

**OWOSSO CITY COUNCIL**

**MAY 16, 2011**

**7:30 P.M.**

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

**OPENING PRAYER:** REVEREND JOHN WALWORTH  
MEMORIAL HEALTH CARE CHAPLAIN

**PLEDGE OF ALLEGIANCE:** TOM DWYER  
SHIAWASSEE COUNTY TREASURER

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

**ABSENT:** None.

**APPROVE AGENDA**

Motion by Councilperson Eveleth to approve the agenda as presented with the addition of a presentation on the 175<sup>th</sup> anniversary of the City by Tom Manke.

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

**APPROVAL OF THE MINUTES OF REGULAR MEETING OF MAY 2, 2011**

Motion by Councilperson Cook to approve the Minutes of the Regular Meeting of May 2, 2011 as presented.

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

**SPECIAL PRESENTATIONS**

**CITY OF OWOSSO 175<sup>TH</sup> ANNIVERSARY**

Tom Manke of Community News & Views gave a brief history of the City on the occasion of its 175<sup>th</sup> anniversary.

Mayor Frederick encouraged the planning of a celebration.

**PUBLIC HEARINGS**

**INDUSTRIAL DEVELOPMENT DISTRICT AMENDMENT – DISTRICT NO. 1**

A public hearing was conducted to receive citizen comment on an amendment to Industrial Development District No. 1 along South Chestnut Street to include the entire parcel located at 401 South Chestnut Street.

John Aldrich, Group General Manager for Machine Tool & Gear, Inc., gave a brief background of the company and a description of the project in question.

Motion by Councilperson Cook to approve the following resolution authorizing an addition to Industrial Development District No. 1 as follows:

**RESOLUTION NO. 70-2011**

**RESOLUTION AMENDING  
OWOSSO INDUSTRIAL DEVELOPMENT DISTRICT NO. 1  
ON SOUTH CHESTNUT STREET**

WHEREAS, request was received April 20, 2011 for a Industrial Facilities Tax Exemption Certificate from Machine Tool & Gear, Inc.; and

WHEREAS, an Industrial Development District was established April 18, 1977 and described as:

COMMENCING AT INTERSECTION OF EAST LINE CHESTNUT ST & SOUTHERLY RIGHT OF WAY LINE OF GRAND TRUNK RAILROAD; TH S 1\*52' 365', TH SOUTHEASTERLY PARALLEL WITH RAILROAD RIGHT OF WAY 1303.34' TO EAST 1/8 LINE OF SECTION 23, THEN S 2\*10'W 364.75', NORTHWESTERLY 1301.91' PARALLEL TO SAID RAILROAD RIGHT OF WAY, THEN N1\*52'E 365' TO POB. A PART OF THE WEST ½ OF NORTHEAST ¼, SECTION 23, T7N-R2E, CITY OF OWOSSO, SHIAWASSEE COUNTY, MICHIGAN.

ALSO COMMENCING AT THE INTERSECTION OF EAST RIGHT OF WAY LINE OF CHESTNUT STREET AND THE SOUTHEASTERLY LINE OF GRAND TRUNK RAILROAD RIGHT OF WAY, THEN S 1\*52'W 431.51', THEN SOUTHEASTERLY PARALLEL WITH SAID RAILROAD RIGHT OF WAY LINE 751.59' TO POINT OF BEGINNING. THEN S9\*W 425', THEN SOUTHEASTERLY PARALLEL TO SAID RAILROAD RIGHT OF WAY 594' TO EAST 1/8 LINE SECTION 23, TH N2\*10'E 428.04', THEN NORTHWESTERLY PARALLEL TO SAID RAILROAD RIGHT OF WAY 550.1' TO POINT OF BEGINNING. A PART OF WEST ½ OF NORTHEAST ¼ SECTION 23, T7N-R2E, CITY OF OWOSSO, SHIAWASSEE COUNTY, MICHIGAN; and

WHEREAS, the district is to be amended northerly to railroad right-of-way and described as:

COMMENCING AT INTERSECTION OF EAST LINE CHESTNUT ST & SOUTHERLY RIGHT OF WAY LINE OF GRAND TRUNK RAILROAD; TH S 80\*38'50" E 1317.01' TH S 02\* 2'25" W 858.19' TH N 80\*38'50" W 598.20' TH N 07\*18'07" E 424.29' TH N 80\*38'50" W 751.92' TH N 01\*14'05" E 431.51' TO POB PART OF NE 1/4 SEC 23 T7N R2E 18.83 A M/L; and

WHEREAS, it is determined that amending this district is beneficial to the city of Owosso, as well as local and regional economy;

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Owosso, Shiawassee County, Michigan that the amended Owosso Industrial Development District Number 1 be approved.

Motion supported by Councilperson Eveleth.

Roll Call Vote.

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

NAYS: None.

**PERSONAL PROPERTY TAX EXEMPTION – MACHINE TOOL & GEAR, INC.**

A public hearing was conducted to receive public comment on the application for New Personal Property Exemption for Machine Tool & Gear, Inc, 401 South Chestnut Street.

John Aldrich, Group General Manager for Machine Tool & Gear, Inc., detailed the number of employees now at the Owosso plant and well as the number of anticipated additions.

Justin Horvath, President/CEO of the Shiawassee Economic Development Partnership, encouraged Council to support this project and the requested tax exemption. He also thanked the company for remaining in Shiawassee County.

Motion by Councilperson Erfourth to approve a resolution authorizing a new personal property tax exemption for Machine Tool & Gear, Inc. for a period of 12 years as follows:

**RESOLUTION NO. 71-2011**

**RESOLUTION APPROVING AN IFE APPLICATION  
MACHINE TOOL & GEAR, INCORPORATED  
A DIVISION OF NEWCOR MACHINED PRODUCTS GROUP  
401 S. CHESTNUT STREET**

WHEREAS, pursuant to PA 198 of 1974, as amended, after a duly noticed public hearing held on April 18, 1977, this City Council, by resolution established an Industrial Development District, commonly called the Owosso Industrial Site No. 1, and on May 16, 2011, this City Council, by resolution amended said Industrial Development District property occupied by 401 S. Chestnut; and

WHEREAS, Machine Tool & Gear, Incorporated has filed an application for an Industrial Facilities Exemption Certificate with respect to new personal property within the Industrial Development; and

WHEREAS, before acting on said application, the City of Owosso held a hearing on May 16, 2011, in City Hall, at 301 W. Main Street, Owosso, MI, 48867, at 7:30 p.m. at which hearing the applicant, the Assessor and a representative of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, acquisition of and/or construction for the new personal property had not begun earlier than six (6) months before May 16, 2011, the date of acceptance of the application for the Industrial Facilities Exemption Certificate; and

WHEREAS, acquisition of the new personal property is calculated to and will, at the time of issuance of the certificate, have the reasonable likelihood to retain, create or prevent the loss of employment in the City of Owosso; and

WHEREAS, the aggregate SEV of property exempt from ad valorem taxes within the City of Owosso, after granting this certificate, will not exceed 5% of an amount equal to the sum of the SEV of the unit, plus the SEV of property thus exempted.

