ 9,929.50

*Check Register –October 2013. Affirm check disbursements totaling \$800,156.80 for the month of October 2013.

Motion supported by Councilperson Bailey.

Roll Call Vote.

AYES: Councilperson Fox, Mayor Pro-Tem Eveleth, Councilpersons Bandkau, Greenway, Bailey, Teich, and Mayor Frederick.

NAYS: None.

* Due to its length, the Check Register is not included in the minutes. Full text of this item is on file in the Clerk's Office.

ITEMS OF BUSINESS

SAW GRANT APPLICATION – SANITARY SEWER COLLECTION SYSTEM

Utilities Director Gary M. Burk briefly detailed the grant applications saying that this was an opportunity to obtain grant money for things that the City will be required to do in the near future, potentially taking some pressure off of the sewer fund. He said the application process for this particular grant program was a little different in that Council would be approving the grant agreement prior to the award of any monies. And that one of the stipulations of the grant agreements is that a review of the financial health of the system must be conducted and if it is determined the system is not self-sustaining the City will be required to raise rates or pay back the grant funds.

Councilperson Fox inquired whether the potential grant funds would be able to help the City with its efforts to correct sanitary sewer overflows. Mr. Burk noted that the grant does have that potential in that all of the system will be televised and will help detect cross connections and footing drain connections. He also noted that should the City qualify as a Disadvantaged Community it could apply for up to \$500,000 in additional grant funds that could be used to help offset the costs of the overflow control project and the footing drain connection project.

Motion by Mayor Pro-Tem Eveleth to authorize application for a Stormwater, Asset Management, and Wastewater Grant through the Michigan Department of Environmental Quality for the development of an asset management program for the sanitary sewer collection system, accepting the terms of the grant should one be awarded, and further authorizing City Manager Donald Crawford as the City's authorized representative as follows:

RESOLUTION NO. 139-2013

RESOLUTION AUTHORIZING THE SAW GRANT AGREEMENT FOR THE SANITARY SEWER COLLECTION SYSTEM

WHEREAS, Part 52 (strategic water quality initiatives) of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended ("Part 52"), provides at MCL 324.5204e that the Michigan Finance Authority (the "MFA") in consultation with the Michigan Department of Environmental Quality (the "DEQ") shall establish a strategic water quality initiatives grant program; and

WHEREAS, in accordance with the provisions of 2012 PA 511, which provides grants to municipalities for sewage collection and treatment systems or storm water or nonpoint source pollution control; and

WHEREAS, in accordance with the provisions of 1985 PA 227, as amended, Part 52, and other applicable provisions of law, the MFA, the DEQ, and the Municipality that is a grant recipient shall enter into a grant agreement (the "SAW Grant Agreement") that requires the Municipality to repay the grant under certain conditions as set forth in MCL 324.5204e, as amended; and

WHEREAS, the Municipality does hereby determine it necessary to (select one or more)
 establish an asset management plan, establish a stormwater management plan, establish a plan for wastewater/stormwater, establish a design of wastewater/stormwater, pursue innovative technology, or initiate construction activities (up to \$500,000 for disadvantaged community).

WHEREAS, it is the determination of the Municipality that at this time, a grant in the aggregate principal amount not to exceed \$1,201,348 ("Grant") be requested from the MFA and the DEQ to pay for the above-mentioned undertaking(s); and

WHEREAS, the Municipality shall obtain this Grant by entering into the SAW Grant Agreement with the MFA and the DEQ.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Manager, a position currently held by Donald D. Crawford, is designated as the Authorized Representative for purposes of the SAW Grant Agreement.

2. The proposed form of the SAW Grant Agreement between the Municipality, the MFA and DEQ is hereby approved and the Authorized Representative is authorized and directed to execute the SAW Grant Agreement with such revisions as are permitted by law and agreed to by the Authorized Representative.
3. The Municipality shall repay the Grant, within 90 days of being informed to do so, with interest at a rate not to exceed 8 percent per year, to the Authority if the Municipality is unable to, or decides not to, proceed with constructing the project or implementing the asset management program for which the funding is provided within 3 years of the Grant award.
4. The Grant, if repayable, shall be a first budget obligation of the Municipality, and the Municipality is required, if necessary, to levy ad valorem taxes on all taxable property in the Municipality for the payment thereof, subject to applicable constitutional, statutory and Municipality tax rate limitations.
5. The Municipality shall not invest, reinvest or accumulate any moneys deemed to be Grant funds, nor shall it use Grant funds for the general local government administration activities or activities performed by municipal employees that are unrelated to the project.
6. The Authorized Representative is hereby jointly or severally authorized to take any actions necessary to comply with the requirements of the MFA and the DEQ in connection with the issuance of the Grant. The Authorized Representative is hereby jointly or severally authorized to execute and deliver such other contracts, certificates, documents, instruments, applications and other papers as may be required by the MFA or the DEQ or as may be otherwise necessary to effect the approval and delivery of the Grant.
7. The Municipality acknowledges that the SAW Grant Agreement is a contract between the Municipality, the MFA and the DEQ.
8. All resolutions and parts of resolutions insofar as they conflict with the provisions of this Resolution are rescinded.

Motion supported by Councilperson Fox.

Roll Call Vote.

AYES: Councilpersons Bailey, Bandkau, Fox, Teich, Greenway, Mayor Pro-Tem Eveleth, and Mayor Frederick.

NAYS: None.

SAW GRANT APPLICATION – MID-COUNTY WASTE WATER TREATMENT PLANT

It was noted a new resolution for the item had been distributed to correct an error in the amount of the request from \$230,020 to \$230,120.

Motion by Mayor Pro-Tem Eveleth to authorize application for a Stormwater, Asset Management, and Wastewater Grant through the Michigan Department of Environmental Quality for the development of an asset management program for the Mid-County Waste Water Treatment Plant, accepting the terms of the grant should one be awarded, and further authorizing City Manager Donald Crawford as the City's authorized representative as follows:

RESOLUTION NO. 140-2013

RESOLUTION AUTHORIZING THE SAW GRANT AGREEMENT

FOR THE MID-COUNTY WASTE WATER TREATMENT PLANT

WHEREAS, Part 52 (strategic water quality initiatives) of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended ("Part 52"), provides at MCL 324.5204e that the Michigan Finance Authority (the "MFA") in consultation with the Michigan Department of Environmental Quality (the "DEQ") shall establish a strategic water quality initiatives grant program; and

WHEREAS, in accordance with the provisions of 2012 PA 511, which provides grants to municipalities for sewage collection and treatment systems or storm water or nonpoint source pollution control; and

WHEREAS, in accordance with the provisions of 1985 PA 227, as amended, Part 52, and other applicable provisions of law, the MFA, the DEQ, and the Municipality that is a grant recipient shall enter into a grant agreement (the "SAW Grant Agreement") that requires the Municipality to repay the grant under certain conditions as set forth in MCL 324.5204e, as amended; and

WHEREAS, the Municipality does hereby determine it necessary to (*select one or more*)

establish an asset management plan, establish a stormwater management plan, establish a plan for wastewater/stormwater, establish a design of wastewater/stormwater, pursue innovative technology, or initiate construction activities (up to \$500,000 for disadvantaged community).

WHEREAS, it is the determination of the Municipality that at this time, a grant in the aggregate principal amount not to exceed \$230,120 ("Grant") be requested from the MFA and the DEQ to pay for the above-mentioned undertaking(s); and

WHEREAS, the Municipality shall obtain this Grant by entering into the SAW Grant Agreement with the MFA and the DEQ.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Manager, a position currently held by Donald D. Crawford, is designated as the Authorized Representative for purposes of the SAW Grant Agreement.
2. The proposed form of the SAW Grant Agreement between the Municipality, the MFA and DEQ is hereby approved and the Authorized Representative is authorized and directed to execute the SAW Grant Agreement with such revisions as are permitted by law and agreed to by the Authorized Representative.
3. The Municipality shall repay the Grant, within 90 days of being informed to do so, with interest at a rate not to exceed 8 percent per year, to the Authority if the Municipality is unable to, or decides not to, proceed with constructing the project or implementing the asset management program for which the funding is provided within 3 years of the Grant award.
4. The Grant, if repayable, shall be a first budget obligation of the Municipality, and the Municipality is required, if necessary, to levy ad valorem taxes on all taxable property in the Municipality for the payment thereof, subject to applicable constitutional, statutory and Municipality tax rate limitations.
5. The Municipality shall not invest, reinvest or accumulate any moneys deemed to be Grant funds, nor shall it use Grant funds for the general local government administration activities or activities performed by municipal employees that are unrelated to the project.
6. The Authorized Representative is hereby jointly or severally authorized to take any actions necessary to comply with the requirements of the MFA and the DEQ in connection with the issuance of the Grant. The Authorized Representative is hereby jointly or severally authorized to execute and deliver such other contracts, certificates, documents, instruments, applications and

other papers as may be required by the MFA or the DEQ or as may be otherwise necessary to effect the approval and delivery of the Grant.

7. The Municipality acknowledges that the SAW Grant Agreement is a contract between the Municipality, the MFA and the DEQ.
8. All resolutions and parts of resolutions insofar as they conflict with the provisions of this Resolution are rescinded.

Motion supported by Councilperson Bailey.

Roll Call Vote.

AYES: Councilpersons Teich, Bandkau, Fox, Bailey, Greenway, Mayor Pro-Tem Eveleth, and Mayor Frederick.

NAYS: None.

ANIMAL CONTROL ORDINANCE (Added to the agenda.)

Councilperson Fox asked for an update on the issue saying he didn't want it to be forgotten. Mayor Frederick indicated that he and Councilperson Bailey had met with County Commissioners Horvath and Bartz about the issue and had found the meeting productive. He encouraged the City to be patient while the Commissioners discuss the issue, saying if the City pulled out of the County system now implementation of a separate system would be rushed and clunky. He said he had assurances from the Commissioners that they would take the City's issues back to the Commission for discussion and the City owed it to them to allow them the time to consider the issue.

Councilperson Fox said he was concerned because when he had recently mentioned the issue to the Commission Chairman he was not aware there was even a problem. He said there seemed to be a breakdown in communication and he didn't want the issue to fall through the cracks. He asked that the issue be placed on the agenda for the second meeting in December to allow for further refinement of the proposed ordinance should the County's reaction not be favorable.

COMMUNICATIONS

Gary M. Burk, Utilities Director. Emergency purchase report.
Charles P. Rau, Building Official. October 2013 Building Department Report.
Charles P. Rau, Building Official. October 2013 Code Violations Report.
Kevin D. Lenkart, Public Safety Director. October 2013 Police Report.
Kevin D. Lenkart, Public Safety Director. October 2013 Fire Report.
Parks & Recreation Commission. Minutes of October 28, 2013.
Planning Commission. Minutes of October 28, 2013.
Brownfield Redevelopment Authority. Minutes of November 7, 2013.

Councilperson Fox inquired about the repeal of the begging ordinance asking why it wasn't repealed earlier when the ruling was handed down by the Court of Appeals. City Attorney Brown replied that it was a relatively obscure ordinance that had been on the books for a very long time and was one that he may have prosecuted only once in his time with the City.

CITIZEN COMMENTS AND QUESTIONS

Tom Manke, business owner at 118 South Washington Street, read aloud a short portion of the design standards ordinance. He said he felt the regulations were far too over-reaching and feels that the ordinance mandates that one's house must match your neighbor's house in color and building design. He asked again for Council to repeal the design standards.

Councilperson Greenway inquired about the process for repealing the ordinance. It was noted the process was the same as that for adoption, the ordinance is proposed, a public hearing is held, and then Council has the opportunity to consider whether or not it becomes law.

Mayor Frederick said he had concerns about the ordinance but felt that it was more important at this point to make sure that everyone had a clear representation of the facts regarding the ordinance.

Councilperson Fox noted the ordinance had passed on a 4-3 vote and he felt a review of the ordinance was warranted and certainly wouldn't hurt.

Mayor Frederick asked that a staff presentation on the topic be scheduled so that everyone has a clear view of what actually is, and is not, in the ordinance. He further clarified that Neil White had implied during the November 12th meeting that he had come to the City with his house plans and was rejected and this was simply not true. He said Mr. White had assumed the City would reject his plans and so never even applied.

City Manager Crawford reminded Council that any changes to the Zoning Ordinance would need the recommendation of the Planning Commission as well.

Councilperson Bailey said that even those Council members that voted for the ordinance had some reservations. That being said she said the ordinance was intentionally written in a vague fashion to allow for a wide range of housing, noting that the variety was part of what makes Owosso charming.

NEXT MEETING

Monday, December 2, 2013

BOARDS AND COMMISSIONS OPENINGS

Planning Commission, term expires 06-30-2016

ADJOURNMENT

Motion by Mayor Pro-Tem Eveleth for adjournment at 8:19 p.m.

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

Benjamin R. Frederick, Mayor

Amy K. Kirkland, City Clerk



301 W. MAIN • OWOSSO, MICHIGAN 48867-2958 • (989) 725-0599 • FAX (989) 723-8854

MEMORANDUM

TO: Owosso City Council, City Manager, City Clerk, Director of Public Safety

FROM: William C. Brown, City Attorney

DATE: November 13, 2013

RE: Owosso City Ordinance Section 19-3, Begging

I received the attached letter from the Michigan ACLU requesting that City of Owosso, Ordinance Section 19-3 be repealed based upon *Speet v Schuette* 726 F. 3d 867 (2013). The ACLU is correct. The City of Owosso is bound by the case which held that a begging ordinance is unconstitutional because it violates the First Amendment.

Therefore, I have drafted the attached ordinance repealing Section 19-3.

Please feel free to contact me with any questions or comments.

WCB/jmr

ORDINANCE NO. ____

**AN ORDINANCE TO REPEAL
OWOSSO CITY CODE SECTION 19-3, BEGGING**

WHEREAS, the City of Owosso has an ordinance on its books prohibiting begging; and

WHEREAS, a recent ruling by the United States Court of Appeals has ruled that begging is a form of free speech protected by the First Amendment; and

WHEREAS, in light of this ruling the City has an obligation to repeal its local ordinance.

NOW, THEREFORE BE IT RESOLVED, THE CITY OF OWOSSO ORDAINS that Chapter 19, Offenses, Article I, Section 19-3, *Begging*, of the Code of the City of Owosso be amended as follows:

SECTION 1. REPEAL. That Section 19-3 of the Owosso City Code pertaining to begging is repealed.

~~Sec. 19-3. Begging.~~

~~It shall be unlawful for any person to beg in any public place.~~

SECTION 2. EFFECTIVE DATE. This amendment shall become effective December 23, 2013.

SECTION 3. AVAILABILITY. This ordinance may be purchased or inspected in the city clerks' office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.



State Headquarters
2966 Woodward Avenue
Detroit, MI 48201
Phone 313.578.6800
Fax 313.578.6811
Email aclu@aclumich.org
www.aclumich.org

Legislative Office
115 West Allegan Street
Lansing, MI 48933
Phone 517.372.8503
Fax 517.372.5121
Email aclu@aclumich.org
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West Michigan Regional Office
1514 Wealthy SE, Suite 242
Grand Rapids, MI 49506
Phone 616.301.0930
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www.aclumich.org

Letter reprinted from
the meeting of
November 18, 2013

October 29, 2013

William Brown
Owosso City Attorney
301 W. Main St.
Owosso, MI 48867

Re: Owosso's Unconstitutional Begging Ordinance

Dear Mr. Brown:

We are writing to ask that Owosso repeal its unconstitutional begging ordinance. In August, the U.S. Court of Appeals for the Sixth Circuit issued an important decision holding that begging is a form of speech protected by the First Amendment and that Michigan's state-law ban on begging in a public place, M.C.L. § 750.167(1)(h), is facially unconstitutional. *See Speet v. Schuette*, 726 F.3d 867 (6th Cir. 2013) (enclosed). As a result of *Speet*, municipal ordinances that similarly prohibit begging in public places are likewise unconstitutional and should be repealed.

We have reviewed your city ordinance and understand it to read as follows:

It shall be unlawful for any person to beg in any public place.

Owosso, Mich., Code § 19-3 (1977).

Owosso's ordinance, like the state law struck down in *Speet*, prohibits begging in public places and is therefore unconstitutional on its face. We therefore advise you to repeal the ordinance and to instruct your local law enforcement agency to stop enforcing it immediately.

The ACLU recognizes that municipalities have a legitimate interest in public safety. But as Judge Robert Jonker specifically explained in holding the state law unconstitutional, cities can enforce existing criminal laws instead of criminalizing speech:

Nothing prohibits the government from regulating directly the conduct the government identifies as problematic. The government can and does prohibit fraud, assault, and trespass. But what the government cannot do without violating the First Amendment is categorically prohibit the speech and expressive elements that may sometimes be associated with the harmful conduct; it must protect the speech and expression, and focus narrowly and directly on the conduct it seeks to prohibit.

Speet v. Schuette, 889 F. Supp. 2d 969, 977 (W.D. Mich. 2012).

We appreciate your time and attention to ensure that the First Amendment rights of poor people are respected in Owosso. Once you have had the opportunity to review this letter, we ask that you contact Sofia Rahman at srahman@aclumich.org within 30 days to let us know whether you intend to repeal the ordinance and take appropriate measures to ensure that it will not be enforced



by local law enforcement officers. Please feel free to call if you would like to discuss this matter further or if you have any questions.

Sincerely,



Sofia Rahman, Legal Fellow
(313) 578-6807
srahman@aclumich.org



Daniel Korobkin, Staff Attorney
(313) 578-6824
dkorobkin@aclumich.org



Michael J. Steinberg, Legal Director
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ACLU of Michigan
2966 Woodward Ave.
Detroit, MI 48201-3035



Miriam Aukerman, Staff Attorney
ACLU West Michigan Regional Office
1514 Wealthy St. SE, Ste. 242
Grand Rapids, MI 49506
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maukerman@aclumich.org

726 F.3d 867
United States Court of Appeals,
Sixth Circuit.

James SPEET and Ernest Sims,
Plaintiffs–Appellees,
v.
Bill SCHUETTE, Defendant–Appellant.

No. 12–2213.
Argued: June 13, 2013.
Decided and Filed: Aug. 14, 2013.

Union Fund of Michigan, Grand Rapids, Michigan,
Michael J. Steinberg, Daniel S. Korobkin, American Civil
Liberties Union Fund of Michigan, Detroit, Michigan, for
Appellees.

Before: MARTIN and SUTTON, Circuit Judges;
ADAMS, District Judge.*

* The Honorable John R. Adams, United States District
Judge for the Northern District of Ohio, sitting by
designation.

OPINION

BOYCE F. MARTIN, JR., Circuit Judge.

This appeal involves a facial challenge to the constitutionality, under the First and Fourteenth Amendments to the United States Constitution, of a Michigan statute that criminalizes begging. This appeal poses two issues. The first issue is whether begging is a form of solicitation that the First Amendment protects. We hold that it is. The second issue is whether, as the district court concluded, the statute violates—on its face—the First Amendment. We agree with the district court that it does. Michigan’s anti-begging statute cannot withstand facial attack because it prohibits a substantial amount of solicitation, an activity that the First Amendment protects, but allows other solicitation based on content. Therefore, we **AFFIRM** the district court’s judgment.