NOW, THEREFORE, BE IT RESOLVED BY the City Council of the City of Owosso that:

1. The City Council finds and determines that the granting of the Industrial Facilities Exemption Certificate considered together with the aggregate amount of certificates previously granted and currently in force under PA 198 of 1974, as amended and PA 225 of 1978, as amended shall not have the effect of substantially impeding the operation of the City of Owosso, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Owosso.
2. The application from Machine Tool & Gear, Incorporated for an Industrial Facilities Exemption Certificate, with respect to a New Personal Property on the following described parcel of real property situated within the Industrial Development District, to wit:

COMMENCING AT INTERSECTION OF EAST LINE CHESTNUT ST & SOUTHERLY RIGHT OF WAY LINE OF GRAND TRUNK RAILROAD; TH S 80°38'50" E 1317.01' TH S 02° 2'25" W 858.19' TH N 80°38'50" W 598.20' TH N 07°18'07" E 424.29' TH N 80°38'50" W 751.92' TH N 01°14'05" E 431.51' TO POB PART OF NE 1/4 SEC 23 T7N R2E 18.83 A M/L; and

be and the same is hereby approved.

3. The Industrial Facilities Exemption Certificate, when issued, shall be and remain in force for a period of 12 years.

Motion supported by Councilperson Forster.

Roll Call Vote.

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

NAYS: None.

**SPECIAL ASSESSMENT DISTRICT NO. 2011-01**

**BRADLEY STREET FROM LANSING STREET TO HOWELL STREET**

The public hearing was conducted to receive citizen comment regarding authorization of Resolution No. 5 for Special Assessment District No. 2011-01 for Bradley Street from Lansing Street to Howell Street for street reconstruction.

The following person addressed the Council:

Tom Dwyer, representative for St. Paul Catholic Church, he indicated he was in support of the project and asked that construction be completed prior to the start of school in the fall.

The following preamble and resolution were offered by Councilperson Eveleth and supported by Mayor Pro-Tem Popovitch:

**RESOLUTION NO. 72-2011**

**DISTRICT NO. 2011-01  
BRADLEY STREET FROM LANSING TO HOWELL  
SPECIAL ASSESSMENT RESOLUTION NO. 5**

WHEREAS, the City Council has met, after due and legal notice, and reviewed the special assessment roll prepared for the purpose of defraying the special assessment district's share of the following described public improvement: Bradley Street from Lansing Street to Howell Street for street reconstruction, and

WHEREAS, all interested parties were heard and after carefully reviewing said special assessment roll the Council deems said special assessment roll to be fair, just and equitable and that each of the assessments contained thereon results in the special assessment being in accordance with the benefits to be derived by the parcel of land assessed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll as prepared by the City Assessor in the amount of \$28,053.00 is hereby confirmed and shall be known as Special Assessment Roll No. 2011-01.
2. Said special assessment roll shall be divided into ten (10) equal annual installments, the first of which shall be due and payable on September 1, 2011, and the subsequent installments shall be due on September 1st of each and every year thereafter. Payment of the amount of the special assessment may be made in full without interest or penalty by December 1, 2011.

3. The installments of the special assessment rolls shall bear interest at the rate of 6% per annum; provided, however, if the bonds are issued in anticipation of said special assessments, then such unpaid special assessment shall bear interest at a rate of interest equal to 1% above the average rate of interest borne by said bonds. Such interest shall commence on September 1, 2011 and shall be paid annually on each installment due date.
4. Said special assessment roll shall be placed on file in the office of the City Clerk who shall attach his warrant to a certified copy thereof within ten (10) days commanding the Assessor to spread the various sums shown thereon as directed by the City Council.

Roll Call Vote.

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

NAYS: None.

**SPECIAL ASSESSMENT DISTRICT NO. 2011-02**

**CASS STREET FROM SHIAWASSEE STREET TO BALL STREET**

The public hearing was conducted to receive citizen comment regarding authorization of Resolution No. 5 for Special Assessment District No. 2011-02 for Cass Street from Shiawassee Street to Ball Street for street reconstruction.

The following person addressed the Council:

Chris Wood, representing Max Raatz, indicated he would like Mr. Raatz's property to be removed from the district as he felt the property would reap no benefits from the project due to the location of his property and the closing of adjacent Ball Street.

There was discussion as to the level of benefit Mr. Raatz's property would receive from the project.

Motion by Councilperson Cook to approve the assessment roll for Special Assessment District No. 2011-02 for Cass Street from Shiawassee Street to Ball Street as proposed.

Motion supported by Councilperson Forster.

Roll Call Vote.

AYES: Councilpersons Cook, Forster and Martenis.

NAYS: Councilpersons Eveleth, Erfourth, Mayor Pro-Tem Popovitch and Mayor Frederick.

Motion fails.

There was further discussion whether Mr. Raatz's property would truly benefit from the project.

The following preamble and resolution were offered by Mayor Pro-Tem Popovitch and supported by Councilperson Erfourth, with the removal of parcel # 050-651-012-001-00 from the project.

**RESOLUTION NO. 73-2011**

**DISTRICT NO. 2011-02  
CASS STREET FROM SHIAWASSEE TO BALL  
SPECIAL ASSESSMENT RESOLUTION NO. 5**

WHEREAS, the City Council has met, after due and legal notice, and reviewed the special assessment roll prepared for the purpose of defraying the special assessment district's share of the following described public improvement: Cass Street from Shiawassee Street to Ball Street for street reconstruction, and

WHEREAS, all interested parties were heard and after carefully reviewing said special assessment roll the Council deems said special assessment roll to be fair, just and equitable and that each of the assessments contained thereon results in the special assessment being in accordance with the benefits to be derived by the parcel of land assessed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll as prepared by the City Assessor in the amount of \$43,724.00 is hereby confirmed and shall be known as Special Assessment Roll No. 2011-02.
2. Said special assessment roll shall be divided into ten (10) equal annual installments, the first of which shall be due and payable on September 1, 2011, and the subsequent installments shall be due on September 1st of each and every year thereafter. Payment of the amount of the special assessment may be made in full without interest or penalty by December 1, 2011.
3. The installments of the special assessment rolls shall bear interest at the rate of 6% per annum; provided, however, if the bonds are issued in anticipation of said special assessments, then such unpaid special assessment shall bear interest at a rate of interest equal to 1% above the average rate of interest borne by said bonds. Such interest shall commence on September 1, 2011 and shall be paid annually on each installment due date.
4. Said special assessment roll shall be placed on file in the office of the City Clerk who shall attach his warrant to a certified copy thereof within ten (10) days commanding the Assessor to spread the various sums shown thereon as directed by the City Council.

Roll Call Vote.

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

NAYS: Councilpersons Forster and Martenis.

**SPECIAL ASSESSMENT DISTRICT NO. 2011-03**

**CEDAR STREET FROM MAIN STREET TO BEEHLER STREET**

The public hearing was conducted to receive citizen comment regarding authorization of Resolution No. 5 for Special Assessment District No. 2011-03 for Cedar Street from Main Street to Beehler Street for street reconstruction.

There were no citizen comments.

The following preamble and resolution were offered by Councilperson Eveleth and supported by Councilperson Cook:

**RESOLUTION NO. 74-2011**

**DISTRICT NO. 2011-03  
CEDAR STREET FROM MAIN TO BEEHLER  
SPECIAL ASSESSMENT RESOLUTION NO. 5**

WHEREAS, the City Council has met, after due and legal notice, and reviewed the special assessment roll prepared for the purpose of defraying the special assessment district's share of the following described public improvement: Cedar Street from Main Street to Beehler Street for street reconstruction, and

WHEREAS, there being no one to be heard and after carefully reviewing said special assessment roll the Council deems said special assessment roll to be fair, just and equitable and that each of the assessments contained thereon results in the special assessment being in accordance with the benefits to be derived by the parcel of land assessed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll as prepared by the City Assessor in the amount of \$34,506.00 is hereby confirmed and shall be known as Special Assessment Roll No. 2011-03.
2. Said special assessment roll shall be divided into ten (10) equal annual installments, the first of which shall be due and payable on September 1, 2011, and the subsequent installments shall be due on September 1st of each and every year thereafter. Payment of the amount of the special assessment may be made in full without interest or penalty by December 1, 2011.
3. The installments of the special assessment rolls shall bear interest at the rate of 6% per annum; provided, however, if the bonds are issued in anticipation of said special assessments, then such unpaid special assessment shall bear interest at a rate of interest equal to 1% above the average rate of interest borne by said bonds. Such interest shall commence on September 1, 2011 and shall be paid annually on each installment due date.
4. Said special assessment roll shall be placed on file in the office of the City Clerk who shall attach his warrant to a certified copy thereof within ten (10) days commanding the Assessor to spread the various sums shown thereon as directed by the City Council.

Roll Call Vote.

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

NAYS: None.

**SPECIAL ASSESSMENT DISTRICT NO. 2011-04**

**CLINTON STREET FROM SHIAWASSEE STREET TO MICHIGAN AVENUE**

The public hearing was conducted to receive citizen comment regarding authorization of Resolution No. 5 for Special Assessment District No. 2011-04 for Clinton Street from Shiawassee Street to Michigan Avenue for street reconstruction.

There were no citizen comments.

The following preamble and resolution were offered by Councilperson Cook and supported by Councilperson Erfourth:

**RESOLUTION NO. 75-2011**

**DISTRICT NO. 2011-04  
CLINTON STREET FROM SHIAWASSEE TO MICHIGAN  
SPECIAL ASSESSMENT RESOLUTION NO. 5**

WHEREAS, the City Council has met, after due and legal notice, and reviewed the special assessment roll prepared for the purpose of defraying the special assessment district's share of the following described public improvement: Clinton Street from Shiawassee Street to Michigan Avenue for street reconstruction, and

WHEREAS, there being no one to be heard and after carefully reviewing said special assessment roll the Council deems said special assessment roll to be fair, just and equitable and that each of the assessments contained thereon results in the special assessment being in accordance with the benefits to be derived by the parcel of land assessed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll as prepared by the City Assessor in the amount of \$18,588.00 is hereby confirmed and shall be known as Special Assessment Roll No. 2011-04.
2. Said special assessment roll shall be divided into ten (10) equal annual installments, the first of which shall be due and payable on September 1, 2011, and the subsequent installments shall be due on September 1st of each and every year thereafter. Payment of the amount of the special assessment may be made in full without interest or penalty by December 1, 2011.
3. The installments of the special assessment rolls shall bear interest at the rate of 6% per annum; provided, however, if the bonds are issued in anticipation of said special assessments, then such unpaid special assessment shall bear interest at a rate of interest equal to 1% above the average rate of interest borne by said bonds. Such interest shall commence on September 1, 2011 and shall be paid annually on each installment due date.
4. Said special assessment roll shall be placed on file in the office of the City Clerk who shall attach his warrant to a certified copy thereof within ten (10) days commanding the Assessor to spread the various sums shown thereon as directed by the City Council.

Roll Call Vote.

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

NAYS: None.

**SPECIAL ASSESSMENT DISTRICT NO. 2011-05**

**GENESEE STREET FROM SHIAWASSEE STREET TO MICHIGAN AVENUE**

The public hearing was conducted to receive citizen comment regarding authorization of Resolution No. 5 for Special Assessment District No. 2011-05 for Genesee Street from Shiawassee Street to Michigan Avenue for street reconstruction.

There were no citizen comments.

The following preamble and resolution were offered by Mayor Pro-Tem Popovitch and supported by Councilperson Cook:

**RESOLUTION NO. 76-2011**

**DISTRICT NO. 2011-05  
GENESEE STREET FROM SHIAWASSEE TO MICHIGAN  
SPECIAL ASSESSMENT RESOLUTION NO. 5**



WHEREAS, the City Council has met, after due and legal notice, and reviewed the special assessment roll prepared for the purpose of defraying the special assessment district's share of the following described public improvement: Genesee Street from Shiawassee Street to Michigan Avenue for street reconstruction, and

WHEREAS, there being no one to be heard and after carefully reviewing said special assessment roll the Council deems said special assessment roll to be fair, just and equitable and that each of the assessments contained thereon results in the special assessment being in accordance with the benefits to be derived by the parcel of land assessed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll as prepared by the City Assessor in the amount of \$18,408.00 is hereby confirmed and shall be known as Special Assessment Roll No. 2011-05.
2. Said special assessment roll shall be divided into ten (10) equal annual installments, the first of which shall be due and payable on September 1, 2011, and the subsequent installments shall be due on September 1st of each and every year thereafter. Payment of the amount of the special assessment may be made in full without interest or penalty by December 1, 2011.
3. The installments of the special assessment rolls shall bear interest at the rate of 6% per annum; provided, however, if the bonds are issued in anticipation of said special assessments, then such unpaid special assessment shall bear interest at a rate of interest equal to 1% above the average rate of interest borne by said bonds. Such interest shall commence on September 1, 2011 and shall be paid annually on each installment due date.
4. Said special assessment roll shall be placed on file in the office of the City Clerk who shall attach his warrant to a certified copy thereof within ten (10) days commanding the Assessor to spread the various sums shown thereon as directed by the City Council.

Roll Call Vote.

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

NAYS: None.

**SPECIAL ASSESSMENT DISTRICT NO. 2011-06**

**HOWELL STREET FROM BRADLEY STREET TO RIVER STREET**

The public hearing was conducted to receive citizen comment regarding authorization of Resolution No. 5 for Special Assessment District No. 2011-06 for Howell Street from Bradley Street to River Street for street reconstruction.

There were no citizen comments.

The following preamble and resolution were offered by Councilperson Erfourth and supported by Councilperson Forster:

**RESOLUTION NO. 77-2011**

**DISTRICT NO. 2011-06  
HOWELL STREET FROM BRADLEY STREET TO RIVER STREET  
SPECIAL ASSESSMENT RESOLUTION NO. 5**

WHEREAS, the City Council has met, after due and legal notice, and reviewed the special assessment roll prepared for the purpose of defraying the special assessment district's share of the following described public improvement: Howell Street from Bradley Street to River Street for street reconstruction, and

WHEREAS, there being no one to be heard and after carefully reviewing said special assessment roll the Council deems said special assessment roll to be fair, just and equitable and that each of the assessments contained thereon results in the special assessment being in accordance with the benefits to be derived by the parcel of land assessed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll as prepared by the City Assessor in the amount of \$10,860.00 is hereby confirmed and shall be known as Special Assessment Roll No. 2011-06.
2. Said special assessment roll shall be divided into ten (10) equal annual installments, the first of which shall be due and payable on September 1, 2011, and the subsequent installments shall be due on September 1st of each and every year thereafter. Payment of the amount of the special assessment may be made in full without interest or penalty by December 1, 2011.
3. The installments of the special assessment rolls shall bear interest at the rate of 6% per annum; provided, however, if the bonds are issued in anticipation of said special assessments, then such unpaid special assessment shall bear interest at a rate of interest equal to 1% above the average rate of interest borne by said bonds. Such interest shall commence on September 1, 2011 and shall be paid annually on each installment due date.
4. Said special assessment roll shall be placed on file in the office of the City Clerk who shall attach his warrant to a certified copy thereof within ten (10) days commanding the Assessor to spread the various sums shown thereon as directed by the City Council.

Roll Call Vote.

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

NAYS: None.