The Michigan anti-begging statute at issue in this case has existed since at least 1929. Mich. Comp. Laws § 900 (1929). The statute provides that “[a] person is a disorderly person if the person is any of the following: ...
~~(h) A person found begging in a public place.”~~ Mich. Comp. Laws Ann. § 750.167(1)(h) (West 2013). The statute criminalizes begging. A person convicted under section 750.167(1)(h) is “guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.” Mich. Comp. Laws Ann. § 750.168(1) (West 2013). According to the record, the police department in Grand Rapids, Michigan recorded four-hundred and nine reports of incidents of police enforcing this anti-begging ordinance from 2008–2011.

*871 Among those whom the Grand Rapids police arrested under the anti-begging ordinance are the plaintiffs: James Speet and Ernest Sims, two homeless adult residents of Grand Rapids, Michigan. In January 2011, Speet was arrested for begging in Grand Rapids. He

Synopsis

Background: Arrestees brought action against state attorney general and city, challenging constitutionality of Michigan statute which criminalized begging in a public place. The United States District Court for the Western District of Michigan, Robert J. Jonker, J., 889 F.Supp.2d 969, granted arrestees’ motion for summary judgment. Defendants appealed.

Holdings: The Court of Appeals, Boyce F. Martin, Jr., Circuit Judge, held that:

^[1] begging, or the soliciting of alms, was a form of solicitation that the First Amendment protected;

^[2] Michigan’s anti-begging statute was facially invalid; and

^[3] statute could not be read to limit its constitutional effect.

Affirmed.

West Codenotes

Held Unconstitutional
M.C.L.A. § 750.167(1)(h)

Attorneys and Law Firms

*870 **ARGUED:** Ann M. Sherman, Office of the Michigan Attorney General, Lansing, Michigan, for Appellant. Miriam J. Aukerman, American Civil Liberties Union Fund of Michigan, Grand Rapids, Michigan, for Appellees. **ON BRIEF:** Ann M. Sherman, Office of the Michigan Attorney General, Lansing, Michigan, for Appellant. Miriam J. Aukerman, American Civil Liberties

was holding a sign saying: “Cold and Hungry, God Bless.” The police gave Speet an appearance ticket, and he pleaded guilty to the charge. Unable to pay the \$198 fine, Speet spent four days in jail. Then, in June 2011, Speet was holding a sign that said, “Need Job, God Bless,” while standing between a sidewalk and a street in Grand Rapids. The Grand Rapids police again arrested him for begging. After Speet secured pro bono counsel, the prosecution dismissed the begging charge.

On July 4, 2011, Sims needed money for bus fare, and asked a person on the street: “Can you spare a little change?” A Grand Rapids police officer witnessed Sims asking for change and immediately arrested him. After Sims, a veteran, requested that he not be taken to jail because it was the Fourth of July, the officer agreed to give him an appearance ticket. Later, Sims appeared without counsel in court on the begging charge. He pleaded guilty and was sentenced to pay a fine of \$100. Speet and Sims are not the only people that have been fined or jailed under Michigan’s anti-begging statute. The Grand Rapids Police Department, during 2008–2011, initiated three-hundred and ninety-nine cases by arresting or citing people for begging.

Speet and Sims sued Michigan Attorney General Bill Schuette, the City of Grand Rapids, and several of its police officers for declaratory and injunctive relief, alleging that Michigan’s anti-begging statute violated—both facially and as applied—the First Amendment and the Fourteenth Amendment’s Equal Protection Clause.

The complaint’s first count asserted that Michigan’s anti-begging law was “facially invalid under the First Amendment[;]” likewise, the complaint’s third count asserted that Michigan’s anti-begging law was “facially invalid under the Equal Protection Clause.” The complaint’s second and fourth counts asserted that the statute violated the First and Fourteenth Amendments “as applied” to Speet and Sims.

Instead of moving for summary judgment on the as-applied claims, Speet and Sims moved for summary judgment on the facial claims. *Speet v. Schuette*, 889 F.Supp.2d 969, 972 (W.D.Mich.2012). Michigan also moved for summary judgment on these claims. *Id.* In a published opinion and order, the district court granted Speet’s and Sims’ motion for partial summary judgment. *Id.* at 980. Michigan Attorney General Bill Schuette filed a timely appeal.

We review de novo a district court’s decision to grant summary judgment. *Ohio Citizen Action v. City of*

Englewood, 671 F.3d 564, 569 (6th Cir.2012) (citing *Dillon v. Cobra Power Corp.*, 560 F.3d 591, 595 (6th Cir.2009)). A district court properly grants summary judgment when “ ‘the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.’ ” *Id.* (quoting *Estate of Smithers ex rel. Norris v. City of Flint*, 602 F.3d 758, 761 (6th Cir.2010)). Here, the “parties agree[d] that there [was] no genuine issue of material fact regarding the facial challenge and that judgment as a matter of law [was] appropriate.” *Speet*, 889 F.Supp.2d at 972.

¹¹ ¹² ¹³ A facial challenge to a law’s constitutionality is an effort “to invalidate the law in each of its applications, to take the law off the books completely.” *Connection *872 Distrib. Co. v. Holder*, 557 F.3d 321, 335 (6th Cir.2009) (en banc); see also *Vill. of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 495, n. 5, 102 S.Ct. 1186, 71 L.Ed.2d 362 (1982) (“a ‘facial’ challenge ... means a claim that the law is ‘invalid *in toto*—and therefore incapable of any valid application.’ ” (quoting *Steffel v. Thompson*, 415 U.S. 452, 474, 94 S.Ct. 1209, 39 L.Ed.2d 505 (1974))). In contrast to an as-applied challenge, which argues that a law is unconstitutional as enforced against the plaintiffs before the court, a facial challenge “is not an attempt to invalidate the law in a discrete setting but an effort ‘to leave nothing standing[.]’ ” *Connection Distributing Co.*, 557 F.3d at 335 (en banc) (quoting *Warshak v. United States*, 532 F.3d 521, 528 (6th Cir.2008) (en banc)). Sustaining a facial attack to the constitutionality of a state law, as the district court did, is momentous and consequential. It is an “exceptional remedy.” *Carey v. Wolnitzek*, 614 F.3d 189, 201 (6th Cir.2010).

¹⁴ Generally, to “succeed in a typical facial attack,” a plaintiff must establish “ ‘that no set of circumstances exists under which [the statute] would be valid.’ ” *United States v. Stevens*, 559 U.S. 460, 130 S.Ct. 1577, 1587, 176 L.Ed.2d 435 (2010) (quoting *United States v. Salerno*, 481 U.S. 739, 745, 107 S.Ct. 2095, 95 L.Ed.2d 697 (1987)). Or, a plaintiff would have to establish that “the statute lacks any ‘plainly legitimate sweep [.]’ ” *Id.* (quoting *Washington v. Glucksberg*, 521 U.S. 702, 740 n. 7, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997) (Stevens, J., concurring)). Here, Attorney General Schuette argues that, to succeed in their facial attack, Speet and Sims must demonstrate that there is no conceivable manner in which the anti-begging statute can be enforced consistent with the First Amendment. While this is the general rule, an exception exists for facial challenges based on the First Amendment.

¹⁵¹ ¹⁶¹ Where a plaintiff makes a facial challenge under the First Amendment to a statute's constitutionality, the "facial challenge" is an "overbreadth challenge." *Connection Distrib. Co.*, 557 F.3d at 335; see also *City of Houston, Tex. v. Hill*, 482 U.S. 451, 458, 107 S.Ct. 2502, 96 L.Ed.2d 398 (1987) ("Only a statute that is substantially overbroad may be invalidated on its face." (citing *New York v. Ferber*, 458 U.S. 747, 769, 102 S.Ct. 3348, 73 L.Ed.2d 1113 (1982); *Broadrick v. Oklahoma*, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d 830 (1973))). Instead of having to prove that *no* circumstances exist in which the enforcement of the statute would be constitutional, the plaintiff bears a lesser burden: "to demonstrate that a 'substantial number of instances exist in which the law cannot be applied constitutionally.'" *Glenn v. Holder*, 690 F.3d 417, 422 (6th Cir.2012) (quoting *Richland Bookmart, Inc. v. Knox Cnty.*, 555 F.3d 512, 532 (6th Cir.2009)). Thus, "[t]he First Amendment doctrine of overbreadth is an exception to [the] normal rule regarding the standards for facial challenges." *Virginia v. Hicks*, 539 U.S. 113, 118, 123 S.Ct. 2191, 156 L.Ed.2d 148 (2003) (citing *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 796, 104 S.Ct. 2118, 80 L.Ed.2d 772 (1984)).

¹⁷¹ ¹⁸¹ ¹⁹¹ And in a facial challenge, a plaintiff must show substantial overbreadth: that the statute prohibits " 'a substantial amount of protected speech both in an absolute sense and relative to [the statute's] plainly legitimate sweep[.]'" *Carey v. Wolnitzek*, 614 F.3d 189, 208 (6th Cir.2010) (quoting *Connection Distrib. Co.*, 557 F.3d at 336). We have acknowledged that "[T]he concept of 'substantial overbreadth' " has "some elusive qualities[.]" *Connection Distrib. Co.*, 557 F.3d at 340; see also *Taxpayers for Vincent*, 466 U.S. at 800, 104 S.Ct. 2118 ("[t]he concept of *873 'substantial overbreadth' is not readily reduced to an exact definition."). But the doctrine of substantial overbreadth "involves an inquiry into the 'absolute' nature of a law's suppression of speech." *Connection Distrib. Co.*, 557 F.3d at 340. A facial challenge based on substantial overbreadth "describe[s] a challenge to a statute that in all its applications directly restricts protected First Amendment activity and does not employ means narrowly tailored to serve a compelling governmental interest." *Sec'y of State of Md. v. Joseph H. Munson Co., Inc.*, 467 U.S. 947, 966 n. 13, 104 S.Ct. 2839, 81 L.Ed.2d 786 (1984) (citing *Vill. of Schaumburg v. Citizens for a Better Env't*, 444 U.S. 620, 637-639, 100 S.Ct. 826, 63 L.Ed.2d 73 (1980) (rest of citation omitted)). As the Supreme Court has explained, the point of an overbreadth challenge "is that there is no reason to limit challenges to case-by-case 'as applied' challenges when the statute on its face and therefore in all its

applications falls short of constitutional demands." *Joseph H. Munson Co., Inc.*, 467 U.S. at 966 n. 13, 104 S.Ct. 2839. If we determine that a statute is substantially overbroad, we have necessarily determined that there is " 'a realistic danger that the statute itself will significantly compromise recognized First Amendment protections of parties not before the Court.' " *N.Y. State Club Ass'n v. City of N. Y.*, 487 U.S. 1, 11, 108 S.Ct. 2225, 101 L.Ed.2d 1 (1988) (quoting *Taxpayers for Vincent*, 466 U.S. at 801, 104 S.Ct. 2118). To succeed in an overbreadth challenge, therefore, a plaintiff must "demonstrate from the text of [the statute] and from actual fact that a substantial number of instances exist in which the [statute] cannot be applied constitutionally." *N.Y. State Club*, 487 U.S. at 14, 108 S.Ct. 2225.

¹¹⁰¹ ¹¹¹¹ ¹¹²¹ So the first step in reviewing a facial challenge to a law's overbreadth requires us " 'to determine whether the enactment reaches a substantial amount of constitutionally protected conduct.' " *City of Houston*, 482 U.S. at 458-59, 107 S.Ct. 2502 (quoting *Vill. of Hoffman Estates*, 455 U.S. at 494, 102 S.Ct. 1186; *Kolender v. Lawson*, 461 U.S. 352, 359 n. 8, 103 S.Ct. 1855, 75 L.Ed.2d 903 (1983)). If the law does not reach a substantial amount of constitutionally protected conduct, "then the overbreadth challenge must fail." *Vill. of Hoffman Estates*, 455 U.S. at 494, 102 S.Ct. 1186. In other words, the "first step in overbreadth analysis is to construe the challenged statute; it is impossible to determine whether a statute reaches too far without first knowing what the statute covers." *Williams*, 553 U.S. at 293, 128 S.Ct. 1830. We must scrutinize "[c]riminal statutes ... with particular care[.]" *City of Houston*, 482 U.S. at 459, 107 S.Ct. 2502 (citing *Winters v. New York*, 333 U.S. 507, 515, 68 S.Ct. 665, 92 L.Ed. 840 (1948)). Here, then, we must first determine whether the Michigan statute reaches a substantial amount of constitutionally protected conduct or speech. And, because it is a criminal statute, we must scrutinize the statute with particular care.

¹¹³¹ On appeal, Attorney General Schuette argues that the anti-begging statute does not reach any conduct or speech that the First Amendment protects. But begging, by its very definition, encapsulates the solicitation for alms. Although neither the anti-begging section of the statute, nor another section of the statute, defines "begging," according to Michigan law, "[w]hen a statute fails to define a term, we will construe it 'according to its common and approved usage....'" *Jennings v. Southwood*, 446 Mich. 125, 521 N.W.2d 230, 237 (1994) (quoting *State ex rel. Wayne Cnty. Prosecuting v. Levenburg*, 406 Mich. 455, 280 N.W.2d 810, 812 (1979), *abrogated on other grounds by Michigan ex rel. County Prosecutor v. Bennis*, 447 Mich. 719, 527 N.W.2d 483

(1994)). Michigan law further provides *874 that “resort[ing] to the standard dictionary definition is an appropriate means of determining [a term’s] common and approved usage.” *Shinkle v. Shinkle*, 255 Mich.App. 221, 663 N.W.2d 481, 485 (2003) (citing *Horace v. Pontiac*, 456 Mich. 744, 575 N.W.2d 762, 767 (1998)). Here, Attorney General Schuette resorted to a dictionary definition of begging in his opening brief, defining begging as “soliciting alms.” The New American Heritage Dictionary 119 (5th ed.1976). We see no reason not to use, for the purposes of this appeal, this commonsense definition of begging as “soliciting alms.”

While the United States Supreme Court has not, as Michigan correctly points out in its briefs, directly decided the question of whether the First Amendment protects soliciting alms when done by an individual, the Court has held—repeatedly—that the First Amendment protects charitable solicitation performed by organizations.

In *Village of Schaumburg v. Citizens for a Better Environment*, 444 U.S. 620, 622, 100 S.Ct. 826, 63 L.Ed.2d 73 (1980), the Court addressed the validity, under the First and Fourteenth Amendments, of a municipal ordinance that prohibited charitable organizations from soliciting contributions unless they used at least seventy-five percent of their receipts for what the ordinance defined as charitable purposes. The plaintiffs challenged “the facial validity of the village ordinance on First Amendment grounds,” *id.* at 627, 100 S.Ct. 826, and the Court affirmed the Seventh Circuit’s upholding of the district court’s “judgment of facial invalidity” of the ordinance. *Id.* at 634, 100 S.Ct. 826.

After summarizing its relevant cases, the Court held that its “[p]rior authorities, therefore, clearly establish that charitable appeals for funds, on the street or door to door, involve a variety of speech interests—communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes—that are within the protection of the First Amendment.” *Id.* at 632, 100 S.Ct. 826.

The Court has repeatedly reaffirmed *Schaumburg*’s holding that the First Amendment protects charitable solicitation. In 1984, the Court observed that *Schaumburg* had determined that “charitable solicitations are so intertwined with speech that they are entitled to the protection of the First Amendment.” *Joseph H. Munson Co.*, 467 U.S. at 959, 104 S.Ct. 2839. Then, in 1988, the Court reiterated that *Schaumburg* and *Munson*, “teach that the solicitation of charitable contributions is protected speech[.]” *Riley v. Nat’l Fed’n of the Blind of N.C., Inc.*,

487 U.S. 781, 789, 108 S.Ct. 2667, 101 L.Ed.2d 669 (1988). In 1990, in *United States v. Kokinda*, 497 U.S. 720, 110 S.Ct. 3115, 111 L.Ed.2d 571 (1990) (plurality opinion), while the Court held constitutional, as applied, a United States Postal Service regulation prohibiting the solicitation of alms and contributions on postal premises, the Court also stated that “[s]olicitation is a recognized form of speech protected by the First Amendment.” *Kokinda*, 497 U.S. at 725, 110 S.Ct. 3115 (citing *Schaumburg*, 444 U.S. at 629, 100 S.Ct. 826; *Riley*, 487 U.S. at 788–789, 108 S.Ct. 2667). Thus, the First Amendment protects charitable solicitation performed by organizations. But does the First Amendment protect the solicitation of alms when performed by an individual not affiliated with a group? We hold that it does.

We find persuasive the Seventh Circuit’s reasoning in *Gresham v. Peterson*, 225 F.3d 899 (7th Cir.2000), in which a plaintiff mounted an as-applied challenge, on First Amendment grounds, to an Indianapolis ordinance that prohibited soliciting in public places. The Seventh Circuit acknowledged that “the Supreme Court has not resolved directly the constitutional limitations *875 on [panhandling laws] as they apply to individual beggars,” but noted that the Court “has provided clear direction on how they apply to organized charities, not-for-profits, and political groups.” *Gresham*, 225 F.3d at 903 (citing *Riley*, 487 U.S. at 789, 108 S.Ct. 2667; *Joseph H. Munson Co.*, 467 U.S. at 959–60, 104 S.Ct. 2839; *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826).

We agree with the Seventh Circuit’s reasoning that “*Schaumburg* provides the appropriate standard to analyze” whether the First Amendment protects begging. *Gresham*, 225 F.3d at 904–05. *Gresham* analogized panhandlers to the charity in *Schaumburg*, saying that “[l]ike the organized charities, [the panhandlers’] messages cannot always be easily separated from their need for money.” *Id.* at 904. The *Gresham* panel concluded by saying that “[w]hile some communities might wish for all solicitors, beggars and advocates of various causes be vanished from the streets, the First Amendment guarantees their right to be there, deliver their pitch and ask for support.” *Id.* (citing *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826). We further agree with *Gresham*’s observation that “[i]ndeed, the Court’s analysis in *Schaumburg* suggests little reason to distinguish between beggars and charities in terms of the First Amendment protection for their speech.” *Id.*

Our sister circuits—the Second, Eleventh, and Fourth Circuits—in cases decided before and after *Gresham*, have similarly held that begging is a type of solicitation protected by the First Amendment. We find these cases to

be persuasive authority, as well, for our holding that begging is a form of solicitation that the First Amendment protects.