**SPECIAL ASSESSMENT DISTRICT NO. 2011-07**

**OLIVER STREET FROM SHIAWASSEE STREET TO WASHINGTON STREET**

The public hearing was conducted to receive citizen comment regarding authorization of Resolution No. 5 for Special Assessment District No. 2011-07 for Oliver Street from Shiawassee Street to Washington Street for street reconstruction.

There were no citizen comments.

The following preamble and resolution were offered by Councilperson Martenis and supported by Councilperson Forster:

**RESOLUTION NO. 78-2011**

**DISTRICT NO. 2011-07  
OLIVER STREET FROM SHIAWASSEE TO WASHINGTON  
SPECIAL ASSESSMENT RESOLUTION NO. 5**

WHEREAS, the City Council has met, after due and legal notice, and reviewed the special assessment roll prepared for the purpose of defraying the special assessment district's share of the following described public improvement: Oliver Street from Shiawassee Street to Washington Street for street reconstruction, and

WHEREAS, there being no one to be heard and after carefully reviewing said special assessment roll the Council deems said special assessment roll to be fair, just and equitable and that each of the assessments contained thereon results in the special assessment being in accordance with the benefits to be derived by the parcel of land assessed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll as prepared by the City Assessor in the amount of \$29,944.60 is hereby confirmed and shall be known as Special Assessment Roll No. 2011-07.
2. Said special assessment roll shall be divided into ten (10) equal annual installments, the first of which shall be due and payable on September 1, 2011, and the subsequent installments shall be due on September 1st of each and every year thereafter. Payment of the amount of the special assessment may be made in full without interest or penalty by December 1, 2011.
3. The installments of the special assessment rolls shall bear interest at the rate of 6% per annum; provided, however, if the bonds are issued in anticipation of said special assessments, then such unpaid special assessment shall bear interest at a rate of interest equal to 1% above the average rate of interest borne by said bonds. Such interest shall commence on September 1, 2011 and shall be paid annually on each installment due date.
4. Said special assessment roll shall be placed on file in the office of the City Clerk who shall attach his warrant to a certified copy thereof within ten (10) days commanding the Assessor to spread the various sums shown thereon as directed by the City Council.

Roll Call Vote.

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

NAYS: None.

**SPECIAL ASSESSMENT DISTRICT NO. 2011-08**

**STEWART STREET FROM CHIPMAN STREET TO CEDAR STREET**

The public hearing was conducted to receive citizen comment regarding authorization of Resolution No. 5 for Special Assessment District No. 2011-08 for Stewart Street from Chipman Street to Cedar Street for street reconstruction.

There were no citizen comments.

The following preamble and resolution were offered by Councilperson Martenis and supported by Councilperson Forster:

**RESOLUTION NO. 79-2011**

**DISTRICT NO. 2011-08  
STEWART STREET FROM CHIPMAN TO CEDAR  
SPECIAL ASSESSMENT RESOLUTION NO. 5**

WHEREAS, the City Council has met, after due and legal notice, and reviewed the special assessment roll prepared for the purpose of defraying the special assessment district's share of the following described public improvement: Stewart Street from Chipman Street to Cedar Street for street reconstruction, and

WHEREAS, there being no one to be heard and after carefully reviewing said special assessment roll the Council deems said special assessment roll to be fair, just and equitable and that each of the assessments contained thereon results in the special assessment being in accordance with the benefits to be derived by the parcel of land assessed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll as prepared by the City Assessor in the amount of \$30,596.62 is hereby confirmed and shall be known as Special Assessment Roll No. 2011-08.
2. Said special assessment roll shall be divided into ten (10) equal annual installments, the first of which shall be due and payable on September 1, 2011, and the subsequent installments shall be due on September 1st of each and every year thereafter. Payment of the amount of the special assessment may be made in full without interest or penalty by December 1, 2011.
3. The installments of the special assessment rolls shall bear interest at the rate of 6% per annum; provided, however, if the bonds are issued in anticipation of said special assessments, then such unpaid special assessment shall bear interest at a rate of interest equal to 1% above the average rate of interest borne by said bonds. Such interest shall commence on September 1, 2011 and shall be paid annually on each installment due date.
4. Said special assessment roll shall be placed on file in the office of the City Clerk who shall attach his warrant to a certified copy thereof within ten (10) days commanding the Assessor to spread the various sums shown thereon as directed by the City Council.

Roll Call Vote.

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

NAYS: None.

#### **STUDENT REPRESENTATIVE REPORT**

None.

#### **CITIZEN COMMENTS AND QUESTIONS**

Curt Zondervan, representative of Medtronics ERS, commented regarding the defibrillator bid to be addressed as a part of the Consent Agenda. He delivered a letter from a few of the firefighters objecting to the recommended bid. He asked Council to postpone a decision on the bid.

Brent Jones of the SEDP noted that Holland company had established a location here in Owosso performing service for railroad companies.

Burton Fox, 216 East Oliver Street, commented on the City's web page saying it is lacking and needs to be updated.

Tom Manke, Community News & Views, agreed with Mr. Fox. He encouraged the City to look for grant money to update the web site.

Mayor Frederick indicated Council was aware of the website issue and it was on their list of things to do. There was discussion regarding who created the bid specs for the defibrillator bid and whether there was reason to deviate from the bid process. There was further discussion regarding timing the street reconstruction project near St. Paul's Church for completion before the next school year, why waste receptacles are so expensive, sewage discharges into the river, website improvement, a cost analysis on the brush pick up program, and the cost for portable toilets.

Mayor Frederick invited everyone to the Memorial Day parade.

There was also discussion regarding creating rules to limit the marking on streets and sidewalks by various organizations.

### **CITY MANAGER REPORT**

City Manager Crawford noted that software had been purchased and people would soon be trained to allow staff to make changes to the website. Councilperson Erfourth asked for a report of the capabilities of the web site software at the next meeting.

### **CONSENT AGENDA**

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

Special Assessment District No. 2011-09                      the alley bounded by Oliver, Water, Williams, and Adams Streets

### **RESOLUTION NO. 80-2011**

WHEREAS, the City Council of the City of Owosso deems it necessary to acquire and construct the following described improvement:

**The alley bounded by Oliver, Water, Williams, and Adams Streets  
Alley Improvements**

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The matter of making said public improvement is hereby referred to the City Manager, who shall prepare a report thereon, which shall include plans and detailed estimates of the cost thereof and a description of the special assessment district and such other pertinent information as will permit the City Council to decide the cost, extent and necessity of the public improvement and what proportion of the cost should be paid by the City at large.

The City Manager shall present said report to the City Council when same has been prepared.