The Second Circuit, in *Loper v. New York City Police Department*, 999 F.2d 699, 706 (2d Cir.1993), affirmed the district court's judgment that had declared unconstitutional, on First Amendment grounds, a state statute which stated that "[a] person is guilty of loitering when he: 1.[l]oiterers, remains or wanders about in a public place for the purpose of begging...." N.Y. Penal Law § 240.35(1) (McKinney 1989). *Loper*, like *Gresham*, relied on *Schaumburg*'s holding that " 'charitable appeals for funds, on the street or door to door, involve a variety of speech interests—communication of information, the dissemination and propagation of view and ideas, and the advocacy of causes—that are within the protection of the First Amendment.' " *Loper*, 999 F.2d at 704 (quoting *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826). *Loper* explained that "[i]nherent in all the charitable solicitation cases revolving around the First Amendment is the concept that '[c]onvassers in such contexts are necessarily more than solicitors for money.' " *Id.* (quoting *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826). The *Loper* panel explained that "[b]egging frequently is accompanied by speech indicating the need for food, shelter, clothing, medical care or transportation." *Loper*, 999 F.2d at 704. It concluded that[,] "in regard to the message conveyed," it saw "little difference between those who solicit for organized charities and those who solicit for themselves[.]" because those who solicit for organized charities "are communicating the needs of others[.]" while those who solicit for themselves "are communicating their personal needs." *Id.* According to the *Loper* panel, "[b]oth solicit the charity of others. The distinction is not a significant one for First Amendment purposes." *Id.* (citation omitted).

The Eleventh Circuit, in *Smith v. City of Fort Lauderdale, Fla.*, 177 F.3d 954, 955 (11th Cir.1999), held that a city's regulation proscribing begging on a certain five-mile strip of beach and two attendant sidewalks was narrowly tailored to serve the city's legitimate interests. But the court *876 began its analysis by stating that "[l]ike other charitable solicitation, begging is speech entitled to First Amendment protection." *Id.* at 956 (footnote omitted) (citing, *Loper* 999 F.2d 699 at 704; *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826).

This year, the Fourth Circuit, in *Clatterbuck v. City of Charlottesville*, 708 F.3d 549, 551 (4th Cir.2013), addressed the question of whether a municipal ordinance, that prohibited people from soliciting immediate donations in two streets near a downtown shopping area,

unconstitutionally restricted the free speech of individuals who regularly begged there. The court noted, "[a]s a preliminary matter," that "the speech and expressive conduct that comprise begging merit First Amendment protection." *Id.* at 553. The court observed that the United States Supreme Court has "held that the solicitation of 'charitable contributions' is protected speech." *Id.* (quoting *Riley*, 487 U.S. at 789, 108 S.Ct. 2667). The court also observed that several other United States Courts of Appeals had "extended that holding to begging, which is simply solicitation on behalf of the speaker." *Id.* (citing *Smith* 177 F.3d at 956; *Loper*, 999 F.2d at 704). The court concluded by stating "[w]e agree that begging is communicative activity within the protection of the First Amendment." *Id.*

Michigan relies on several authorities to argue that the First Amendment does not protect begging, or soliciting alms—but we find not one of these authorities persuasive. First, Michigan cites Part II of Justice Kennedy's concurrence in *International Society for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 703, 112 S.Ct. 2701, 120 L.Ed.2d 541 (1992) (plurality opinion). In Part II of his concurrence, Justice Kennedy stated that he was "in full agreement with the statement of the Court that solicitation is a form of protected speech." *Lee*, 505 U.S. at 704, 112 S.Ct. 2701 (citing *Riley*, 487 U.S. at 788–89, 108 S.Ct. 2667; *Schaumburg*, 444 U.S. at 629, 100 S.Ct. 826) (rest of citation omitted). But Justice Kennedy argued that an airport regulation that prohibited solicitation for the immediate payment of funds did not violate the First Amendment because the regulation "reache[d] only personal solicitations for immediate payment of money." *Lee*, 505 U.S. at 704, 112 S.Ct. 2701. Justice Kennedy hypothesized that, had the regulation "prohibited all speech that requested the contribution of funds," then he "would [have] conclude[d] that it was a direct, content-based restriction of speech in clear violation of the First Amendment." *Id.* But, Justice Kennedy wrote, the "regulation d[id] not prohibit all solicitation[;]" rather, "it prohibit[ed] the 'solicitation and receipt of funds.'" *Id.* Justice Kennedy characterized the restriction as "directed only at the physical exchange of money, which is an element of conduct interwoven with otherwise expressive solicitation." *Id.* at 705, 112 S.Ct. 2701.

We decline to follow the reasoning in Part II of Justice Kennedy's concurrence in *Lee* for three reasons. First, to the extent that Part II of Justice Kennedy's concurrence argues that the "physical exchange of money" may be isolated from the act of solicitation, it runs contrary to *Schaumburg*'s holding that solicitation of charitable donations is "characteristically intertwined with

informative and perhaps persuasive speech[.]” *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826. *Schaumburg* does not suggest that the physical exchange of money may be isolated; it is “intertwined” with speech that the First Amendment protects. Second, Part II of Justice Kennedy’s concurrence is not *Lee*’s holding. And third, Justice Kennedy wrote Part II without another Justice joining him.

*877 Michigan also cites the Second Circuit’s decision in *Young v. New York City Transit Authority*, 903 F.2d 146 (2d Cir.1990), as authority for the proposition that the First Amendment does not protect begging. *Young* initially framed the issue as “whether the prohibition of begging and panhandling in the New York City subway system violate[d] the First Amendment of the United States Constitution.” *Young*, 903 F.2d at 147 (footnote omitted). The regulation provided that “ ‘no person, unless duly authorized ... shall upon any facility or conveyance ... solicit alms, subscription or contribution for any purpose.’ ” *Id.* at 148 (quoting N.Y. Comp.Codes R. & Regs. tit. 21, § 1050.6(b) (1989)). The Second Circuit opined that “[c]ommon sense” dictates that “begging is much more ‘conduct’ than it is ‘speech.’ ” *Id.* at 153. Therefore, the court reframed the issue as “whether begging constitutes the kind of ‘expressive conduct’ protected to some extent by the First Amendment.” *Id.*

Young read *Schaumburg*’s holding to be limited to appeals by organized charities; only these solicitations involve a variety of speech interests including communication of information, the dissemination and propagation of views and ideas, and the advocacy of causes. *Id.* at 155. *Young* asserted that “neither *Schaumburg* nor its progeny stand for the proposition that begging and panhandling are protected speech under the First Amendment.” *Id.* Rather, the court said, *Schaumburg*, *Munson* and *Riley* “hold that there is a sufficient nexus between solicitation by organized charities and a ‘variety of speech interests’ to invoke protection under the First Amendment.” *Id.* *Young* displayed the panel’s distaste for begging, writing that “[w]hile organized charities serve community interests by enhancing communication and disseminating ideas, the conduct of begging and panhandling in the subway amounts to nothing less than a menace to the common good.” *Young*, 903 F.2d at 156 (citing *Taxpayers for Vincent*, 466 U.S. at 805, 104 S.Ct. 2118).

We decline to follow the *Young* majority’s reasoning. We find more persuasive *Young*’s dissent, which held that there is no “legally justifiable distinction” between “begging for one’s self and solicitation by organized

charities.” *Young*, 903 F.2d at 164 (Meskill, J., dissenting). The dissent read *Schaumburg*—as we do—as holding that “charitable solicitation is protected because it ‘is characteristically intertwined with ... speech seeking support for particular causes or for particular views on economic, political, or social issues.’ ” *Id.* at 165 (quoting *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826). We agree with the dissent’s statement that *Schaumburg* “held that First Amendment protection attaches to all charitable solicitation, whether or not any speech incident to the solicitation actually takes place, because a sufficient nexus exists between a charity’s expression of ideas and its fundraising.” *Id.* We further agree with the dissent’s conclusion that “if First Amendment protection extends to charitable solicitation unaccompanied by speech, as it apparently does, it must extend to begging as well.” *Id.* And we agree that “begging is indistinguishable from charitable solicitation for First Amendment purposes. To hold otherwise would mean that an individual’s plight is worthy of less protection in the eyes of the law than the interests addressed by an organized group.” *Id.* at 167.

Moreover, *Loper* overruled *Young*’s holding that begging is not conduct that communicates. *Loper* stated that “[w]hile we indicated in *Young* that begging does not always involve the transmission of a particularized social or political message, *see Young*, 903 F.2d at 153, it seems certain that it usually involves some communication *878 of that nature.” *Loper*, 999 F.2d at 704.

¹⁴⁴ Based on the foregoing discussion, we hold that begging, or the soliciting of alms, is a form of solicitation that the First Amendment protects.

¹⁵¹ ¹⁶⁴ We now consider whether Michigan’s anti-begging statute is substantially overbroad. We will not apply the “ ‘strong medicine’ of overbreadth analysis where the parties fail to describe the instances of arguable overbreadth of the contested law.” *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 450 n. 6, 128 S.Ct. 1184, 170 L.Ed.2d 151 (2008) (citing *N.Y. State Club*, 487 U.S. at 14, 108 S.Ct. 2225). The plaintiff bears “ ‘the burden of demonstrating ... substantial overbreadth.’ ” *Connection Distrib. Co.*, 557 F.3d at 336 (quoting *Hicks*, 539 U.S. 113, 122, 123 S.Ct. 2191 (2003)). A plaintiff “ ‘must demonstrate from the text of the statute and from actual fact that a substantial number of instances exist in which the law cannot be applied constitutionally.’ ” *United States v. Coss*, 677 F.3d 278, 289 (6th Cir.2012) (quoting *Am. Booksellers Found. for Free Expression v. Strickland*, 601 F.3d 622, 627 (6th Cir.2010)). A plaintiff may not “leverage[] a few alleged unconstitutional applications of the statute into a ruling invalidating the law in all of its applications.” *Connection*

Distrib. Co., 557 F.3d at 340. Sometimes plaintiffs have difficulty bearing this burden. For example, in one case we said that the record was “ ‘utterly barren about whether some, many, indeed any, [other people] [were] affected by ... application of the statute.’ ” *Glenn*, 690 F.3d at 422 (quoting *Connection Distrib. Co.*, 557 F.3d at 338–39). We do not have that problem here.

¹¹⁷¹ The record shows that the statute reaches a substantial amount of begging, which we have held that the First Amendment protects because it is a form of solicitation. Instead of a few instances of alleged unconstitutional applications, we have hundreds. The Grand Rapids Police Department produced four hundred nine incident reports related to its enforcement of the anti-begging statute. Thirty-eight percent of the people that the police stopped were holding signs requesting help, containing messages like “Homeless and Hungry: Need Work,” “Homeless Please Help God Bless,” “Lost My Job Need Help,” and “Homeless and Hungry Vet.” The other sixty-two percent of the stops (two hundred fifty-five instances) involved people verbally soliciting charity. In forty-three percent of the cases, the police immediately arrested the people who were begging. In two hundred eleven cases, people convicted of begging were sentenced directly to jail time. The record in this case bolsters our “judicial prediction” that “the statute’s very existence may cause others not before the court to refrain from constitutionally protected speech or expression.” *Broadrick*, 413 U.S. at 612, 93 S.Ct. 2908.

Thus, sustaining the facial challenge in this case is appropriate because the risk exists that, if left on the books, the statute would chill a substantial amount of activity protected by the First Amendment. We must provide “this expansive remedy” because “the threat of enforcement of an overbroad law may deter or ‘chill’ constitutionally protected speech”—especially where, as here, “the overbroad statute imposes criminal sanctions.” *Hicks*, 539 U.S. at 119, 123 S.Ct. 2191 (citing *Schaumburg*, 444 U.S. at 634, 100 S.Ct. 826; *Bates v. State Bar of Ariz.*, 433 U.S. 350, 380, 97 S.Ct. 2691, 53 L.Ed.2d 810 (1977); *NAACP v. Button*, 371 U.S. 415, 433, 83 S.Ct. 328, 9 L.Ed.2d 405 (1963)). The reason for this is that “free expression may be inhibited almost as easily by the potential or threatened use of power as by the actual exercise of that power.” *N.Y. *879 State Club*, 487 U.S. at 11, 108 S.Ct. 2225 (citing *Thornhill v. Alabama*, 310 U.S. 88, 97–98, 60 S.Ct. 736, 84 L.Ed. 1093 (1940)). We are concerned that “[m]any persons, rather than undertake the considerable burden (and sometimes risk) of vindicating their rights through case-by-case litigation, will choose simply to abstain from protected speech, harming not only themselves but society

as a whole, which is deprived of an uninhibited marketplace of ideas.” *Hicks*, 539 U.S. at 119, 123 S.Ct. 2191 (citation omitted). Thus “[o]verbreadth adjudication, by suspending *all* enforcement of an overinclusive law, reduces these social costs caused by the withholding of protected speech.” *Id.* As long as “the statute remains available to the State the threat of prosecutions of protected expression is a real and substantial one.” *Dombrowski v. Pfister*, 380 U.S. 479, 494, 85 S.Ct. 1116, 14 L.Ed.2d 22 (1965).

¹¹⁸¹ But “[f]acial overbreadth has not been invoked when a limiting construction has been or could be placed on the challenged statute.” *Broadrick*, 413 U.S. at 613, 93 S.Ct. 2908 (citing *Dombrowski*, 380 U.S. at 491, 85 S.Ct. 1116; *Cox v. New Hampshire*, 312 U.S. 569, 61 S.Ct. 762, 85 L.Ed. 1049 (1941); *United States v. Thirty-Seven Photographs*, 402 U.S. 363, 91 S.Ct. 1400, 28 L.Ed.2d 822 (1971); *Breard v. Alexandria*, 341 U.S. 622, 71 S.Ct. 920, 95 L.Ed. 1233 (1951)). Therefore, we must consider any limiting construction of the statute that Michigan can present. *Vill. of Hoffman Estates*, 455 U.S. at 495 n. 5, 102 S.Ct. 1186 (“[i]n evaluating a facial challenge to a state law, a federal court must, of course, consider any limiting construction that a state court or enforcement agency has proffered.”) (citing *Grayned v. City of Rockford*, 408 U.S. 104, 110, 92 S.Ct. 2294, 33 L.Ed.2d 222 (1972)). We need not consider a limiting construction, however, if the statute “is not ‘fairly subject to an interpretation which will render unnecessary or substantially modify the federal constitutional question.’ ” *Bd. of Airport Comm’rs v. Jews for Jesus, Inc.*, 482 U.S. 569, 575, 107 S.Ct. 2568, 96 L.Ed.2d 500 (1987) (quoting *Harman v. Forssenius*, 380 U.S. 528, 535, 85 S.Ct. 1177, 14 L.Ed.2d 50 (1965)).

¹¹⁹¹ Here, we cannot read the statute to limit its constitutional effect. The statute simply bans an entire category of activity that the First Amendment protects.

We acknowledge that the statute serves “a sufficiently strong, subordinating interest that [Michigan] is entitled to protect.” *Schaumburg*, 444 U.S. at 636, 100 S.Ct. 826. Here, Attorney General Schuette argues that Michigan’s interest is in preventing fraud. He argues that not all those who beg are homeless and destitute, nor do all those who beg use the funds they receive from begging to meet basic needs. Instead, those who beg often spend that money on alcohol. The record contains an affidavit of an executive director of an agency that works with the homeless as saying that “the great majority of people panhandling for money are using the money for alcohol and drugs.” Furthermore, panhandlers who display signs saying that they are homeless often are not. Rather, they use the signs

“to elicit sympathy and money, often to feed a drug or alcohol problem.” Even the United States Department of Justice has recognized “[t]his potential for fraud” and has put out a publication on panhandling which states that “some panhandlers pretend to be disabled and/or war veterans,” and that the panhandlers’ “primary purpose is to immediately buy alcohol or drugs.” Attorney General Schuette also argues that the ordinance prevents duress.

We agree with Attorney General Schuette that the prevention of fraud and duress are substantial state interests. In *Schaumburg*, the Village argued that its ordinance was intimately related to the *880 substantial governmental interests in protecting the public from fraud, crime, and undue annoyance. *Schaumburg*, 444 U.S. at 636, 100 S.Ct. 826. The Court noted that, like here, “[p]revention of fraud [was] the Village’s principal justification” for the ordinance. *Id.* The Court declared that, while these interests were substantial, they were “only peripherally promoted” by the ordinance and “could be sufficiently served by measures less destructive of First Amendment interests.” *Id.* The Court said, “[t]he Village’s legitimate interest in preventing fraud can be better served by measures less intrusive than a direct prohibition on solicitation.” *Id.*

[20] [21] [22] [23] Michigan’s interest in preventing fraud can be better served by a statute that, instead of directly prohibiting begging, is more narrowly tailored to the specific conduct, such as fraud, that Michigan seeks to prohibit. Indeed, “ ‘[b]ecause First Amendment freedoms need breathing space to survive,’ ” a state “ ‘may regulate in the area only with narrow specificity.’ ” *Gooding v. Wilson*, 405 U.S. 518, 522, 92 S.Ct. 1103, 31 L.Ed.2d 408 (1972) (quoting *Button*, 371 U.S. at 433, 83 S.Ct. 328). A

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state must carefully craft the statute “to punish only unprotected speech and not be susceptible of application to protected expression.” *Gooding*, 405 U.S. at 522, 92 S.Ct. 1103. As the Supreme Court has warned, “statutes attempting to restrict or burden the exercise of First Amendment rights must be narrowly drawn and represent a considered legislative judgment that a particular mode of expression has to give way to other compelling needs of society.” *Broadrick*, 413 U.S. at 611–12, 93 S.Ct. 2908 (citations omitted). Where, as here, “the statute unquestionably attaches sanctions to protected conduct, the likelihood that the statute will deter that conduct is ordinarily sufficiently great to justify an overbreadth attack.” *Taxpayers for Vincent*, 466 U.S. at 800 n. 19, 104 S.Ct. 2118 (citing *Erznoznik v. City of Jacksonville*, 422 U.S. 205, 217, 95 S.Ct. 2268, 45 L.Ed.2d 125 (1975)). Michigan may regulate begging. As the Supreme Court has said, “[s]oliciting financial support is undoubtedly subject to reasonable regulation [.]” *Schaumburg*, 444 U.S. at 632, 100 S.Ct. 826. But Michigan must regulate begging “with due regard for the reality that solicitation is characteristically intertwined with informative and perhaps persuasive speech seeking support for particular causes or for particular views on economic, political, or social issues[.]” *Id.*

Because the anti-begging ordinance violates the First Amendment in banning a substantial amount of activity that the First Amendment protects, we **AFFIRM** the district court’s judgment. We need not, and so do not, consider whether the ordinance violates the Fourteenth Amendment.

CITY OF OWOSSO NOVEMBER 1, 2013 PROJECT STATUS REPORT

0 PROJECT TITLE	PROJECT DESCRIPTION	PROJECT STATUS --1 new project, 2 updated project, 3 no change in project
1 Title VI Non-Discrimination Plan	Received notification that in order to receive state and federal transportation money the city must adopt a Title VI Non-Discrimination Plan.	Human resources has prepared the required plan which must be reviewed by the Michigan Department of Transportation prior to city council adoption and formal submission.
1 Downtown Infrastructure Grant (DIG) application	Prepare an application for a \$695,264 grant for improvements to the general area between Water Street and M-52 and north of Main Street including the armory and the Curwood Castle.	The application was submitted October 1. The application has been recommended for approval subject to the city meeting specified requirements during the next several weeks.
2 Library boiler/heating system	On October 22, the city was notified that the steam boiler at the library had failed and would require major repairs or replacement.	Bids were received and a contract awarded. Installation should begin in early January. Temporary heating has been installed.
2 Facade grants	The city has qualified for state facade grants in the downtown area.	Work is underway on the Gutting Building at 110 E. Exchange Street, the Civile Building at 111 E. Main Street, the Nail Boutique Building at 112 S. Washington, the Sobak Building at 112 W, Exchange, and the Norm Henry Building at 117 N. Washington. An informational session for a new round of funding is scheduled for December 3 at 3:00 p.m. in the city council chambers.
2 Annual financial audit	Complete audit for fiscal year 2012-13 and submit to state of Michigan by December 31, 2013.	The auditors have completed on-site work and are preparing the final document for completion by December 27.
2 Standardization of request for bid documents	Develop standard request for bid documents to avoid confusion and misunderstandings.	The procedure was finalized and introduced November 26 along with updated purchasing procedures.
2 Leaf collection	Collect and dispose of leaves during the months of October and November.	Leaf drop was about two weeks late this year. An additional pickup will be made during the first two weeks of December.
2 Rental property registrations	Rental properties are to be registered by October 1.	By November 26 1,838 units had been registered leaving approximately 300 units unregistered. A final notice has been sent and tickets will be issued beginning December 9.
2 Red barrel project	Install red barrel in public safety building lobby for proper disposal of unused medications.	A red barrel has been placed in the public safety building lobby into which outdated and unused prescription drugs can be placed. The project has proven very successful, with 121 pounds collected and taken to a certified incinerator for disposal.
2 Wastewater treatment plant assessment	Determine what needs to be done to the wastewater treatment plant to meet the future needs of the city.	The SAW grant applications have been completed and will be submitted by December 3, 2013. The state is determining how to proceed as amounts applied for will likely far exceed available funds.
2 Email utility billings	Implement system to allow utility bills to be sent by email which would also allow online payments.	Information was sent with the October utility bills and 45 customers have signed up so far.
2 Employee health and medical insurance	The city is seeking proposals for providing health and medical benefits to the city.	A contract was approved by the city council which took effect November 15.
2 Street sweeper	Purchase a street sweeper through state contract.	City council approved the purchase of an Elgin Pelican sweeper on August 19 in the amount of \$170,525.80. The sweeper has been received, operators have been trained and it is in use. Mechanical problems which developed during the first two weeks have been corrected by the manufacturer.
2 Lebowsky sidewalk improvements	Replace sidewalk along Park Street adjacent to theater.	Plans and specifications are nearly completed for sidewalk and curb which will allow exiting of theater and provide a gathering place. The goal is to receive bids in January 2014.

0	PROJECT TITLE	PROJECT DESCRIPTION	PROJECT STATUS --1 new project, 2 updated project, 3 no change in project
2	Zoning ordinance rewrite	Rewrite the zoning ordinance to implement a part of the master plan.	The commission addressed revisions in the West Main Street corridor on November 25. Work sessions and hearings are scheduled to address zoning revisions for East Main Street and Corunna Avenue.
2	I-69 International Trade Corridor Next Michigan Development Corporation	Participate in a proposal to have Owosso execute an interlocal agreement creating the I-69 International Trade Corridor Next Michigan Development Corporation.	The next meeting will be at 9:00 a.m.on December 10 at Bishop Airport.
2	Unsafe property demolition	Force demolition or rehabilitation of vacant and unsafe properties.	Bids for the demolition of 1711 Frederick Street were received November 19 and a contract will soon be awarded. This is the last remaining property where demolition is planned in the near future.
2	Street light replacement (Consumers Energy)	Replace all mercury vapor lights with sodium vapor lights within four years.	Consumers Energy has completed an audit of all street lighting in Owosso and submitted a proposed contract which is being reviewed. Under the federal mandate, all mercury vapor lights must be replaced. Consumers Energy will replace all lights with sodium vapor, which will result in an energy savings to the city of approximately \$4 per light per month. The replacement program will take three to four years. The city may suggest areas of the city that may have a higher priority replacement.
2	Animal control ordinance and program	Following the refusal of Shiawassee County to continue providing animal control services to county cities, the city has prepared an ordinance establishing a program independent of the county.	An ordinance has been drafted and a public hearing was held October 21 and further consideration postponed until December 16. Shiawassee County began issuing licenses to Owosso residents on December 2 for the 2014 calendar year.
2	Castle improvements	Refurbishing of floors in the castle is being considered.	A proposal has been received to refurbish the floors and stairways when funds become available.
3	Wastewater treatment plant electrical work	Rewire the busway between the main transformer and main switch gear.	Equipment has been purchased and installation work is underway to provide redundancy between electrical services serving the wastewater treatment plant. Remaining main breaker has to wait until the busway arrives and is replaced. Work is progressing as scheduled.
3	Entranceway signs	Purchase new entranceway signs and install them near the city limits along the five state highway entrances to Owosso.	The plan is to have signs similar to the wayfinding signs designed by the DDA/Main Street constructed and installed. Design of the signs is proceeding, and property owners have been contacted concerning the necessary easements.
3	2000 Street improvement bonds	Issue \$990,000 in capital improvement bonds which were previously approved.	The city council approved issuance of the bonds, with proceeds to be used to pay for the 2013-14 street improvement program. The bond sale will occur soon and will be likely sold by the state of Michigan.
3	Connection to bike trail west of city	Prepare a plan and work toward connecting various areas of the city with the Owosso-to-St. Johns bicycle trail, which currently ends at the M-21 S curve.	Share-the-roadway signs have been installed within the city and soon will be installed in Owosso Township.
3	Disc golf course	Install a disc golf course in Rosevar Park and on adjacent Oak Hill Cemetery property.	Volunteers began installing the course August 25. Work is underway with the goal of completion by year end. Some issues concerning use and liability on the cemetery property remain.
3	M-52 and M-21 improvements and resurfacing	MDOT has scheduled improvements for 2014 rather than 2013 as initially planned.	Work with MDOT regarding utility relocations and replacement. Construction is to begin in April with completion scheduled for October.
3	Museum director employment	Employ a person to work approximately halftime as a museum director	The position has been filled.
3	Chestnut Street water main	Install new water main along South Chestnut from Frederick to South Street.	Materials have been ordered and the defective water main will be replaced in coming months.

0	PROJECT TITLE	PROJECT DESCRIPTION	PROJECT STATUS --1 new project, 2 updated project, 3 no change in project
3	Copy machine purchase	The large city copiers have exceeded their life expectancy and require replacement. Proposals for lease or purchase are being sought.	Three Ricoh copiers were purchased, the units have been installed and users have been trained.
3	Howard Street drainage	For many years there has been a drainage problem along Howard Street. With additional development along Corunna Avenue, the problem appears to be getting worse.	A study is underway to determine how the drainage issue can be solved.
3	National Register of Historic Places designation for downtown	The state of Michigan, on behalf of the city, has prepared an application to have the downtown area listed on the National Register of Historic Places.	The application has been prepared and reviewed. The application is scheduled to go before the National Park Service in January 2014.
3	Downtown rental program	Assist building owners to convert unused upper floors of buildings into apartments.	All projects are completed. Applications are being prepared for several projects with plans for submission in January or February 2014.
3	Bentley Park splash pad	Daniel Vargus, via the Shiawassee Regional Educational Service District, has raised money and purchased a splash pad to be installed in Bentley Park.	Installation is complete and the splash pad is operational.
3	Bentley Park	Repair restrooms, pavilion, gazebo, tennis and basketball courts.	The city was awarded a \$29,300 Recreation Passport grant from the state of Michigan. The contractor has completed the restrooms, tennis and basketball courts. All work is completed, except for repairs to the gazebo and the sidewalk to the gazebo.
3	Hazardous waste collection	Collect hazardous waste materials for proper disposal.	Shiawassee County residents disposed of large amounts of hazardous materials on October 26.
3	Sidewalk and curb bids	Replace damaged sidewalks and curbs throughout the city.	Curb and sidewalk work has been completed.
3	Crack sealing and patching	Seal cracks and repair street defects throughout the city.	The crack sealing work has been completed.
3	South Washington Street modification	Because of the roadway alignment and traffic movements, there is a high accident count on South Washington Street between Corunna Avenue and Gute Street.	Because of the need to reconstruct a portion the project has been postponed until the spring and summer of 2014.
3	North Street culvert	A culvert under North Street west of Chipman is showing signs of major deterioration.	Working with the Shiawassee County drain commissioner, plans are being prepared for improvements to the culvert.
3	Jackson Drive sidewalk bids	Install sidewalks on city-owned properties along Jackson Drive in the Osburn Lakes Subdivision.	The sidewalks have been installed and the project completed.
3	2013 street program	<p>2013 SLURRY SEAL LIST</p> <p>Cass, Cedar to Shiawassee; Cass, Shiawassee to Ball; Comstock, Washington to Oakwood; Clinton, Shiawassee to Michigan; Genesee, Shiawassee to Michigan; Bradley, Lyon to Shiawassee; Jackson Drive, Gould to End, plus side streets; Oliver, Chipman to Shiawassee; Oliver Shiawassee to Washington; Park, Mason to Williams; Monroe, Washington to Grand; Fletcher, Cedar to Shiawassee; Moore, Gould to Jackson Drive</p> <p>2013 DOUBLE CHIP SEAL PROGRAM</p> <p>Brooks, Cleveland to North end; Cleveland, Chestnut to Carmody; Park, Harper to Ridge</p>	The street work has been completed.
3	Rain garden renovations	Renovate Jerome Street rain garden to remove invasive species and other plants.	All plant life has been cut to ground level. In the spring, all growth will be killed and improvements made.

0	PROJECT TITLE	PROJECT DESCRIPTION	PROJECT STATUS --1 new project, 2 updated project, 3 no change in project
3	Southeast property acquisition	Purchase 35 acres between Vandekarr Road and the city's industrial park .	The purchase was completed and planning started on how to utilize the property. The next step will be to annex the property to the city, which is scheduled for November.
3	Tree planting program	Purchase and plant 100 trees at various locations throughout the city.	Trees were planted during October at Bentley Park and Greenacres Park and along several streets.
3	Foreclosed and vacant property ordinance	There is a problem with foreclosed and vacant residential properties being left unmaintained and blighting neighborhoods.	The number of registered properties continues to hover around 60. The police are making scheduled checks on each property, which have resolved several issues--unlocked doors, trash, and trespassing.
3	Brush collection	Collect brush throughout the city on the last week of the month.	July saw the largest number of pickups since the service started, 225.
3	Dispose of unneeded equipment	Sell obsolete, unused and worn-out equipment.	Bids have been received and are being evaluated versus selling for scrap.
3	Backhoe	Purchase a backhoe through a state contract.	Obtain documents necessary to purchase needed equipment through a state contract.
3	Front end loader	Purchase a front end loader through a state contract.	Obtain documents necessary to purchase needed equipment through a state contract.
3	Wayfinding signs	Install signs at key locations throughout the community to give directions to points of interest.	The first sign has been installed at the southwest corner of Main and Washington streets. The final insert has not been completed.
3	Gould Street bridge	Renovate the bridge to repair deterioration and to meet safety standards.	State and federal funds have been approved for 2014 to cover 95% of the estimated \$343,890 project cost. The engineering contract was approved August 5 and design work has started with construction to take place in summer 2014. MDOT will award the project in April. Work is underway for seeking an additional grant for additional repairs and adjacent roadway improvements.
3	Salt spreaders	Purchase salt boxes and spreaders which will meet city's needs.	Specifications are being prepared with determination as to whether existing trucks can be used or whether new trucks will also be necessary. Estimated cost per unit is \$85,000.
3	Healthcare taskforce	A taskforce has been created to address employee benefits.	The taskforce has held an initial meeting and is developing a survey to obtain employee input.
3	Pension plan	Obtain actuarial report	On August 15, the Owosso Employees Retirement System board agreed to request that Gabrel, Roeder, Smith & Company review the actuarial assumptions.
3	Walkway extension from Gould Street eastward	Install a trail from the Gould Street bridge along the south side of the Shiawassee River crossing over city-owned property.	Construction is anticipated within the next six months. Additional work will likely be incorporated into the Gould Street bridge repair project in 2014.
3	Main Street bridge	A storm sewer line which has collapsed under the bridge requires repairs.	The bridge and sewer line have been inspected, and a plan for making repairs is being developed. Also examining repairs to the retaining wall along the city hall.
3	Owosso dam study	A study was made of the three Shiawassee River dams located in Owosso and a final report has been received.	The report has been received and presented to the city council and posted on the city's web page. Some factfinding is now necessary to assist decision making. Owosso will likely be required to make a series of decisions following completion of the factfinding.
3	Sewer separation program	Prepare for adopting a program to remove storm and ground water from the sanitary sewer system.	Concentration is being made on residential inspections to identify illegal footing drain connections and sump pump discharges into sanitary sewer system.
3	Shiawassee River erosion project	Control and repair bank erosion where the Abrey drain connects with the river.	In participation with the soil and water conservation district, erosion control measures are being taken, including bank restoration. Detention facilities are being constructed to limit downstream erosion and control of pollutants such as suspended solids, with work planned in 2013.
3	Library agreement	Negotiate a new agreement with the library district to replace the expired agreement.	The agreement expired December 31, 2000. Nothing currently scheduled.
3	Krust Drive reconstruction	Reconstruct and repave Krust Drive.	Construction is complete on Krust Drive.



MEMORANDUM

DATE: For December 02, 2013 City Council Agenda

TO: Owosso City Council

FROM: Ronald J. Tobey, City Treasurer

RE: Hazards and Nuisances Special Assessment Roll

Over the course of the year, the City takes action to alleviate nuisances and hazards to the public that exist on private property. The charges for these actions are invoiced to the owner of record for the property. Once a year, per section 28-10.5 of the Code, any charges left unpaid shall be established as liens to the affected property. Once the lien is established I would be authorized to add the amount to the delinquent tax roll that will be prepared for the county on March 1, 2014. Even though these invoices will be established as liens, property owners are again notified of the outstanding charges and may make payment to the City of Owosso through February of 2014 without the charge being added to the delinquent tax roll.

The associated document to this memo details the outstanding nuisance and hazard invoices since this process last took place in December of 2012. It lists the invoice numbers, the date of the invoice, the parcel number and address, the type of nuisance or hazard and the amount of the invoice.

The process for establishing a lien is handled via special assessment. Initially, the list of outstanding invoices is presented to Council with a request to set a public hearing. Upon this action letters are sent to the affected property owners informing them of the City's intent to lien their property. They then have the opportunity to protest the proposed action at the public hearing. At the conclusion of the public hearing the Council can accept the roll as presented, make amendments to the roll, or hold off on action all together (though this is not recommended).

Please note that some of the invoices listed are less than 30 days old. Because the Code stipulates this process be taken up once per year unless there are extraordinary circumstances we have included these invoices on the list on the chance that if they are not paid we will not be forced to wait until December of 2014 to seek remedy. As stated above, if any of these invoices are paid before March 1, 2014 the invoice will be closed and no lien will be filed with the county.

Tonight, I recommend that you take action to start this process in motion by setting a public hearing for December 16, 2013, to receive citizen comment regarding this roll. An updated list of unpaid nuisance and hazard invoices will be provided to you for that meeting.

To: Owosso City Council
 From: Ronald J. Tobey, City Treasurer
 Date: November 26, 2013



The following special assessment roll consists of unpaid nuisances and hazards.

<u>INVOICE #</u>	<u>DATE</u>	<u>PARCEL NUMBER</u>	<u>ADDRESS</u>	<u>TYPE OF NUISANCE</u>	<u>BALANCE</u>
3397	7/23/2013	050-580-000-082-00	819 E COMSTOCK	BOARD UP HOUSE	\$260.34
3331	6/11/2013	050-602-001-004-00	820 S CHIPMAN	BOARD UP HOUSE/REMOVE I	\$146.60
3155	12/7/2012	050-601-000-037-00	221 W STEWART	BRANCH OFF OF PORCH	\$140.89
3269	4/8/2013	050-113-008-031-00	1229 MILWAUKEE	CLEAN UP	\$417.98
3511	11/11/2013	050-390-004-012-00	1260 ADAMS	CLEAN UP	\$386.17
3192	1/23/2013	050-651-006-007-00	320 CASS	CLEAN UP	\$145.76
3280	4/30/2013	050-680-004-004-00	421 HURON	CLEAN UP	\$257.40
3474	9/25/2013	050-010-023-002-00	516 GARFIELD	CLEAN UP	\$437.18
3475	9/25/2013	050-420-003-005-00	621 GRAND	CLEAN UP	\$437.18
3492	10/17/2013	050-191-000-021-00	706 WILTSHIRE	CLEAN UP	\$344.63
3512	11/11/2013	050-580-000-082-00	819 E COMSTOCK	CLEAN UP	\$346.71
3491	10/17/2013	050-580-000-140-00	930 JEROME	CLEAN UP	\$290.17
3333	6/11/2013	050-010-023-001-00	990 CORUNNA	CLEAN UP	\$105.85
3398	7/23/2013	050-602-014-008-00	1064 TRACY	DEMOLITION COSTS	\$6,185.94
3273, 3399	4/12/2013	050-660-011-001-00	219 N CEDAR	DEMOLITION COSTS	\$11,664.23
3506	11/5/2013	050-450-000-021-00	804 CENTER	DEMOLITION COSTS	\$5,955.50
3414, 3470	8/8/2013	050-602-014-008-00	1064 TRACY	MOW CONTRACTUAL	\$200.00
3347	6/13/2013	050-113-006-005-00	1108 RYAN	MOW CONTRACTUAL	\$70.00
3337, 3373, 3469	6/13/2013	050-547-000-006-00	1230 S SHIAWASSEE	MOW CONTRACTUAL	\$245.00
3406	8/6/2013	050-537-000-040-00	1232 W MAIN	MOW CONTRACTUAL	\$65.00
3355, 3360, 3423	6/21/2013	050-390-004-012-00	1260 ADAMS	MOW CONTRACTUAL	\$195.00
3407	8/6/2013	050-140-000-034-00	1398 N HICKORY	MOW CONTRACTUAL	\$75.00
3343	6/13/2013	050-113-016-008-00	1415 YOUNG	MOW CONTRACTUAL	\$65.00
3342	6/13/2013	050-220-000-044-00	1420 YOUNG	MOW CONTRACTUAL	\$65.00
3322, 3371, 3444, 3464	6/7/2013	050-602-007-005-00	1803 W STEWART	MOW CONTRACTUAL	\$330.00
3383, 3450	7/9/2013	050-660-011-001-00	219 N CEDAR	MOW CONTRACTUAL	\$180.00
3334, 3413, 3467	6/13/2013	050-601-000-037-00	221 W STEWART	MOW CONTRACTUAL	\$260.00
3452	9/3/2013	050-580-000-053-00	308 OAKWOOD	MOW CONTRACTUAL	\$115.00
3344, 3442	6/13/2013	050-420-003-017-00	408 MONROE	MOW CONTRACTUAL	\$130.00
3328, 3377	6/7/2013	050-601-000-001-00	409 GRACE	MOW CONTRACTUAL	\$130.00
3453	9/3/2013	050-391-000-027-00	413 LAVEROCK	MOW CONTRACTUAL	\$115.00
3326, 3356, 3443	6/7/2013	050-680-004-004-00	421 HURON	MOW CONTRACTUAL	\$195.00
3295, 3386, 3433	5/21/2013	050-391-000-015-00	433 E MASON	MOW CONTRACTUAL	\$210.00
3384	7/9/2013	050-673-004-021-00	508 RYAN	MOW CONTRACTUAL	\$65.00
3385	7/9/2013	050-180-004-014-00	511 JEROME	MOW CONTRACTUAL	\$65.00
3321, 3468	6/7/2013	050-010-023-002-00	516 GARFIELD	MOW CONTRACTUAL	\$180.00
3318, 3381, 3434	6/7/2013	050-120-001-005-00	518 RIVER	MOW CONTRACTUAL	\$210.00
3329, 3378, 3427	6/7/2013	050-010-023-004-00	528 GARFIELD	MOW CONTRACTUAL	\$225.00
3338, 3375, 3424	6/13/2013	050-510-000-024-00	616 CAMPBELL	MOW CONTRACTUAL	\$195.00
3335, 3374, 3428	6/13/2013	050-010-003-015-00	702 GLENWOOD	MOW CONTRACTUAL	\$195.00
3466	9/18/2013	050-580-000-137-00	706 JEROME	MOW CONTRACTUAL	\$115.00
3325, 3372, 3436	6/7/2013	050-191-000-021-00	706 WILTSHIRE	MOW CONTRACTUAL	\$195.00
3346, 3465	6/13/2013	050-580-000-138-00	708 JEROME	MOW CONTRACTUAL	\$190.00
3319, 3379, 3435	6/7/2013	050-610-002-003-00	715 N SAGINAW	MOW CONTRACTUAL	\$195.00
3432	8/15/2013	050-420-007-009-00	719 LINGLE	MOW CONTRACTUAL	\$65.00
3405, 3431	8/6/2013	050-010-004-001-00	740 LINCOLN	MOW CONTRACTUAL	\$150.00
3422	8/15/2013	050-580-000-082-00	819 E COMSTOCK	MOW CONTRACTUAL	\$70.00
3336, 3376, 3425	6/13/2013	050-602-001-004-00	820 S CHIPMAN	MOW CONTRACTUAL	\$210.00
3359, 3430	6/28/2013	050-602-004-013-00	826 HAMMONT	MOW CONTRACTUAL	\$130.00
3340, 3429	6/13/2013	050-010-004-003-00	837 GLENWOOD	MOW CONTRACTUAL	\$140.00
3463	9/18/2013	050-010-003-023-00	902 GLENWOOD	MOW CONTRACTUAL	\$115.00
3339	6/13/2013	050-010-004-002-00	903 GLENWOOD	MOW CONTRACTUAL	\$65.00
3327	6/7/2013	050-536-000-004-00	914 N WATER	MOW CONTRACTUAL	\$70.00
3408	8/6/2013	050-602-012-008-00	921 NAFUS	MOW CONTRACTUAL	\$65.00
3479	10/1/2013	050-580-000-140-00	930 JEROME	MOW CONTRACTUAL	\$125.00