Special Assessment District No. 2011-09                      the alley bounded by Oliver, Water, Williams, and Adams Streets

### **RESOLUTION NO. 81-2011**

WHEREAS, the City Council has ordered the City Manager to prepare a report for public improvement, more particularly hereinafter described; and

**The alley bounded by Oliver, Water, Williams, and Adams Streets  
Alley Improvements**

WHEREAS, the City Manager prepared said report and the same has been filed with the City Council as required by the Special Assessment Ordinance of the City of Owosso and the Council has reviewed said report.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The plans and estimate of cost and the report of the City Manager for said public improvement shall be filed in the office of the City Clerk and shall be available for public examination.
2. The City Council hereby determines that the Public Improvement hereinafter set forth is necessary.
3. The City Council hereby approves the estimate of cost of said public improvement to be \$8,580.00 and determines that \$8,580.00 thereof shall be paid by special assessment imposed on the lots and parcels of land more particularly hereinafter set forth, which lots and parcels of land are hereby designated to be all of the lots and parcels of land to be benefited by said improvements and determines that \$0.00 of the cost thereof shall be paid by the City at large because of benefit to the City at large.
4. The City Council hereby determines that the portion of the cost of said public improvement to be specially assessed shall be assessed in accordance with the benefits to be received.
5. The City Council shall meet at the Owosso City Hall Council Chambers on Monday, June 6, 2011 for the purpose of hearing all persons to be affected by the proposed public improvement.
6. The City Clerk is hereby directed to cause notice of the time and place of the hearing to be published once in The Argus Press, the official newspaper of the City of Owosso, not less than seven (7) days prior to the date of said hearing and shall further cause notice of said hearing to be sent by first class mail to each owner of property subject to assessment, as indicated by the records in the City Assessor's Office as shown on the general tax roll of the City, at least (10) full days before the time of said hearing, said notice to be mailed to the addresses shown on said general tax rolls of the City.
7. The notice of said hearing to be published and mailed shall be in substantially the following form:

NOTICE OF SPECIAL ASSESSMENT HEARING  
CITY OF OWOSSO, MICHIGAN

TO THE OWNERS OF THE FOLLOWING DESCRIBED PROPERTY:

**The alley bounded by Oliver, Water, Williams, and Adams Streets**

TAKE NOTICE that the City Council intends to acquire and construct the following described public improvement: **Alley Improvements.**

The City Council intends to defray apart or all of the cost of the above-described public improvement by special assessment against the above described property.

TAKE FURTHER NOTICE that City Council has caused plans and an estimate of the cost and report for the above described public improvement to be prepared and made by the City Manager and the same is on file with the City Clerk and available for public examination.

TAKE FURTHER NOTICE that the City Council will meet at the Owosso City Hall Council Chambers, Owosso, Michigan at 7:30 o'clock p.m. on Monday, June 6, 2011 for the purpose of hearing any person to be affected by the proposed public improvement.

Artisan Market Permission. Approve the application of Owosso Main Street for use of Main Street Plaza on consecutive Thursdays from 1:00 p.m. to 8:30 p.m. from June 16, 2011 through September 1, 2011 for the Artisan Market, authorize Traffic Control Order No. 1252 formalizing the action, and waive the insurance requirement.

Memorial Day Parade Permission. Approve the application of The American Legion for use City streets on Memorial Day 2011, and each Memorial Day hereafter, for annual Memorial Day Parade, authorize Traffic Control Order No. 1253 formalizing the action, and waive the insurance requirement as follows: Washington Street from Oliver Street to Oakwood Cemetery during the parade and Washington Street from King Street to Oliver Street for the parade line-up.

Grant Application. Approve application for a grant from the Michigan Department of State for the procurement of 6 electronic poll book units for use during elections as follows:

**RESOLUTION NO. 83-2011**

**AUTHORIZING APPLICATION FOR  
ELECTRONIC POLL BOOKS  
FOR THE CITY OF OWOSSO  
AS PART OF THE HELP AMERICA VOTE ACT**

WHEREAS, the city of Owosso applied to the Michigan Department of State to receive 6 electronic poll books; and

WHEREAS, it is anticipated electronic poll books will significantly increase the accuracy and efficiency with which voters are processed on election day; and

WHEREAS, it is anticipated electronic poll books will simplify the complicated closing process performed by election inspectors at the closing of the polls; and

WHEREAS, the cost of the electronic poll books will be absorbed by funds allocated by the Help America Vote Act, supplying them at no cost to the City.

WHEREAS, a written agreement is necessary to formalize the relationship between the City and the Michigan Department of State regarding said electronic poll books.

THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OWOSSO, SHIAWASSEE COUNTY, MICHIGAN THAT:

FIRST: The attached *Qualified Voter File's Electronic Poll Book Laptop & Accessories Purchase Grant Agreement* dated May 6, 2011 is approved.

SECOND: The city clerk be authorized to execute any documents necessary to certify approval and application.

Bid Award. Approve the low bid of Perrin Construction Co., Inc. for the 2011 Curb & Gutter Replacement Program in the amount of \$10,860.00 and authorize payment up to the contract amount.

**RESOLUTION NO. 84-2011**

**AUTHORIZING THE EXECUTION OF A CONTRACT FOR  
THE 2011 CURB AND GUTTER REPLACEMENT PROGRAM  
WITH PERRIN CONSTRUCTION CO., INC.**

WHEREAS, the city of Owosso, Shiawassee County, Michigan, has determined that a portions of the

curb & gutter on various streets in the City have become misaligned and have deteriorated and that replacement is advisable, necessary and in the public interest; and

WHEREAS, the City of Owosso sought bids for the replacement of misaligned curbs as part of the 2011 Curb and Gutter Replacement Program; a bid was received from Perrin Construction Co., Inc.; and it is hereby determined that Perrin Construction Co., Inc. is qualified to provide such services and that it has submitted the lowest responsible and responsive bid;

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 employ Perrin Construction Co., Inc. for the replacement of misaligned curbs as part of the 2011 Curb and Gutter Replacement Program.
- SECOND: The mayor and city clerk are instructed and authorized to sign the document substantially in the form attached as Exhibit A, Contract for Services Between the City of Owosso, Michigan and Perrin Construction Co., Inc., with a \$10,860.00 bid.
- THIRD: The above expenses shall be paid from the Major and Local Street Maintenance Fund.

Bid Award. Approve low bid of Highway Maintenance and Construction Company for the 2011 Seal Coat Program in the amount of \$31,100.00 and authorize payment up to the contract amount.

#### **RESOLUTION NO. 85-2011**

#### **AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE 2011 SEAL COAT PROGRAM WITH HIGHWAY MAINTENANCE AND CONSTRUCTION COMPANY**

WHEREAS, the city of Owosso, Shiawassee County, Michigan, has determined that the surfaces of various streets have deteriorated and would benefit from seal coating to protect the road surface from further deterioration; and

WHEREAS, the City of Owosso sought bids for seal coating as part of the 2011 Seal Coat Program; a bid was received from Highway Maintenance and Construction Company; and it is hereby determined that Highway Maintenance and Construction Company is qualified to provide such services and that it has submitted the lowest responsible and responsive bid;

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 employ Highway Maintenance and Construction Company for seal coat resurfacing as part of the 2011 Seal Coat Program.
- SECOND: The mayor and city clerk are instructed and authorized to sign the document substantially in the form attached as Exhibit A, Contract for Services Between the City of Owosso, Michigan and Highway Maintenance and Construction Company with a \$31,100.00 bid.
- THIRD: The above expenses shall be paid from the Major and Local Street Maintenance Fund.



Bid Award. Approve low bid of Seifert Construction Co. for the 2011 Sidewalk Replacement Program in the amount of \$22,260.00 and authorize payment up to the contract amount.

**RESOLUTION NO. 86-2011**

**AUTHORIZING THE EXECUTION OF A CONTRACT FOR  
THE 2011 SIDEWALK REPLACEMENT PROGRAM  
WITH SEIFERT CONSTRUCTION LLC**

WHEREAS, the city of Owosso, Shiawassee County, Michigan, has determined that sections of the sidewalk on various streets in the City have become misaligned, deteriorated, or damaged and that replacement is advisable, necessary and in the public interest; and

WHEREAS, the City of Owosso sought bids for the replacement of these sections of sidewalk as part of the 2011 Sidewalk Replacement Program; a bid was received from Seifert Construction LLC; and it is hereby determined that Seifert Construction LLC is qualified to provide such services and that it has submitted the lowest responsible and responsive bid;

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 employ Seifert Construction LLC for the replacement of sections of damaged or misaligned sidewalk as part of the 2011 Sidewalk Replacement Program.
- SECOND: The mayor and city clerk are instructed and authorized to sign the document substantially in the form attached as Exhibit A, Contract for Services Between the City of Owosso, Michigan and Seifert Construction LLC with a \$22,260.00 bid.
- THIRD: The above expenses shall be paid from the Major and Local Street Maintenance Fund.

Bid Award. Approve low bid of My-Can, LLC for the supply and service of portable toilets in the amount of \$1090.00/month for fiscal year 2011-2012 and \$1105/month for fiscal year 2012-2013 and authorize payment up to the contract amount.

**RESOLUTION NO. 87-2011**

**AUTHORIZING THE EXECUTION OF A CONTRACT FOR  
THE SUPPLY AND SERVICE OF PORTABLE TOILETS  
WITH MY-CAN, LLC**

WHEREAS, the city of Owosso, Shiawassee County, Michigan, owns and operates numerous parks and these parks do not have permanent bathroom facilities; and

WHEREAS, the City of Owosso sought bids for the supply and service of portable toilets; a bid was received from My-Can, LLC; and it is hereby determined that My-Can, LLC is qualified to provide such services and that it has submitted the lowest responsible and responsive bid;

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 employ My-Can, LLC for the supply and service of portable toilets for the city park system for the fiscal years

2011-2012 and 2012-2013.

SECOND: The mayor and city clerk are instructed and authorized to sign the document substantially in the form attached as Exhibit A, Contract for Services Between the City of Owosso, Michigan and My-Can, LLC with a bid of \$1090.00/month for fiscal year 2011-2012 and a bid of \$1105/month for fiscal year 2012-2013.

THIRD: The above expenses shall be paid from the General Fund.

Bid Award. Approve low bid of Zoll Medical Corporation for 3 heart monitor/defibrillators for the Public Safety Department in the amount of \$58,119.00, with reimbursement of 95% of the cost from a FEMA grant.

**RESOLUTION NO. 88-2011**

**RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR  
PURCHASE OF THREE HEART MONITORS/DEFIBRILLATORS  
FROM ZOLL MEDICAL CORPORATION  
269 MILL ROAD, CHELMSFORD, MASSACHUSETTS 01824-4105**

WHEREAS, the City of Owosso, Shiawassee County, Michigan, has ambulance service requiring the use of heart monitors/defibrillators; and

WHEREAS, the City of Owosso Public Safety Department has received a grant from the FEMA Assistance to Firefighters Program that will reimburse 95% of the purchase price for said heart monitors/defibrillators; and

WHEREAS, the City of Owosso received a bid from Zoll Medical Corporation; and it is hereby determined that Zoll Medical Corporation is qualified to provide such heart monitors/defibrillators and that it has submitted a responsible and responsive bid;

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 purchase three heart monitors/defibrillators from Zoll Medical Corporation at a cost of \$58,119.13.

SECOND: The mayor and 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 Zoll Medical Corporation, Inc. up to the amount of \$58,119.13.

THIRD: A 5% local match is required by the City of Owosso.

FOURTH: The above expenses shall be paid from the Fire Division Capital Outlay fund 101-335-978.000 with reimbursement of 95% of the cost from FEMA upon proof of purchase.

Purchase Authorization. Approve the purchase of 4 additional trash receptacles from Superior Play in the amount of \$5,662.00.

**RESOLUTION NO. 89-2011**

**RESOLUTION AUTHORIZING THE EXECUTION OF  
A PURCHASE ORDER WITH**

**SUPERIOR PLAY, LLC  
FOR ADDITIONAL TRASH RECEPTACLES**

WHEREAS, the City of Owosso was awarded a \$1 million grant from the State of Michigan in 2007 to beautify the downtown; and

WHEREAS, the City of Owosso has used a portion of these grant funds to purchase 30 benches and 30 trash receptacles from Superior Play, LLC for the downtown; and

WHEREAS, there is a need to purchase 4 additional trash receptacles to ensure downtown shoppers and visitors have a proper place to put waste; and

WHEREAS, the City of Owosso received a quote from Superior Play, LLC equal to the original unit price for each receptacle.

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 4 additional trash receptacles from Superior Play, LLC.
- SECOND: The mayor and city clerk are instructed and authorized to sign the document substantially in the form attached as Exhibit A, Contract for Purchase Between the City of Owosso, Michigan and Superior Play, LLC in the amount of \$5,662.00.
- THIRD: The above expenses shall be paid from the Vibrant Small Cities Initiative Community Development Block Grant Fund and the DDA Bond Fund.

Warrant No. 423. Accept Warrant No. 423 as follows:

<b>Vendor</b>	<b>Description</b>	<b>Fund</b>	<b>Amount</b>
Michigan Municipal League Workers' Compensation Fund	Workers' Compensation Insurance	General	\$26,986.00
BS&A Software	Internet Services Annual Service/Support Fee May 1, 2011 – May 1, 2012	General	\$5,500.00
Brown & Stewart, PC	Professional Services April 12, 2011 – May 4, 2011	General	\$9,414.04
Netarx, LLC	Network Engineering April 2011	General	\$5,712.00

Check Register. Receive and approve the Check Register for March 2011.

Revenue & Expenditure Report. Accept the March 2011 Revenue & Expenditure Report.

Motion supported by Councilperson Cook.

Roll Call Vote.

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

NAYS: Councilpersons Erfourth and Martenis.

**RECESS 9:06 P.M.**

**RETURN 9:16 P.M.**

**ITEMS OF BUSINESS**

**CITY BUDGET ADOPTION**

Motion by Councilperson Eveleth to adopt the General Appropriations Resolution approving the 2011-2012 City Budget and authorizing the levy of 14.2939 mills.

There was discussion regarding removing the appropriation for Council pay.

A friendly amendment was proposed by Councilperson Erfourth to remove the appropriation for Council pay but the motion was later withdrawn.

Vote on the original motion by Councilperson Eveleth to approve the budget as presented as follows:

**RESOLUTION NO. 90-2011**

**GENERAL APPROPRIATIONS RESOLUTION  
BUDGET YEAR 2011-2012**

WHEREAS, pursuant to Chapter 8, Section 5 of the Owosso City Charter, the City Council has received the proposed budget for the fiscal year beginning July 1,2011 and held a public hearing on May 2,2011; and

WHEREAS, it is the intent of the City Council to levy ad valorem and specific property taxes for general operating purposes of the City; for payment of principal and interest on voted indebtedness; and for special voted millage to support public transportation, based on the budget summary for fiscal year 2011-12 attached hereto and made part hereof; and

WHEREAS, the general property tax laws, specifically, MCL 211.34(d) provide for a compound millage reduction calculation applied to the City Charter maximum authorized operating millage rate of fifteen mills per thousand of taxable value; and

WHEREAS, this millage reduction commonly known as the Headlee rollback results in a maximum operating millage rate of 13.0370 for which the City is authorized to levy; and

WHEREAS, the Garbage Disposal Plants Act, MCL 123.261, allow for the City to levy up to three mills on all taxable property to provide for the collection and disposal of certain solid wastes; and

WHEREAS, it has been determined that a levy of one mill per \$1,000 of taxable value is required to operate a solid waste recycling program; and

WHEREAS, the voters approved, by a majority, in an election held on November 6,2007, a millage, not to exceed .25 mills per \$1,000 of taxable value to support public transportation; and

WHEREAS, the board of the Shiawassee Area Transportation Authority have requested funding from the City equating to a millage of .1999 mills per thousand of taxable value for which the City is authorized to levy; and

WHEREAS, it has been determined that a millage rate of .0570 mills is required for the annual debt service on unlimited tax general obligations bonds;

NOW THEREFORE, BE IT RESOLVED, that the tax levy for the fiscal year commencing July 1,2011 shall be the rate of 14.2939 per 1,000 of taxable value of the 2011 assessment roll as approved by the Board of Review; and

The total levy shall be composed of the constituent rates for purposes and with revenue yields described as follows:

GENERAL OPERATING	13.0370	\$3,242,155
GARBAGE DISPOSAL	1.0000	248,688
DEBT SERVICE	.0570	14,175
SATA	.1999	49,713
	<hr/>	
	<b>14.2939</b>	<b>\$3,554,731</b>

### Summary to be inserted upon completion

Motion supported by Mayor Pro-Tem Popovitch.