<u>INVOICE #</u>	<u>DATE</u>	<u>PARCEL NUMBER</u>	<u>ADDRESS</u>	<u>TYPE OF NUISANCE</u>	<u>BALANCE</u>
3358	6/28/2013	050-602-008-011-00	937 KENWOOD	MOW CONTRACTUAL	\$65.00
3320, 3380, 3426	6/7/2013	050-010-023-001-00	990 CORUNNA	MOW CONTRACTUAL	\$195.00
3323, 3357, 3496	6/7/2013	050-450-000-021-00	804 CENTER	MOW CONTRACTUAL/DPW	\$439.19
3438	8/21/2013	050-536-000-034-00	1230 N SHIAWASSEE	WEEDS DPW LABOR	\$678.61
3490	10/16/2013	050-601-000-064-00	319 W RIDGE	WEEDS DPW LABOR	\$244.63
3489	10/16/2013	050-602-003-011-00	830 WILKINSON	WEEDS DPW LABOR	\$446.59
					<u>\$35,271.55</u>

The foregoing special assessment roll for nuisances and hazards for the year 2013 is acknowledged by the Assessing Officer

The foregoing special assessment roll for nuisances and hazards for the year 2013 is acknowledged by the City Clerk

RESOLUTION NO.____

**SPECIAL ASSESSMENT DISTRICT NO. 2013-04
HAZARDS AND NUISANCES**

WHEREAS, the Assessor has prepared a special assessment roll for the purpose of specially assessing that portion of the unpaid costs incurred in the altering, repairing, tearing down, abating or removing of hazards and nuisances more particularly hereinafter described to the properties specially benefited by said public improvement, and the same has been presented to the Council by the City Clerk.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll is hereby accepted and shall be filed in the office of the City Clerk for public examination.
2. The Council shall meet at the Owosso City Hall, Owosso, Michigan at 7:30 o'clock p.m., on Monday, December 16, 2013 for the purpose of hearing all persons interested in said special assessment roll and reviewing the same.
3. The City Clerk is directed to publish the notice of said hearings once in *The Argus Press*, the official newspaper of the City of Owosso, not less than ten (10) days prior to said hearing and shall further cause notice of said hearing to be sent by first class mail to each owner of the property subject to assessment, as indicated by the records in the City Assessor's office as shown on the general tax rolls of the City, at least ten (10) days before the time of said hearing, said notice to be mailed to the addresses shown on said general tax rolls of the City.

The notice of said hearing to be published and mailed shall be in substantially the following form:

**NOTICE OF HEARING TO REVIEW
SPECIAL ASSESSMENT ROLL – HAZARDS AND NUISANCES
CITY OF OWOSSO
COUNTY OF SHIAWASSEE, MICHIGAN**

TO THE OWNERS OF THE OF THE FOLLOWING DESCRIBED PROPERTY:

TAKE NOTICE that a Special Assessment Roll-Hazards and Nuisances has been prepared for the purpose of defraying the unpaid costs incurred in the altering, repairing, tearing down, abating or removing of hazards and nuisances of the above described property.

PARCEL NUMBER	ADDRESS	BALANCE
050-602-014-008-00	1064 TRACY	\$6,385.94
050-113-006-005-00	1108 RYAN	\$70.00
050-113-008-031-00	1229 MILWAUKEE	\$417.98
050-536-000-034-00	1230 N SHIAWASSEE	\$923.61
050-537-000-040-00	1232 W MAIN	\$65.00
050-390-004-012-00	1260 ADAMS	\$581.17
050-140-000-034-00	1398 N HICKORY	\$75.00
050-113-016-008-00	1415 YOUNG	\$65.00
050-220-000-044-00	1420 YOUNG	\$65.00
050-602-007-005-00	1803 W STEWART	\$330.00
050-660-011-001-00	219 N CEDAR	\$11,844.23
050-601-000-037-00	221 W STEWART	\$400.89
050-580-000-053-00	308 OAKWOOD	\$115.00
050-601-000-064-00	319 W RIDGE	\$244.63

050-651-006-007-00	320 CASS	\$145.76
050-420-003-017-00	408 MONROE	\$130.00
050-601-000-001-00	409 GRACE	\$130.00
050-391-000-027-00	413 LAVEROCK	\$115.00
050-680-004-004-00	421 HURON	\$452.40
050-391-000-015-00	433 E MASON	\$210.00
050-673-004-021-00	508 RYAN	\$65.00
050-180-004-014-00	511 JEROME	\$65.00
050-010-023-002-00	516 GARFIELD	\$617.18
050-120-001-005-00	518 RIVER	\$210.00
050-010-023-004-00	528 GARFIELD	\$225.00
050-510-000-024-00	616 CAMPBELL	\$195.00
050-420-003-005-00	621 GRAND	\$437.18
050-010-003-015-00	702 GLENWOOD	\$195.00
050-580-000-137-00	706 JEROME	\$115.00
050-191-000-021-00	706 WILTSHIRE	\$539.63
050-580-000-138-00	708 JEROME	\$190.00
050-610-002-003-00	715 N SAGINAW	\$195.00
050-420-007-009-00	719 LINGLE	\$65.00
050-010-004-001-00	740 LINCOLN	\$150.00
050-450-000-021-00	804 CENTER	\$6,394.69
050-580-000-082-00	819 E COMSTOCK	\$677.05
050-602-001-004-00	820 S CHIPMAN	\$356.60
050-602-004-013-00	826 HAMMONT	\$130.00
050-602-003-011-00	830 WILKINSON	\$446.59
050-010-004-003-00	837 GLENWOOD	\$140.00
050-010-003-023-00	902 GLENWOOD	\$115.00
050-010-004-002-00	903 GLENWOOD	\$65.00
050-536-000-004-00	914 N WATER	\$70.00
050-602-012-008-00	921 NAFUS	\$65.00
050-580-000-140-00	930 JEROME	\$415.17
050-602-008-011-00	937 KENWOOD	\$65.00
050-010-023-001-00	990 CORUNNA	\$300.85
		<u>\$35,271.55</u>

TAKE NOTICE THAT ANY HAZARDS/NUISANCES INVOICES OR CHARGES REMAINING UNPAID AS OF THEIR DUE DATE WILL BE INCLUDED ON THIS ROLL.

The said Special Assessment Roll-Hazards and Nuisances is on file for public examination with the City Clerk and any objections to said Special Assessment Roll-Hazards and Nuisances must be filed in writing with the City Clerk prior to the close of the hearing to review said Special Assessment Roll-Hazards and Nuisances.

TAKE FURTHER NOTICE that appearance and protest at this hearing is required in order to appeal the amount of the special assessment to the State Tax Tribunal if an appeal should be desired. A property owner or party in interest, his or her agent, may appear in person at the hearing to protest the special assessment or may file his or her appearance by letter and his or her personal appearance shall not be required. The property owner or any person having an interest in the property subject to the proposed special assessments may file a written appeal of the special assessment with the State Tax Tribunal within thirty days after confirmation of the special assessment roll if that special assessment was protested at this hearing.

TAKE FURTHER NOTICE that the City Council will meet at the Owosso City Hall, Owosso, Michigan at 7:30 p.m. on Monday, December 16, 2013 for the purpose of reviewing said Special Assessment Roll-Hazards and Nuisances and for the purpose of considering all objections to said roll submitted in writing. If you have questions regarding this notice, please contact the City Treasurer's Office at 725-0599.



MEMORANDUM

301 W. MAIN ▪ OWOSSO, MICHIGAN 48867-2958 ▪ WWW.CI.OWOSSO.MI.US

DATE: November 26, 2013

TO: Mayor Frederick and the Owosso City Council

FROM: Adam Zettel, Director of Community Development

SUBJECT: First Reading of a change to the Lincoln House Payment in Lieu of Taxes to reduce contribution to 4% from 10%

RECOMMENDATION:

Staff recommends approval of an ordinance to accept a 4% contribution from the Lincoln House project in place of a 10% contribution.

BACKGROUND:

The owners of the Lincoln House senior housing project requested a change to their Payment In Lieu of Taxes (PILOT) agreement. The Woda Group proposes to reuse the existing Lincoln School, with an expansion that will double the total area of the structure, for 28 senior housing units. The zoning, site plan, and previous PILOT have been approved by the city council.

The state has not approved funding for this project yet. Recently, the federal tax credit available to such projects has been dramatically reduced, resulting in a financially infeasible project. The solution is to reduce the amount that the project pays the city for services each year. The amount proposed (4%) matches the other public housing project contribution. An ordinance amendment has been prepared.

FISCAL IMPACTS:

This project has been sought for its ability to provide essential senior housing and to reuse an obsolete structure near downtown. The financial implications were always very small, with approximately \$13,000 expected to be paid and shared by all taxing jurisdictions. Owosso's share is expected to fall from \$3,900 to \$1,600 annually with this change.

Document originated by: Adam Zettel, Director of Community Development
989.725.0544
Adam.zettel@ci.owosso.mi.us

RESOLUTION NO. ____

**CITY OF OWOSSO
AN ORDINANCE TO AMEND
CHAPTER 32 TAXATION OF THE CODE OF ORDINANCES
TO PROVIDE FOR A PAYMENT IN LIEU OF TAXES
FOR THE LINCOLN HOUSE PROJECT**

WHEREAS, the Woda Group, also known as the Lincoln House LDHA Limited Partnership, has proposed a 28 unit low income housing development that is to be targeted toward seniors; and

WHEREAS, the project is located at 120 Michigan Avenue, parcel number 050-700-001-008-00, at the corner of Michigan Avenue and Clinton Streets, partially within the former Lincoln School; and

WHEREAS, the City of Owosso 2012 Master Plan explicitly indicates that this property and structure would be ideally reused as senior housing; and

WHEREAS, the City of Owosso City Council has approved the rezoning of this parcel to PUD and subsequently approved the final site plan for the development; and

WHEREAS, the rents for the housing will be controlled for the purpose of creating affordable low income housing for seniors, thereby reducing property revenues; and

WHEREAS, the reuse of this vacant structure and the housing of senior citizens near the downtown has a recognized public purpose; and

WHEREAS, all zoning and site plan approvals required by ordinance have been approved by the city council; and

WHEREAS, a substantial change in the federal tax credit policy has made this project infeasible under the current payment in lieu of taxes ordinance.

NOW THEREFORE, THE CITY OF OWOSSO ORDAINS that Chapter 32, Taxation, Article III, Service Charge in Lieu of Taxes for Certain Housing Developments, Sections 43, of the City of Owosso city code be added as follows:

SECTION 1. AMENDMENT. That existing Section 32-40, should be amended as follows:

Sec 32-40. Establishment of annual service charge for Lincoln House.

Housing Developments for elderly persons of low income or persons of low income and the property on which they shall be constructed shall be exempt from all property taxes from and after the commencement of construction. The City, acknowledging that the Sponsor and the Authority, in the case of a Sponsor receiving a Federally aided Mortgage, have established the economic feasibility of the Housing Development in reliance upon the enactment and continuing effect of this Ordinance and the qualification of the Housing Developments for exemption from all property taxes and a payment in lieu of taxes as established in this Ordinance, will accept payment of an annual service charge for public services in lieu of all property taxes. The annual service charge shall be equal to ~~10%~~ 4% of the difference between the Annual Shelter Rent actually collected and utilities.

SECTION 2. SEVERABILITY. The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance other than the section or provision so declared to be unconstitutional or invalid.

SECTION 3. INCONSISTENT ORDINANCES. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are repealed.

SECTION 4. EFFECTIVE DATE. This amendment shall become effective 20 days after passage.

SECTION 5. AVAILABILITY. This ordinance may be purchased or inspected in the city clerks' office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

SECTION 6. PUBLIC HEARING. A public hearing is set for Monday, December 16, 2013 at approximately 7:30 p.m. in the City Hall Council Chambers to hear citizen comment regarding the proposed amendment.



MEMORANDUM

301 W. MAIN ▪ OWOSSO, MICHIGAN 48867-2958 ▪ WWW.CI.OWOSSO.MI.US

DATE: November 27, 2013

TO: Mayor Frederick and the Owosso City Council

FROM: Adam Zettel, Director of Community Development

SUBJECT: Authorization to sign a commitment letter for the Downtown Infrastructure Grant

RECOMMENDATION:

Staff recommends authorizing the execution of the Downtown Infrastructure Grant commitment letter and submission of a Part II application to the Michigan Economic Development Corporation.

BACKGROUND:

The MEDC is going to recommend approval of the city's Downtown Infrastructure Grant to the Michigan Strategic Fund in February, provided Owosso fulfills the obligations as outlined in the commitment letter. (Note that this is not an award and no public or media announcements can be made until an agreement is signed). The city is being requested to perform a federal environmental review of the project and to submit the second part of the application. While this is ongoing, the MEDC is requesting the city to sign the commitment letter that is attached.

The project details are outlined in the attached September 11, 2013 memo. The city council conditionally allocated \$125,000 at that meeting. A complete copy of the grant application is available electronically or at the city offices.

FISCAL IMPACTS:

The potential grant award is \$695,264. The total project cost is estimated at \$1,068,264, with \$200,000 expected from DDA general obligation bonds, \$45,000 from DDA reserves, \$3,000 from private entities, and \$125,000 from the city's general fund, to be budgeted in fiscal year 2014-2015. This project is planned for calendar year 2014, fiscal years 2013-14 and 2014-15.

Document originated by: Adam Zettel, Director of Community Development
989.725.0544
Adam.zettel@ci.owosso.mi.us

RESOLUTION NO.

RESOLUTION AUTHORIZING SIGNING OF A COMMITMENT LETTER, SUBMISSION OF A PART II APPLICATION TO THE MEDC, AND DESIGNATION OF A PROJECT MANAGER FOR A DOWNTOWN INFRASTRUCTURE GRANT

WHEREAS, the City of Owosso, Shiawassee County, Michigan, recognizes the importance of its downtown and downtown institutions as they relate to the economic and cultural development of the community, as well as the overall quality of life; and

WHEREAS, the Owosso Master Plan, Park Plan, and DDA plan indicate that investment in the downtown infrastructure is essential to the community's future; and

WHEREAS, the armory renovation project is moving forward successfully; and

WHEREAS, there is a need to provide for improvements related to public parking, building relocation, trailhead provision, trail improvements, and river improvements; and

WHEREAS, application was made to the MEDC for a downtown infrastructure grant for an amount estimated at approximately \$1,060,000 to complete these improvements.

WHEREAS, the city, DDA, and private partners tentatively agreed to match \$373,000 to match \$695,000 of such grand funds, with the city's share at \$125,000 of general fund dollars; and

WHEREAS, the MEDC is recommending approval of the grant to the Michigan Strategic Fund; and

WHEREAS, the city must execute a letter of commitment, submit a Part II application, and designate a project manager to continue this process.

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

- FIRST: The City of Owosso has theretofore determined that it is advisable, necessary and in the public interest to declare the Mayor the "certifying officer" for purposes of this grant and to authorize him to sign the attached commitment letter and send it to the MEDC.
- SECOND: The city council hereby affirms allocation an amount not to exceed \$125,000 to support this project, to be allocated from the city's general fund at a future time, contingent upon the commencement of the armory project, final DIG award, and final approval of the project specifications.
- THIRD: The city council hereby designates Adam Zettel, ACIP, Community Development Director, or another designee of the city manager, as the "project manager" and "environmental review officer" and further authorizes him to sign and execute the Part 2 Application and all attachments, as well as the grant agreement.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF OWOSSO, SHIAWASSEE COUNTY, MICHIGAN THIS 2nd DAY OF DECEMBER 2013.

AYES:
NAYS:
ABSTENTIONS:

ABSENT:

CITY OF OWOSSO

Benjamin R. Frederick, Mayor

ATTEST:

Amy K. Kirkland, City



November 15, 2013

Mr. Ben Frederick, Mayor
City of Owosso
301 West Main Street
Owosso, Michigan 48867

Subject: Downtown Infrastructure Grant (DIG) Commitment Letter

Dear Mayor Frederick:

On behalf of the Michigan Strategic Fund (MSF), we are pleased to inform you that after review of the City of Owosso's submitted Part I Application, the City will be recommended for approval of a \$695,264 Downtown Infrastructure Community Development Block Grant, subject to the City's ability to meet the following contingencies and the execution of a Grant Agreement:

- **December 6:** Community provides a copy of this signed commitment letter (sign this letter and return it) along with a copy of the City's Application for Section 106 Review submitted to the State Historic Preservation Office (SHPO).
- **January 17:** Community provides the completed Part II (attached) and documentation evidencing the required Environmental Review process has been completed through the publication of the environmental review notice. If applicable, any pending Part 1 application contingency items shall be sent in by this date also. The following contingency items need to be addressed: 1) Redo the Engineering Certification letter in item 20 d. of the Part 1 application to include a certification from the engineer that the improvements are necessary **AND the improvements will meet the needs for the area for at least seven years.**

After the requested documentation has been submitted and determined to be satisfactory, the Community will be recommended for a grant award at the February MSF Board meeting. As indicated above, the grant award will be contingent upon the execution of a Grant Agreement. Therefore, public or media notice indicating approval of the CDBG funds can only be made **after** the execution of the Grant Agreement.

With written authorization from the City's CDBG Project Manager, non-CDBG project costs considered to be exempt from the environmental review (i.e. local engineering), may be incurred prior to the Grant Agreement being signed by all parties.

Project costs, other than those considered to be exempt from the environmental review, cannot be incurred until the environmental review has been completed, the Grant Agreement has been executed and written authorization to incur non-exempt project costs has been provided.

CDBG funding will be jeopardized if project costs are incurred without written authorization. For more information regarding incurring costs refer to the [CDBG Application Guide](#).



Ben Frederick, Mayor
Page 2
November 15, 2013

As the City's acknowledgement and intent to meet the above contingencies and proceed with the proposed CDBG funding, please sign both original letters and return one original letter, postmarked by December 6, 2013, to the Michigan Strategic Fund, ATTN: Larry Roggenbuck, 300 North Washington Square, Lansing, MI 48913. Retain the second original letter for the City's file.

If you should have questions, please contact your CDBG project manager, Larry Roggenbuck, at (517) 335-7008 or roggenbuckl@michigan.org.

Congratulations on the selection of your project for consideration of DIG 2013 funding.

Sincerely,

A handwritten signature in black ink that reads "Lisa Pung".

Lisa Pung, Manager
Community Assistance Team

A handwritten signature in black ink that reads "Sarah Rainero".

Sarah Rainero, Manager
Community Assistance Team

I agree on behalf of the municipality to meet the contingencies outlined above.

Ben Frederick, Mayor
City of Owosso

Cc: Adam Zettel, Community Development Director via email
Nate Scramlin, MEDC CATeam Specialist via e-mail



301 W. MAIN • OWOSSO, MICHIGAN 48867-2958 • (989) 725-0599 • FAX (989) 723-8854

MEMORANDUM

DATE: September 11, 2013

TO: Owosso City Council

FROM: Adam Zettel, AICP

RE: Downtown Infrastructure Grant

The Michigan Economic Development Corporation (MEDC) has released the Downtown Infrastructure Grant (DIG) for 2013. I have attached the DIG materials. Because the release date is only separated from the grant submission date by six weeks, the DDA needed to respond quickly if we were going to respond at all. To that end, a subcommittee was formed to look at priorities for eligible projects (see attached for what the state qualifies). The idea was that the DDA could leverage its remaining bond proceeds (~\$46,000) with a DIG and get much more work done.

Myself, Lance Omer, and Jim Demis met to discuss potential projects, funding sources, and timelines. Initially, we were attracted to the extension of the streetscape project and were destined to consider such an extension east on Main Street or South on Washington Street. This would benefit the integration of the Lebowsky Theater or the SRI respectively. However, a new and exciting opportunity has emerged in the form of a potential partnership between the city, the DDA, the Shiawassee Arts Council, the chamber (armory project), and the CIS trail group.

In your packet, you will find a map with some preliminary renderings and cost estimates for infrastructure features related to parking and the trail. I will explain these in detail at the meeting. You will also find a map that indicates numerous potential work items that make up the larger project. Some of these are being looked at by the engineer that has been retained by the chamber. I will explain how all this fits together.

In essence, the chamber is renovating the armory and has some site development needs that they intended to address by using the DDA TIF and the Owosso Brownfield Redevelopment Authority. These needs include expanded parking west of the river, relocation of the chamber building, and

reconfiguration of the public parking south of the armory.

The city and DDA would also stand to benefit from these changes (many are already in the DDA and/or park plan). Due to circumstance, there are many other opportunities that could be realized if we act quickly. Such opportunities include a trailhead, trail upgrades at M-21, a canoe/kayak 'dock', as well as a potential public space on the riverfront.

The investment required to make all of this happen would be \$100,000s, perhaps near the \$1,000,000 mark. While a BRA plan (using DDA TIF) may be able to do this, the project is much more feasible for all partners if it is leveraged with the DIG (which can grant as much as \$700,000). This would require that the DDA collect the tax increments and bond additional funds to match the grant (possibly \$300,000). In this manner, the total borrowed cost would be much lower (by the amount of a DIG award). Since all such costs would be paid for by TIF, this means that the DIG opportunity would permit the DDA to collect taxes much sooner for the purpose of operations or other improvements in the downtown.

The need for these improvements is pressing, the reward would be tremendous, and the chances of a large DIG award are great. This project would be able to benefit one of the most profound riverfront developments in the city's history, with benefits to the city, downtown, the SAC, the chamber, the armory and Mathews Building area, the CIS Trail, public parking supply, and public spaces. I believe that the multiple partners, the scope/impact of the project, the amount of local investment, the job creation potential, and the use value of improvements makes this the ideal project for Owosso and one of the more desirable by MEDC standards.

To this end, the DDA has resolved to permit application of the DIG using the draft scope as attached. The DDA has also allocated as much as \$200,000 in potential match. I have also been working with the other listed partners to secure financial or other contributions.

I am asking the city council to permit staff to work with the staff engineer and the engineer for the chamber to finalize a DRAFT scope and design for this project. I am requesting permission to submit a Part I Application to the MEDC. Lastly, I am requesting a resolution authorizing a commitment of funds (not to exceed \$125,000*) contingent upon the redevelopment of the Armory and award of the DIG.

Because the grant is due by the end of September, it is imperative that we act quickly. Be advised that submission of the Part I Application draft does not bind the city to specific actions, funding levels, or even construction. If the MEDC is interested in this project, a Part II application will be requested, and this will need to contain more detailed renderings, engineering, costs, and financial commitments. Final costs, engineering, and commitments would come after an award letter is sent by the MEDC.

* This amount also reflects an amount would be needed to provide a 20% match towards the public parking improvements that are outside of the DDA district on Curwood Castle Drive.



301 W. MAIN • OWOSSO, MICHIGAN 48867-2958 • (989) 725-0599 • FAX (989) 723-8854

MEMORANDUM

DATE: For December 2, 2013 Council Agenda (Consent Item)

TO: Owosso City Council

FROM: Gary Burk, Utilities Director

RE: Wastewater Plant – Variable Frequency Drive Replacement
McNaughton-McKay Electric Company – \$23,723.52

Staff requests Council authorization to proceed with the purchase of three Eaton Cutler Hammer variable frequency drives (VFDs) from McNaughton-McKay for a total amount of \$23,723.52.

The variable frequency drives provide electrical power and control speed for five main pumps at the wastewater treatment plant. Two drives failed and were replaced last summer. We obtained three quotations for the first two replacement drive units (one 100 HP and one 150 HP) summarized as follows:

McNaughton-Mckay	\$15,020.68
Technical Energy Solutions	\$16,625.00
All Phase Electric	\$17,452.98

In June Council approved the low bid of McNaughton McKay. Those VFDs have been installed and the remaining 3 VFDs inspected to determine the need for replacement. All the VFDs were of similar age (12 years of near continuous service), in the same harsh environment, and no longer serviceable (replaced by a new generation of VFD technology). One of the remaining drives has failed resulting in a costly motor repair. Based on this experience and the condition assessment we recommend replacing and upgrading the remaining three drives. McNaughton McKay has agreed to extend their low bid pricing through the end of the calendar year. The total amount reflects the proposed purchase of two 150 HP units and one 100 HP. We will separately contract with an electrical contractor for the drive installation at a cost estimated at \$4,300. The purchase and installation cost will be paid from the plant's Equipment Replacement Fund (current balance of over \$1,700,000).

GMB

RESOLUTION NO. _____

**AUTHORIZING PURCHASE AND PAYMENT TO
MCNAUGHTON-MCKAY ELECTRIC COMPANY
FOR TWO EATON CUTLER HAMMER VARIABLE FREQUENCY DRIVES
AT THE WASTEWATER TREATMENT PLANT**

WHEREAS, the City has determined it necessary and prudent to replace three variable frequency drives at the city of Owosso Wastewater Treatment Plant, Shiawassee County, Michigan, and

WHEREAS, the Plant Replacement Fund can readily finance this necessary replacement cost, and

WHEREAS, three competitive quotations were previously obtained in June for the replacement of two similar drives, and

WHEREAS, McNaughton-Mckay was the low bid in June and agrees to extend the same bid unit prices for the additional three drives in a total amount of \$23,723.52.

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 purchase 3 replacement variable frequency drives from McNaughton-Mckay Electric Company in the amount of \$23,723.52.
- SECOND: The purchase contract shall be in the form of a city purchase order and the accounts payable department is authorized to submit payment to McNaughton-Mckay in the amount of \$23,723.52 upon satisfactory City receipt of the drives.
- THIRD: The above expenses shall be paid from the Wastewater Plant Replacement Fund.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF OWOSSO,
SHIAWASSEE COUNTY, MICHIGAN THIS 2ND DAY OF DECEMBER, 2013.

Amy K. Kirkland, City Clerk



WARRANT 474
November 26, 2013

Vendor	Description	Fund	Amount
Michigan Municipal Risk Management Authority	Building and property insurance	General	\$59,109.75
Sungard Public Sector Inc	Software maintenance/licensing fees for public safety computer system – January 1, 2014 – December 31, 2014	General	\$ 9,134.07
Logicalis, Inc	Network engineering support- October 2013-revised amount	General	\$ 9,520.00
		Total	\$77,763.82



MEMORANDUM

301 W. MAIN ▪ OWOSSO, MICHIGAN 48867-2958 ▪ WWW.CI.OWOSSO.MI.US

DATE: November 27, 2013

TO: Mayor Frederick and the Owosso City Council

FROM: Adam Zettel, Director of Community Development

SUBJECT: Resolution to approve a contract with MDOT to make improvements for parking on M-21

RECOMMENDATION:

Staff recommends approval of a contract with the State of Michigan DOT to include on-street parking on the south side of M-21 between State Street and the railway in Westtown.

BACKGROUND:

During the master plan process, the city worked closely with the Westtown merchants to create a vision for the neighborhood. It found one specific issue related to parking on the south side of M-21 east of State Street that could be addressed. Such parking has been eliminated but it used to provide many benefits. Not only did the spaces provide direct parking for patrons, but the cars also calmed traffic, resulting in lower speeds and less noise. The barrier created by the cars also made sidewalk users feel safer and kept the road wash from the walkway and buildings (owners claim that winter road wash can blow doors right open).

Since the MDOT is resurfacing M-21 in 2014, we approached them to ascertain if such parking could be placed back on the roadway. There were some initial engineering and regulatory issues, but the state ultimately agreed to do so. However, the MDOT cannot financially contribute to on-street parking due to policy provisions. Therefore, the cost to the city to make this a reality is \$11,400 as contractually offered by the MDOT.

Conceptual renderings are attached.

FISCAL IMPACTS:

The contract will be in the amount of \$11,400 to cover engineering and construction services that will be performed by MDOT or its contractors. The funds are expected to be expensed in the 2014-15 fiscal year and be allocated to the major street fund.

Document originated by: Adam Zettel, Director of Community Development
989.725.0544
Adam.zettel@ci.owosso.mi.us

RESOLUTION NO.

**A RESOLUTION TO APPROVE
A CONTRACT WITH THE MICHIGAN DEPARTMENT OF TRANSPORTATION TO MAKE
IMPROVEMENTS FOR PARKING ON WEST M-21**

WHEREAS, the City of Owosso worked closely with the merchants of Westtown throughout the master plan process and made findings that indicated strong benefits to curbside parking on the south side of M-21 between State Street and the railroad in Westtown; and

WHEREAS, City of Owosso staff worked closely with the MDOT to include such parking on the 2014 M-21 resurfacing project; and

WHEREAS, the provision of such parking cannot be financially provided by the MDOT.

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

- FIRST: The City of Owosso has theretofore determined that it is advisable, necessary and in the public interest to approve MDOT contract #13-5619 to widen a section of M-21 for parking purposes.
- SECOND: The city council hereby directs the Mayor and City Clerk to execute said contract.
- THIRD: The city council hereby directs staff to allocate \$11,400 from the major street fund and approves payment for services upon completion, or as otherwise requested by the state, in accordance with the contract.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF OWOSSO,
SHIAWASSEE COUNTY, MICHIGAN THIS 2nd DAY OF DECEMBER 2013.

AYES:
NAYS:
ABSTENTIONS:
ABSENT:

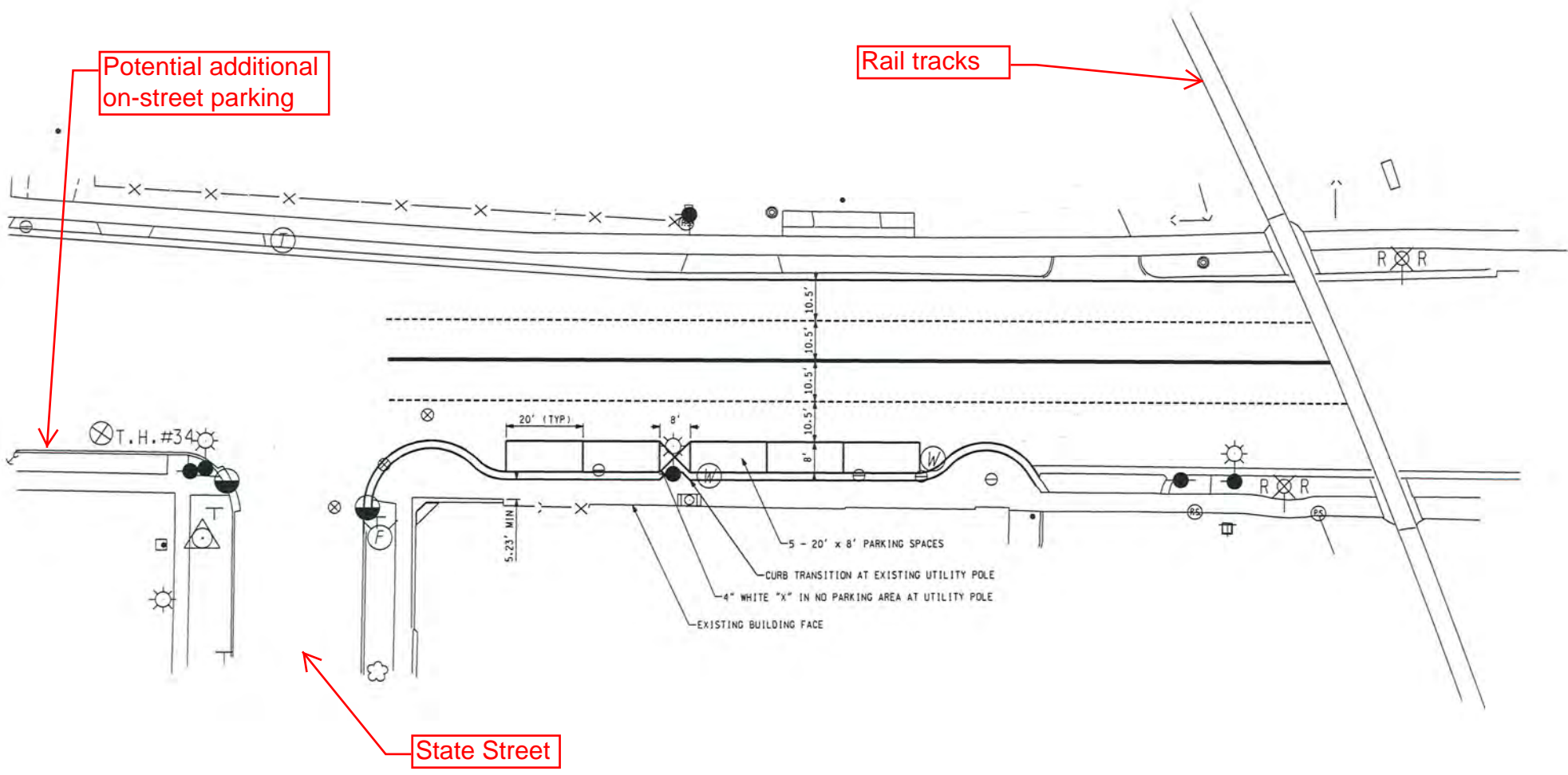
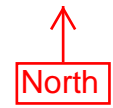
CITY OF OWOSSO

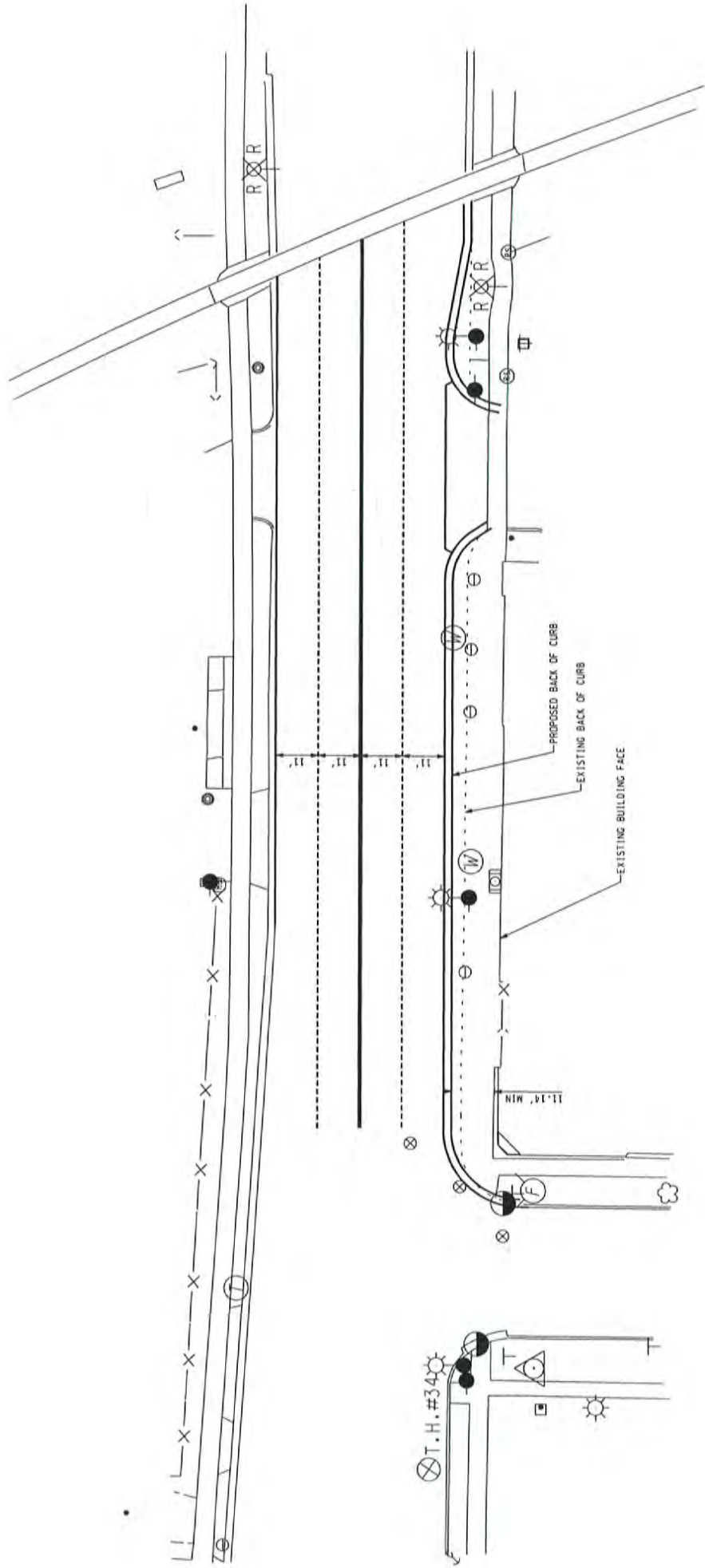
ATTEST:

Benjamin R. Frederick, Mayor

Amy K. Kirkland, City

M-21 Parking Concept
March 2013







Adam Zettel, AICP
Asst. City Manager/Dir. of Community Development
City of Owosso
adam.zettel@ci.owosso.mi.us

301 W MAIN ST • OWOSSO, MI 48867-2958 • 989-725-0599 • FAX 989-725-0526

Steve Palmer
Director
Lansing TSC
2770 Port Lansing Rd
Lansing, MI 48906

Re: Owosso, Westown, M-21 rehabilitation project

Dear Mr. Palmer,

As a follow up to our meeting today, I formally request consideration of certain project changes to the M-21 and M-52 rehabilitation that is scheduled for 2014. I do this with the full support of the city manager and mayor of the City of Owosso and in accordance with the formal planning documents that were submitted to your office earlier today, including the city's 2012 master plan.