Roll Call Vote.

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

NAYS: Councilpersons Forster and Erfourth.

### **DOWNTOWN DEVELOPMENT AUTHORITY GENERAL APPROPRIATIONS RESOLUTION**

Motion by Councilperson Eveleth to adopt the General Appropriations Resolution to authorize the levy of the Downtown Development Authority millage for the 2011-2012 fiscal year as follows:

#### **RESOLUTION NO. 91-2011**

#### **GENERAL APPROPRIATIONS RESOLUTION FOR DOWNTOWN DEVELOPMENT AUTHORITY FISCAL YEAR 2011-2012**

WHEREAS, the Authority board met to consider a proposed budget for fiscal year 2011-12, and after deliberations and public input approved a budget; and

WHEREAS, the Owosso City Council held a public hearing on the proposed budget on May 2, 2011; and,

WHEREAS, it is the intent of the Downtown Development Authority to levy a tax for general operating purposes pursuant to Public Act 197 of 1975 based on the budget summary attached hereto and made part hereof; and

WHEREAS, the general property tax laws, specifically MCL 211.34(d) provide for an annual compound millage reduction calculation applied to the maximum millage rate of two mills pursuant to MCL 125.1662; and

WHEREAS, the millage reduction commonly known as the "Headlee" rollback results in a maximum operating millage rate of 1.9484 for which the Authority is authorized to levy,

NOW THEREFORE, BE IT RESOLVED, that the tax levy for the fiscal year commencing July 1,2011 shall be the rate of 1.9484 per \$1,000 of taxable value of the 2011 assessment roll for the district as approved by the Board of Review,

The levy will generate a revenue yield for operating purposes as follows:

GENERAL OPERATING	1.9484 MILLS	\$30,065
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Motion supported by Councilperson Martenis.

Roll Call Vote.

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

NAYS: None.

### **COMMUNITY GARDEN AGREEMENT**

Councilperson Crawford described the proposed agreement.

The Council expressed their appreciation for the continued volunteer driven action that has led to the establishment of the community garden and other projects in the City.

Motion by Councilperson Martenis to approve the following agreement for operation and maintenance of the Community Garden in Collamer Park.

### **LEASE AGREEMENT BETWEEN THE CITY OF OWOSSO AND OWOSSO FRIENDS AND NEIGHBORS, INC.\***

This Lease Agreement is made and entered into as of the 16<sup>th</sup> day of May 2011, by and between the city of Owosso, Michigan, a Michigan Municipal Corporation ("City") and Owosso Friends and Neighbors, Inc., a Michigan domestic nonprofit corporation ("Friends").

In consideration of the covenants and conditions contained in this Lease Agreement, the parties agree as follows:

- 1. Lease.** For and in consideration of the covenants and agreements contained herein, the City does hereby lease to the Friends the real property and improvements described as a rectangular parcel with 150 feet of frontage on Hopkins Lake Drive and a 200-foot depth totaling 30,000 square feet of Collamer Park ("Leased Premises") also known as Collamer Park Community Garden.
- 2. Term.** This Lease shall commence on the date of execution hereof and end on April 30, 2014, both dates inclusive, unless sooner terminated as herein provided. The city at city's sole option may terminate this lease without a reason at anytime by giving 30 days notice and prorating a refund of rent regardless of any other termination provisions in this Lease Agreement.
- 3. Rental.** Rental for this lease shall be One Dollar (\$1.00) per year for the lease term, paid in advance Three Dollars (\$3.00), receipt of which is hereby acknowledged.
- 4. Condition of Leased Premises.** The Friends stipulates that it has examined the Leased Premises, and that they are, at the time of execution of this Lease Agreement, in acceptable condition. The Friends accepts the Leased Premises in the existing "as is" condition, and acknowledges that the City makes no representation with regard to any condition of the Leased Premises. Use of the Leased Premises shall be managed and controlled by the Friends. Upon termination of this Lease, unless otherwise agreed upon, the Friends shall return the premises to its natural condition.
- 5. Use of Leased Premises.** The Leased Premises shall be used by the Friends exclusively for a community garden to be operated in accordance with the policies and procedures attached hereto as

Exhibit A and shall not be used at anytime during the term of this Lease Agreement by the Friends or anyone else for the purpose of carrying on any business, profession or trade or for any other purposes other than set forth herein. The Friends agree to develop the site according to the drawings attached hereto in Exhibit B. Any deviations to the development plan must be approved in writing by the Owosso city manager.

**6. Assignment and Sublease.** The Friends shall not assign its rights or interest under this Lease Agreement, or sublet or grant any concession or license to use the Leased Premises or any part thereof for anything other than individual garden plots. An assignment, sublease, concession or license, or an assignment of sublease by operation of law, shall be void and shall, at the City's option, terminate this Lease Agreement.

**7. Alterations and Improvements.** The Friends shall not make or erect any additional alterations or improvements to the Leased Premises other than shown on Exhibit B without the prior written consent of the Owosso city manager. All alterations, changes and improvements built, constructed or placed on the Leased Premises shall be the property of the Friends. The Friends shall keep the Leased Premises and the City's interest therein free and clear of all liens arising out of or claimed by reasons of any work performed, materials furnished or obligations incurred or at the expense of the Friends, and the Friends shall indemnify and save the City and the Leased Premises harmless from and against all liens or claims of the type described in this paragraph, including reasonable attorney's fees.

**8. Surrender.** Upon the termination of the Lease Agreement, the Friends shall quit or surrender the Leased Premises on the date of such termination.

**9. Repair and Maintenance.** The Friends shall maintain the Leased Premises and all improvements, if any, constructed on the Leased Premises in good and safe order, appearance, repair and condition, at the Friends's sole cost and expense, through the term of this Lease Agreement.

**10. Utilities.** The Friends shall pay all charges and with the City's prior written consent to be granted in the City's sole discretion, arrange the installation and construction of all utility services that may be required for the use authorized in this Lease Agreement. The Friends shall be responsible for all utility charges in connection with the Friends's use of the Leased Property, including electricity charges, water charges, sewer charges and refuse removal charges.

**11. Taxes.** The Friends shall pay all real property taxes pertaining to the Leased Premises should any be applied. The Friends shall be liable for and shall pay all taxes levied against personal property, trade fixtures, and other property placed by the Friends in, on or about the Leased Premises and for any other taxes pertaining to the Friends's use of the Leased Premises. In the event the Friends shall default in the payment of real estate taxes or assessments, the City shall have the right to pay the same, and the amount so paid shall be payable by the Friends to the City on demand with lawful interest thereon.

**12. Liability.** The Friends shall be liable and responsible for any and all damage or injury to said premises or any person or property thereon during the period of occupancy hereunder, and shall reimburse, indemnify and hold the City harmless against any and all claims for injury to person or property (including claims of employees of the Friends or any contractor, subcontractor, or invitee) arising out of the activities of the Friends, its agents, members, guests, or invitees.