In consideration of our traffic calming and neighborhood development goals in the "Westown" area of the community, we are requesting that the provision for on-street parking on the south side of M-21 be reinstated as it was approximately fifteen years ago. Specifically, our top priority proposal would include five parallel parking spaces east of State Street as illustrated in the attached rendering. This would place a buffer between road traffic and the historic buildings that are built with no setbacks in this vicinity. It would also serve to calm traffic speeds and noise, provide essential parking to a traditional neighborhood, and create continuity to the areas of Westown to the east that currently provide on street parking.

In addition to the provision of parking for this block of M-21, we also request that MDOT investigate the continuation of parking to the west by another half block. This area, on the south west corner of M-21 and State Street, is slated for the development of a two-story, mixed use building that is intended to extend the 'traditional' neighborhood of Westown to the west. This project is a potential candidate for MEDC and MSHDA funds and is strongly supported by the city. The private investor is strongly committed to enhancing this neighborhood and to partnering with the city and state to improve his business holdings and this corridor.

Though there are lane width, drainage, and grade issues to consider, we are optimistic that these challenges can be overcome. To this end the city is willing to financially invest in this endeavor.

We believe strongly in this area and the vision for M-21 as exemplified by the recent rezoning of all of Westtown to “Central Business District,” the resurfacing of State Street, and the surfacing improvement to the State Street public parking lot.

Without getting into detail, I can emphatically state that this section of the corridor is of the highest priority to the city in terms of economic development and the provision of a high quality of life. Our recent investments into the area, our planning documents, and the addition of private and other public partners exemplify this. I sincerely hope that our prioritized proposal for parking or the secondary proposal for traffic calming are suitable initiatives that MDOT can accommodate and support.

It is our intent to assist with this review and potential execution in any way that we can. We are in a position to provide financial support, engineering expertise, historical resources, and other in-kind services. Given the context and circumstances of our community vision and the existing neighborhood, the city anticipates discovering an alternative that will be suitable for all parties. Please do not hesitate to contact me on this matter, and thank you for your consideration,

Sincerely,

A handwritten signature in blue ink that reads "Adam Zettel". The signature is fluid and cursive, with the first name "Adam" and the last name "Zettel" clearly legible.

Adam H. Zettel, AICP
Assistant City Manager
City of Owosso
adam.zettel@ci.owosso.mi.us

Date: May 2, 2013

Elyse Lower
MDOT
2770 Port Lansing Road
Lansing, MI 48906

Subject: Westown Parking

Dear Ms. Lower,

This letter is written in support of the additional parking on West Main Street in the Westown area. As a business interest in the immediate vicinity, we have concerns about the lack of parking, high speed of traffic, and proximity of traffic to our place of business. While the proposed changes would reduce the width of the sidewalk, we are confident that the benefits of added parking will improve the function of the corridor and our place of business as it relates to our other concerns.

We understand that this project may be undertaken in 2014. We look forward to learning more about the possibilities and will diligently work with MDOT and the City of Owosso towards finding a parking solution that satisfies the need of the corridor and our historic business area.

Sincerely,

Mary Gleason
President
Korner Pub

Date: May 15, 2013

**Elyse Lower
MDOT
2770 Port Lansing Road
Lansing, MI 48906**

Subject: Westown Parking

Dear Ms. Lower,

This letter is written in support of the additional parking on West Main Street in the Westown area. As a business interest in the immediate vicinity, we have concerns about the lack of parking, high speed of traffic, and proximity of traffic to our place of business. While the proposed changes would reduce the width of the sidewalk, we are confident that the benefits of added parking will improve the function of the corridor and our place of business as it relates to our other concerns.

We understand that this project may be undertaken in 2014. We look forward to learning more about the possibilities and will diligently work with MDOT and the City of Owosso towards finding a parking solution that satisfies the need of the corridor and our historic business area.

Sincerely,



Randy Woodworth
President
Woodworth Commercial

- New accommodations for visitors.
- The potential reuse of Jerome Street parking area for alternate uses that might include a river front park, or new commercial space.
- A study of the market for large institutional expansion and tourism for entities like the SRI and OCP.

6.2 WESTOWN

Circumstances:

Westown is a railroad era community with a high degree of historical significance and traditional urban function, very similar to a downtown area. This area primarily sits on the M-21 corridor, but also incorporates some areas on Elm Street, including Woodard Station, and the blocks behind the M-21 frontage.

There is a corridor improvement authority for Westown that is dedicated to the area's improvement. However, because this authority does not have a viable tax increment financing plan, the area has tended to have more success involving a less formal merchants' association.

The survey conducted by city staff indicates that this is the foremost geography of the city that respondents are interested in investing in rehabilitation. This area functions as a gateway to the city for travelers from the west and also serves as a neighborhood center of commerce, with potential to serve a larger market with niche goods and services, perhaps related to the arts.

Assets:

- Westown is in an area of high visibility with high traffic counts.
- This area has a good collection of history, mixed-use buildings that are built to the pedestrian scale.
- Parking is available on M-21 and in a lot north of the streetwall buildings.
- There is a core group of active business owners and other stakeholders that meet regularly to address issues in the neighborhood.
- The area is thought to have good ties to employees of Memorial, students from Baker, and the neighborhoods to the north and south.
- The rail in the community was identified as an asset, especially when the North Pole Express is operating.



Challenges:

- Westtown has many blight and functionality issues with its buildings and properties that the open market will not likely be able to solve. It is also an area with a strong negative stigma.
- Parking is an issue, especially on the south side of M-21 where the primary lot is unimproved and small.
- Traffic moves faster than posted speeds, and crosswalks are limited, creating an environment that is not ideal for pedestrians.
- Infrastructure is generally in poor condition, with little or no landscaping or public green space.
- This area does not have as many financial resources as other parts of the community.

Opportunities for Change:

- Potential for a streetscape similar to that in the downtown, including waste receptacles.
- Connection of Westtown to the wayfinding signage system and any future trails/bike routes.
- Stricter code enforcement efforts in the area to improve the appearance of structures and property.
- Consider building a distinct identity for Westtown and find a marking mechanism.
- Provision of additional beautification and landscaping.
- Provision of programming to maintain the traditional buildings in a downtown state, such as design guidelines, façade programs, rental rehab credits, B-3 zoning, and historic preservation.
- The reduction of speeds through traffic calming or other measures, consider another pedestrian crossing of M-21.
- Construction and/or improvement of parking behind the south side buildings on M-21.

6.3 STATE HIGHWAYS

Circumstances:

Owosso has three state highways that function to connect auto and freight traffic to the rest of the world. M-52 connects Saginaw in the north to I-69 in the south. M-71 connects to I-69 via Corunna), and M-21 bisects Owosso and connects Grand Rapids to Flint. These corridors play a valuable role in connecting Owosso to other places which makes the community a viable place for business and for residency. They also play a fundamental role for properties located directly on the corridor and as a symbolic gateway to what the community's identity is.

Assets:

- M-52 has been identified as a valuable connection to I-69 and Lansing. In fact, the survey results indicate that Lansing is the primary place for shopping, dining, recreating, and working outside of the community.
- These corridors allow Owosso to have access to regional markets, universities, airports, and other amenities without bisecting the community with an interstate highway.
- These corridors provide business opportunities within the city because of high traffic counts, and they also support Baker College and Memorial Healthcare.
- The roads are generally observed to be well maintained and in good operable condition.

Challenges:

- Traffic on these corridors can be fast and loud for properties with frontage.
- M-52, with only two lanes south of town, can move slowly and inefficiently at times.
- Blight is observed on the frontage of these streets because of older structures and an incompatible mixture of uses. M-71 is a prime example.
- These corridors, if blighted, reflect negatively on the community for visitors and residents alike.
- Pedestrian and bike uses, including parking, are problematic on these roads because their primary function has previously been the movement of cars and freight in mass quantities without regard to frontage uses.

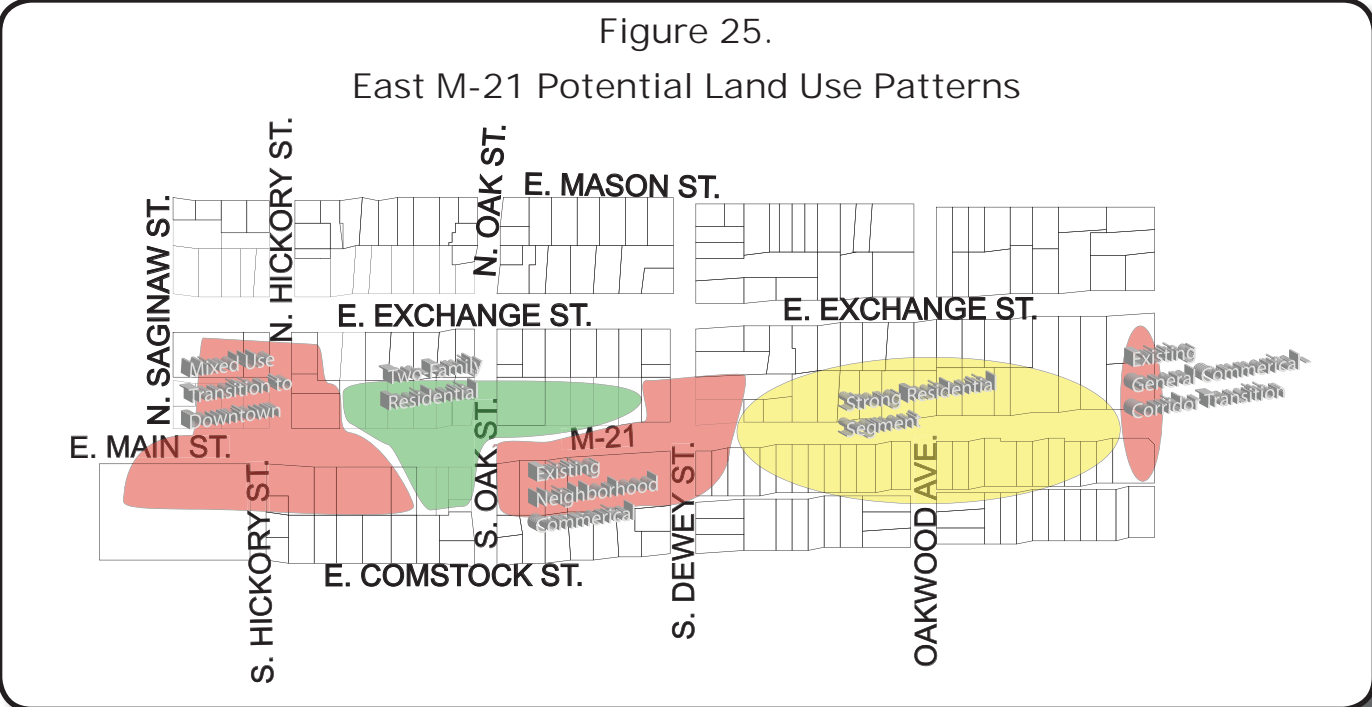
Opportunities for Change:

- Improvement of state corridors would send a positive signal to visitors and residents.
- Improvement of Westtown as an independent neighborhood on the west side of the city on M-21.
- Code enforcement efforts on these corridors would have a higher impact on the community.
- Streetscape and traffic calming methods which balance the need to move traffic efficiently.
- Bike trails on side streets next to the state highways would provide more safety.
- M-52, north of M-21 could match the south portion of M-52, resulting in a smoother transition at M-21 and more traffic calming.
- Five lanes, with parking, can be expanded east on M-21 to Oak Street if needed.
- M-71 could be reduced to three lanes with bike lanes to calm traffic and provide more biking opportunities. This would make the properties on this corridor more accessible and potentially more valuable as residences.
- Land use recommendations as detailed in the future land use section could result in more property viability, neighborhood harmony, and private enterprise. Figures 24-26 indicate how nodal patterns of development can better support the mix of existing uses along these corridors.

Figure 24.
M-71 Potential Land Use Patterns



Figure 25.
East M-21 Potential Land Use Patterns



Plan Recommendation	Actions	Responsibility	Timing	Additional Resources
	Create a program for education of home owner associations, neighborhood associations/groups, landlord associations, and builder associations.	Staff	On-going	~\$10,000
	Support code changes that enable home upgrades to meet contemporary market demands for garages, first floor bathrooms, and storage needs.	Planning commission; city council; staff	On-going	Nil
	Investigate incentives for conversions of multi-family and duplex to single family.	Staff; city council	2-4 years	TBD
	Develop neighborhood identities and service groups that can perform activities and events related to home improvements and networking	Staff	2-4 years	TBD
Major Corridors				
Maintain safe traffic circulation and speeds throughout the city.	Encourage bike routes on side streets instead of on state highways as appropriate	Staff	On-going	Nil
	Consider streetscape improvements on S M-52, E M-21, and M-71.	City council; staff	5+ years	TBD
	Develop corridors around nodes and maintain adequate driveway spacing and location standards.	Planning Commission; staff engineering	On-going	Nil
	Provide safe pedestrian circulation when designing access and circulation for vehicles.	Planning Commission; staff engineering	On-going	Nil
	Seek lower speeds on major streets and state highways through traffic calming design, especially on M-21 in Westtown	Staff	On-going	Nil

Plan Recommendation	Actions	Responsibility	Timing	Additional Resources
	Consider implementation of the "complete streets" and "road diet" design concepts for all major streets and state highways.	Staff; city council	On-going	Nil
	Pursue a three lane concept for state highway corridors that have low enough traffic counts to support lane reductions.	Staff; city council	On-going	Nil
Westtown				
	Rezone the traditional business area of Westtown to B-3.	Planning commission; city council	1-2 years	Nil
	Attempt to utilize upper floor rental rehabilitation program in Westtown.	Staff	On-going	Nil
	Focus code enforcement and blight controls in this area.	Staff	On-going	Nil
	Consider investment in the M-21 streetscape and area sidewalks.	City council; CIA	3-5 years	TBD
	Consider decorative lighting on S. Elm Street.	City council; CIA	3-5 years	TBD
	Investigate mid-block crossings or other signals for pedestrians to cross M-21 between Chipman and Cedar.	Staff; MDOT; city council	On-going	TBD
	Keep Westtown separate and distinct from downtown while pursuing similar mixed-use and traditional building projects.	Planning commission; city council	On-going	Nil
	Connect Westtown to the proposed trail system and consider additional wayfinding and street furniture, including waste receptacles.	Staff; CIA; OPRC	3-5 years	TBD

Plan Recommendation	Actions	Responsibility	Timing	Additional Resources
	Develop a tax increment financing plan for the Westtown Corridor Improvement Authority at a time when taxable values are observed to be stable or increase.	CIA; staff; city council	2-5 years	~\$25,000
Sustainability Goals (Going Green)				
Develop policy that encourages and permits agricultural and energy related activities	Refine guidelines for community gardens on public, institutional, and private land	Planning commission; city council; staff	1-2 years	Nil
	Consider an urban farming ordinance that could permit chickens, pygmy goats, and related agricultural livestock and activities	Staff	On-going	Nil
	Develop an ordinance that permits solar energy and pursue LED conversions of public lights.	Planning commission; HDC; staff	1-2 years	Nil
	Embrace the city's status as a "tree city" and encourage further forestry activities in right-of-ways, on public lands, and on private lands	Staff; city council	On-going	Nil
	Consider zoning changes that encourage rain gardens, permeable paving materials, LEED certification, and other sustainable development goals	Staff; planning commission; city council	1-2 years	Nil
	Pursue implementation of city-wide, public recycling and waste management	City council	3-5 years	TBD
	Consider a burning ban on waste materials contingent upon city-wide, public waste management services	City council	3-5 years	Nil
Shiawassee River	Prioritize the Shiawassee River as an environmental, economic, and recreational asset for OWOSSO	Planning commission; city council	On-going	Nil



City of Owosso

Parks & Recreation Commission 2013 Report & 2014 Action Plan

2013 REPORT

Background

The City of Owosso Parks & Recreation Commission (OPRC) was formally reestablished by the Owosso City Council in 2008. Its purpose is to provide quality park and recreation opportunities based upon cost, efficiency and community need by functioning as a recommendation and planning body for the City Council. To do so, the commission meets monthly, on the fourth Monday, at 6:00PM in the City Council Chambers.

The commission oversees the physical planning of the city's comprehensive park system. The commission also makes recommendations to the City Council and city staff concerning the operation, maintenance, and programming of the city's parks and recreational system. The OPRC makes its recommendations and designs plans based upon the guidance provided in the 2006 and the updated 2011 Owosso Parks and Recreation Plan.

The commission's current membership is as follows:

- Michael Espich, Chairperson – Term through June 30, 2015
- Jeff Selbig, Vice-Chairperson – Term through June 30, 2015
- Tim Alderman – Term through June 30, 2015
- Nicole Hathaway – Term through June 30, 2014
- Kristen Woodbury – Term through June 30, 2015
- Adam Zettel, Ex Officio Member & Recording Secretary

The City of Owosso park system consists of over 250 acres spread throughout the following thirteen parks:

	<i>Park Name</i>	<i>Acreage</i>
1.	Collamer Park	164
2.	Hugh Parker Field	15
3.	James Miner River Walkway	13
4.	Rudy DeMuth Field	10.2
5.	Bennett Field	10
6.	Bentley Park	8.2

7.	Rosevear Park	7.8
8.	Curwood Castle Park	7
9.	Grove Holman Park	6
10.	Harmon Patridge Park	5.2
11	Memorial Park	1.3
12.	Grand Avenue Park	1.3
13.	Fayette Square	1.1

2013 Activities

- Rudy DeMuth concession stand
 - Status: Completed
 - This project was approved in a prior year, but was commenced in the fall of 2012 after much volunteer support.
- Recreation Passport Grant
 - Status: Substantially complete
 - The contractor has resurfaced all courts and rehabilitated the pavilion bathrooms. City crews have replaced the basketball hoops, pavilion concrete, tennis court fencing, and they have also tied in the playscape and spraypads with walkways. There is still some work to be done by city crews on the bandstand. Once that is done the project will be closed out.
- Planned ice skating
 - Status: Planned
 - The three tennis courts at Bentley Park have been resurfaced. One of the three courts has had the net poles removed and is available as an open space area. It is hoped that this area can be converted into a seasonal ice skating rink. There is no funding source available at this time to support the purchase of a suitable liner or ice rink set.
- Disk golf
 - Status: Partial completion/fundraising
 - A disc golf course was approved for Rosevear Park by the city council. Four holes are expected to be completed here, and the city has agreed to support up to \$1,500 worth of expenses to that end. Fourteen additional holes are expected to be installed on cemetery property in Caledonia Township. Approvals for use outside the city are pending from the landowner.
- Spray pad
 - Completed
 - Two spray pads have been constructed next to each other at Bentley Park. They are finalized and have been accepted by the city. Initial inspections are planned for the spring by the state and county. However, some fundraising may be needed to meet cost obligations.
- Hugh Parker Park
 - Partially completed
 - Some trees were planted in Hugh Parker Park, but there were not enough funds to execute the entire landscaping plan.

- Trails
 - The CIS bike route signs were installed from Smith Road to Curwood Castle Park.
 - A grant was written to place a trailhead near the armory
- Canoe Launch
 - A canoe launch was installed at Rudy DeMuth fields by the Friends of the Shiawassee River.
- Fundraising
 - The Plunge for the Parks event was held for the second consecutive year in 2013. This event has raised as much as \$5,000. Proceeds go to select projects, and the event is expected to be an annual affair.
- Friends of the parks group
 - Under review
 - The commission has taken some interest in working with or starting a separate non-profit that can raise funds for general or specific park purposes. This is still under review.

2014 ACTION PLAN

Per the bylaws of the Owosso Parks and Recreation Commission, the commission is to adopt an action plan each year to focus planning efforts and objectives for the next calendar year. These objectives represent a focused effort to deliver recommendations and actions in accordance with the intent and word of Owosso Parks and Recreation Plan.

The following represents the OPRC's 2014 project list:

- Ice skating
 - Attempt to include an ice skating component if a funder can be found
- Bentley Park splash pad
 - Inspect the pads in the spring
 - Paint the apparatus housing
 - Study use
- Trails
 - Work on wayfinding and signage for the James Minor/CIS trail
 - Continue with the west end trail connector study and implementation
 - Create a trail/bike route map and plan for the city to integrate with rail trail and consider connections between Rosevear and Collamer Park/Baker
 - Consider trail loops to the skate park and to Gould from Oakwood bridge (priority)
 - Consider Jerome Street resurfacing, with curbs and/or alternate trail separation techniques
- Disc Golf
 - Work with the group to mediate approvals outside the city

OPRC

2013 Report & 2014 Action Plan

November 25, 2013

Page 4

- Assist group with installation
- Seek funding for landscaping at Hugh Parker Park
- Seek to re-plumb bathrooms at Bennet Field (priority)
- Continue accessibility work on the entire park system as funding permits
- Seek budget allocation for a fishing pier and launch at Hopkins Lake
- Seek budget allocation for Rudy DeMuth parking, tot lot, and ball diamond improvements
- Consider options for a trailhead in the city (armory grant)
- Continue investigating a 'friends' group for the parks and other fundraising options

The above projects are anticipated to be completed or otherwise worked on as outlined during the 2014 calendar year. Additional projects may be introduced by the council or OPRC as necessary.

Respectfully submitted to the Owosso City Council by the Parks and Recreation Commission on November 25, 2013.

Michael Espich, Chairperson

REGULAR MEETING MINUTES
OWOSSO DDA / MAIN STREET
Council Chambers, City Hall
November 6, 2013 – 7:30 am.

MEETING CALLED TO ORDER at 7:38 a.m. by Dave Acton.

ROLL CALL was taken by Secretary Alaina Kraus.

MEMBERS PRESENT: Chairman Dave Acton, Authority Members Dawn Gonyou, Lance Omer, Bill Gilbert, Benjamin Frederick (arrived 7:39), Meredith Landino, Secretary Alaina Kraus, Treasurer James Demis

MEMBERS ABSENT: Authority Member Ken Cushman

OTHERS PRESENT: Josh Adams, DDA / Owosso Main Street Manager; Adam Zettel, City of Owosso, Helen Granger, Press.

AGENDA:

MOTION BY AUTHORITY MEMBER GILBERT, SUPPORTED BY AUTHORITY MEMBER KRAUS TO APPROVE THE AGENDA FOR NOVEMBER 6, 2013.

YEAS ALL. MOTION CARRIED.

MINUTES:

MOTION BY AUTHORITY MEMBER GILBERT, SUPPORTED BY AUTHORITY MEMBER GONYOU TO APPROVE THE MINUTES WITH MODIFICATION FOR THE MEETING OF OCTOBER 2, 2013.

YEAS ALL. MOTION CARRIED.

PUBLIC / BOARD / STAFF COMMENTS:

COMMITTEE UPDATES

1. Design – Authority Member Bill Gilbert

Christmas Greens program was the major point of discussion at the last meeting that will hang from the Christmas season through March. A brand new member, Thomas Ainsworth, has a fundraising idea that will be worked on alongside Org involving commemorative glasses. The committee also made sure that they remained on budget for the year.

Project work being done on the façade work can be seen on the Quaker Oats wall and the Norm Henry storefront.

2. Economic Restructuring – Authority Member Omer

Initial results from the Market Study should be in this month. New ideas that can be incorporated into this year's work.

3. Organization – Authority Member Landino

November newsletter is set to go out this afternoon. The first new org recruits have come in from etc. and the first event will be happening this weekend with Decorate Downtown. Submission forms will be circulating for people to submit an event, a new business, newsletter and to be added to the shopping brochure. Nick Tereck is going to talk to Baker to see if they will print some free copies each month. Kim Springsdorf is working with local businesses to get them on Pure Michigan's site alongside Krista Welty, Landino and Adams.

4. Promotion – Manager Adams

Decorate Downtown will be happening this weekend. Invites have gone out to community groups and schools via email, Facebook and face to face. Food is also being provided and corner building of Ball & Exchange will be open. It will start at 10am and go to 2pm or until work us done. Connections church is offering a breakfast for volunteers at 8am.

A flyer appeared to shop downtown from another group which was not coordinated with all of the businesses and missed some opportunities. Adams will talk to them about ways that we can coordinate and increase outcome for efforts

Authority Member Kraus has offered to do a future workplan on Brand Standards/Marketing and create templates for flyers as well as a training. Adams brought up that Boyne does an excellent job with this and would be a good example to look at.

ITEMS OF BUSINESS:

1. CHECK REGISTER APPROVAL.

SEE ATTACHED DOCUMENTATION

MOTION BY AUTHORITY MEMBER FREDERICK, SUPPORTED BY AUTHORITY MEMBER GONYOU TO APPROVE THE CHECK REGISTER FOR OCTOBER 2013 AS PRESENTED.

YEAS ALL. MOTION CARRIED.

2. BUDGET REPORT.

There were no questions on the budget report.

3. OMS BUDGET

- A) Check Listing & Account Classification
- B) Payables & Cash Balance Information
- C) Cash Flow in January
- D) Budget Numbers
- E) Summary of 14/15 Budget Changes to Show Balanced
- F) Summary of Loan Obligations

A Budget meeting was held and attended by several members of the board. Demis provided an overview of the information from that meeting.

MOTION BY AUTHORITY MEMBER DEMIS, SUPPORTED BY AUTHORITY MEMBER FREDERICK TO APPROVE AMENDMENTS TO THE BUDGET AS PRESENTED SO TO ACCURATELY REFLECT THE LESSER COST OF THE MARKET STUDY AND AN INCREASE TO PROMOTIONS INCOME, MANAGER WAGES, AND GLOW PROMOTIONS.

YEAS ALL. MOTION CARRIED.

The adjustments to Promotions income and spending balance each other out for the budget. Manager Wage income will come from reserves.

In 14/15 to balance the budget a decrease in manager wages will occur of \$5,000 that occurred because of the period with double managers. Wayfinding and the Market Study will not be recurring and another income source will come in. Any large budget projects to be added will need a source of income to cover their expenses.

Demis walked through some adjustments on the Profit & Loss Budget vs. Actual page to better reflect that state of those lines items.

In 2007 a Brownfield commitment was made to the Capitol Bowl project, which continues through to 2021 and will need to be budgeted for the next several years. The other recurring commitment is the Sidewalk Fund.

Authority Member Frederick left at 8:23.

The Check Account balance is a new report to watch our cash flow. Being a new report there are still some bugs being worked out.

Last year we ran out of cash and got a temporary loan until our TIF money came in in March. This is projected to occur again this year and so Demis wrote a letter to the City Finance Director to get an advance on our TIF appropriation instead of borrowing this year. This will be going to City Council for approval.

Demis also reports that the auditors are in.

PUBLIC / BOARD / STAFF COMMENTS:

Gilbert brought up there is a meeting in December to plan our strategy for 2014/2015 and we need to be aware of the balanced budget and planning for funding for workplans.

Acton proposed moving the Board Retreat to January 15th due to scheduling difficulty in December and having a public meeting on January 29th at Baker. The board agreed to moving it forward to these dates and it will be held at The City Club (the second story of the Acton's building at the corner of Ball and Exchange).

Zettel shared that the street bond millage did not pass and will likely be repackaged. Another item that Zettel is working on education for Transportation Asset Management, which is to fix issues when they are small before allowing them to get bad. An example of this is to fix roads when they crack and the cost is small instead of when the road is completely failed and it is a large expense.

The blue footprints from Art Walk were supposed to wash away in 30 days but we have not had enough rain for it to be gone.

MOTION MADE BY AUTHORITY MEMBER GILBERT, SUPPORTED BY AUTHORITY MEMBER LANDINO TO ADJOURN AT 8:50 AM.
YEAS ALL. MOTION CARRIED.

Alaina Kraus, Secretary

October Check Register
By Check Number



1:30 PM

11/01/13

**Owosso Main Street
Check Register - By Check Number
October 2013**

<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Memo</u>	<u>Account</u>	<u>Paid Amo...</u>
1892	10/10/2013	Joshua Adams	Manager Wages	Owosso Main Street Checking	
	10/10/2013		Manager Wages for 9/27-1...	296-200-999.101 MANAGER WAGES	-2,115.38
TOTAL					-2,115.38
1893	10/10/2013	Robert Sumbera	Watering hours for the m...	Owosso Main Street Checking	
	10/09/2013		Water hours for the month ...	296-697-818.000-WATERING	-284.00
TOTAL					-284.00
1894	10/10/2013	Candence Massuch	Watering hours for the m...	Owosso Main Street Checking	
	10/09/2013		Watering hours for the mo...	296-697-818.000-WATERING	-248.00
			Reimbursement of gasolin...	296-697-818.000-WATERING	-40.16
TOTAL					-288.16
1895	10/24/2013	City of Owosso	LTGO Bond Payment	Owosso Main Street Checking	
	10/17/2013		LTGO Bond Payment	296-966-999.397 SIDEWALK FUND	-20,147.50
TOTAL					-20,147.50
1896	10/24/2013	Woodard - CM	Wayfinding Signs	Owosso Main Street Checking	
	09/25/2013		Purchase of Wayfinding si...	296-697-974.000-WAYFINDING	-18,300.00
TOTAL					-18,300.00
1897	10/24/2013	City of Owosso		Owosso Main Street Checking	
	09/25/2013		Sidewalk Stencil for Downt...	296-200-831.000 MAINTENANCE	-125.00
			Drug Screening for Manag...	296-200-860.000 ED + TRAINING	-83.00
	09/25/2013		Downtown Bee Removal	296-200-831.000 MAINTENANCE	-125.00
			August 2013 Cell Phone C...	296-200-728.000 OPER SUPPLIES	-61.57
TOTAL					-394.57
1898	10/24/2013	Joshua Adams	Manager Wages	Owosso Main Street Checking	
	10/24/2013		Manager Wages - 10/10 to...	296-200-999.101 MANAGER WAGES	-2,115.38
TOTAL					-2,115.38
1899	10/24/2013	American Speedy Pr...	Art Walk Promotional Ma...	Owosso Main Street Checking	
	09/30/2013		Posters, cards, and Maps f...	296-696-818.000-ARTWALK	-159.00
TOTAL					-159.00
1900	10/24/2013	Crooked Tree Nursery	Mum plantings for downt...	Owosso Main Street Checking	
	10/17/2013		Mum plantings for downtown	296-697-818.000-BED PLANTS	-120.00
TOTAL					-120.00
1901	10/24/2013	Independent Newsp...	Art Walk Advertising	Owosso Main Street Checking	
	10/17/2013		Art Walk Print Advertising	296-696-818.000-ARTWALK	-201.00
TOTAL					-201.00

1:30 PM

11/01/13

**Owosso Main Street
Check Register - By Check Number
October 2013**

<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Memo</u>	<u>Account</u>	<u>Paid Amo...</u>
1902	10/24/2013	Sunburst Gardens	Irrigation Repiar	Owosso Main Street Checking	
	09/30/2013		Irrigation Repair	296-697-818.000-IRRIGATION WORK	-90.00
TOTAL					-90.00
1903	10/24/2013	City of Owosso	Downtown marking, light...	Owosso Main Street Checking	
	10/17/2013		Paint for downtown marking	296-200-831.000 MAINTENANCE	-39.96
			Ludington electric repair fo...	296-200-831.000 MAINTENANCE	-94.65
			OMS/DDA copies and post...	296-200-728.000 OPER SUPPLIES	-28.44
TOTAL					-163.05
1904	10/24/2013	DayStarr Communic...	Phone forwarding services	Owosso Main Street Checking	
	10/17/2013		Phone forwarding services	296-200-728.000 OPER SUPPLIES	-16.33
TOTAL					-16.33
1905	10/24/2013	Kelly's Refuse	Trash Service 9/1 - 9/30	Owosso Main Street Checking	
	10/24/2013		Trash Service 9/1 - 9/30	296-200-831.000 MAINTENANCE	-500.00
TOTAL					-500.00

Minutes of the **November 12, 2013**, regular meeting
of the **Owosso Historical Commission** held
at the Curwood Castle, 7:00 p.m.

Members Present: Director Mitchell Speers, City Treasurer Ronald Tobey, Chairperson Joni Forster, and members Kerry Baker, Shaffer Fox, Elaine Greenway, Scott Newman, Lorraine Weckwert and Gary Wilson

Members Absent: (2 vacancies)

Guests Present: Lorraine Austin and Tammy Migan

The meeting was called to order at 7:00 p.m. by Chairperson Forster.

Wilson moved agenda approval, supported by Fox and carried.

Citizen Comments: Acknowledgement and welcome by Chairperson Forster was given to the guests in attendance.

The communications were brought to member's attention.

Motion to accept and place on file minutes of October 14, 2013, was made by Wilson, seconded by Greenway and accepted.

Newman arrived at 7:02 p.m.

Tobey reported his conversation with DPW Director Mark Sedlak concerning bee treatment at the Gould House.

Weckwert arrived at 7:04 p.m.

Members briefly discussed acquisition of a refrigeration. No quotes were presented. Some recommended purchase of a used unit.

Forster presented the Gould House event following the Glow parade on November 29th. Baker volunteered to serve on a committee for the event with Forster. Greenway, Baker and another individual offered to bake cookies. Motion for \$50.00 for expense of refreshments and decorations was made by Greenway with Baker in support. Approved.

Weckwert was recognized to detail the Curwood Castle Park holiday events. The Cabin and Castle will be open on November 29th. On December 8th, after an Arts Council event, the Castle will host a bell choir directed by Cheryl Gapinski. The cabin will again be opened. Volunteers have been obtained to decorate the Paymaster Building as a toymaker's cottage for "peek-in" viewing. Motion by Newman for expenditure of up to \$150.00 for this event. Supported by Fox and approved.

Greenway left 7:17 p.m. to attend the swearing in of her husband as new city councilman.

Motion by Fox to hold a social event in the Castle as the December meeting. Support by Baker and carried. Those supporting the work of the commission will be invited. Members were asked to bring a dessert or hors d'oeuvres.

Director Speers mentioned the recent Michigan Museum Association Conference in Bay City attended by him and docent Denice Grace. He cited advantages to being a member of the association. Motion by Weckwert to join the MMA with a \$50.00 membership fee. Supported by Newman and carried.

Fox left at 7:39 p.m.

Motion by Weckwert to direct Speers to put together a speaker series for the Castle. Newman supported and motion carried.

A recommendation was made for Security Alarm to be contacted for their input for updated systems. Newman will investigate fine art restoration options, and Speers will consult with the Michigan Museum Association for climate control recommendations.

The membership on the acquisitions committee was updated to Newman as chair, Wilson and Weckwert will also serve. Motion by Newman to direct \$500.00 from the 2013 Home Tour revenues to refund the acquisition budget. Support by Weckwert and approved.

Members reviewed the communication on past cabin maintenance, suggested photos be taken to document a base-line and wait until spring for further action.

The typewriter donation was mentioned. Also Comstock cabin items have been donated: a wooden yoke, butter churn, candle molds and wooden bowl. Baker also announced her donation of some cast iron cookware items.

Greenway returned at 8:07 p.m.

Weckwert reported replicas of Curwood's castle couches are available to be specially made, but would be costly and prohibit funds availability for floor refinishing. Newman moved approval of previously obtained bid for floor refinishing with one-half of the cost to be from home tour funds and the city council approached for matching funds for the remainder. Wilson supported and motion carried, with Weckwert dissenting.

Since the desire of the commission is to have the castle floors refinished during January, further action may be required by the commission. Newman moved the December meeting be prefaced with a business meeting at 7:00 p.m. with the social time to follow at 7:30. Baker supported and motion approved.

Meeting adjourned by motion at 8:34 p.m. by Wilson, supported by Newman.

Respectfully submitted,
Ronald J. Tobey
Secretary/Treasurer