**13. Insurance.** The Friends shall be responsible for fire, theft and casualty insurance on the Friends' personal property maintained on the Leased Premises as the Friends determines suitable for the Friends' uses and purposes. The Friends, recognize that the City carries no such coverage, and is therefore not responsible for any damage to or destruction of the Friends' property which is kept or maintained within the Leased Premises.

The Friends shall execute the Community Gardens Group Waiver attached as Exhibit C at the time of signing this agreement and shall require each participant to read, complete and sign the Community Gardens Individual Waiver attached as Exhibit D.

#### **14. Friends' Property.**

A. The Friends shall be responsible for and shall pay before delinquency, all municipal, county or state assessments during the term of this Lease against any leasehold interest or personal property of any kind, owned by or placed in, upon or about the Leased Premises by the Friends.

B. The City shall not be liable for any damage or loss to property of the Friends or of others located on the Leased Property by theft or otherwise.

**15. Fixtures.** All fixtures and equipment installed by the Friends in the Leased Premises shall remain the property of the Friends and shall be removable at any time by the Friends on or before vacating the Leased Premises upon the expiration or sooner termination of this Lease Agreement. Any damage caused to the Leased Premises as a result of such removal by the Friends shall be repaired by the Friends at its own expense. Any such fixtures not removed; it or prior to such termination shall become the sole property of the City.

**16. City's Right of Access.** The City and their agents, employees or representatives, may enter the Leased Premises at any time to inspect the Leased Premises to ascertain the Friends' compliance with the terms and conditions of this Lease Agreement or to post notices of non-responsibility under any mechanic's lien law.

**17. Abandonment.** If the Friends abandons the Leased Premises, this Lease shall terminate. Abandonment means the Friends vacation of the premises. If termination occurs by abandonment, then the City may consider any personal property belonging to Friends and left on the Leased Premises to also have been abandoned, in which case the City may dispose of all such personal property in any manner the City shall deem proper and is hereby relieved of all liability for doing so. Abandonment shall be presumed if the Leased Premises are unused and/or not maintained for 30 days between June 1 and September 30.

**18. Default.** If the Friends shall fail to pay any sum required by this Lease to be paid to the City at the times or in the manner provided under this Lease or otherwise, or if default shall be made in any of the other covenants or conditions on its part agreed to be performed, besides other rights or remedies it may have, if such failure shall continue for a period of fifteen (15) days after written notice thereof has been given by the City, then the City may either terminate this Lease, or reenter the Leased Property by summary proceedings or otherwise, remove all persons and property from the Leased Property without liability to any person for damages sustained by reason of such removal. Nevertheless, the Friends shall remain liable for any sums owed by the Friends to the City in this Lease, plus the reasonable costs of obtaining possession of the Leased Property. No such reentry or taking possession of the Leased Property by the City shall be construed as an election on its part to terminate this Lease unless a written notice of such intention be given to the Friends or unless termination thereof is decreed by a court of competent jurisdiction. Should the City at any time terminate this Lease for any breach, in addition to any other remedies it may have, it may recover from the Friends all damages it may incur by reason of breach, including the cost of recovering the Leased Premises. All remedies herein conferred upon the City shall be cumulative and no one exclusive of any other remedy conferred herein or by law. If the Friends is in default, the City may prevent removal of property from the Leased Property by any lawful means it deems necessary to protect its interest.

**19. Attorney's Fees.** In the event of a default by either party in the performance of such party's obligations hereunder, the non-defaulting party shall be entitled to recover all costs and expenses incurred as a result thereof, including reasonable attorney's fees, whether suit is brought or not. If an action shall be brought on account of any breach of or to enforce or interpret any of the terms, covenants or conditions of this Lease, or for the recovery or possession of the Leased Premises, the prevailing party



shall be entitled to recover from the other party, as part of the prevailing party's cost, as reasonable attorney's fee, the amount of which shall be fixed by the court and shall be made a part of any judgment rendered.

**20. Notice.** All notices, demands or other writing in this Lease provided to be given, made or sent by either party hereto to the other shall be deemed to have been fully given, made or sent when made in writing and deposited in the United States mail, certified or registered and postage prepaid and addressed as follows:

If to the City:

City Clerk City of Owosso  
301 West Main Street  
Owosso, Michigan 48867



If to the Friends

Lorraine Weckwert  
1011 N. Shiawassee Street  
Owosso, Michigan 48867

or at such other place as may be designated by either party from time to time in writing in the same manner as provided herein.

**21. Waiver.** The waiver by the City of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. None of the terms, covenants or conditions of this Lease can be waived by either the City or the Friends except by appropriate written agreement duly executed by both of the parties hereto.

**22. Construction of Lease.** The language in all parts of this Lease shall in all cases be construed as a whole according to its fair meaning and not strictly for or against either the City or the Friends. Paragraph headings in the Lease are for convenience only and are not to be construed as a part of this Lease or in any way defining, limiting, or amplifying the provisions hereof. Time is of the essence of this Lease and of every term, covenant and condition hereof. The words "City" and "Friends" as herein used, shall include the plural as well as the singular. The neuter gender includes the masculine and feminine. The City and the Friends agree that in the event that any term, covenant or condition herein contained is held to be invalid or void by any court of competent jurisdiction, the invalidity of any such term, covenant or conditions shall in no way affect any other term, covenant or condition herein contained.

**23. Entire Agreement.** This Lease Agreement constitutes the entire agreement of the parties regarding the subject matter hereof, and shall not be amended or modified except by written agreement signed by both parties. The instrument supersedes and replaces all prior agreements or understandings of the parties, whether written or oral.

**24. Relationship of Parties.** The relationship of the parties herein under is solely that of the City and the Friends, and nothing in this Lease Agreement shall be construed to make or create the parties hereto as partners, joint ventures or any other form of joint participants with respect to the Leased Premises or any improvements constructed or placed thereon.

**25. Binding Effect.** All the terms, covenants and conditions of this Lease Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors, assigns and legal representatives.

**26. Possession.** The Friends shall be entitled to enter onto the Leased Premises from and after the date of execution of the Lease.

**27. Representations.** It is mutually agreed that no representations, warranties, covenants, or agreements expressed or implied, have been made, other than expressly set forth herein.

**28. Execution.** This Lease Agreement may be executed in multiple counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument.

**29. Time of Essence.** Time is of the essence of this Lease Agreement.

**30. Governing Law.** The law of the state of Michigan shall govern this Lease Agreement.

Motion supported by Councilperson Cook.

Roll Call Vote.

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

NAYS: None.

\*Full text of the agreement and attachments can be found on file in the Clerk's Office.

### **COMMUNICATIONS**

Richard C. Williams, Finance Director. 2011 3Q Cash and Investments Position.  
Michael T. Compeau, Public Safety Director. April 2011 Police Department Report.  
Michael T. Compeau, Public Safety Director. April 2011 Fire Department Report.  
Downtown Development Authority. Minutes of Meeting of May 4, 2011.  
Owosso Planning Commission. Minutes of Meeting of May 9, 2011.  
Shiawassee Area Transportation Agency. Minutes of Meeting of January 11, 2011.  
Shiawassee Area Transportation Agency. Minutes of Meeting of February 8, 2011.  
Shiawassee Area Transportation Agency. Minutes of Meeting of March 8, 2011.

### **CITIZEN COMMENTS AND QUESTIONS**

Tom Dwyer, representing St. Paul's Catholic Church, said he had just been informed that the City would be replacing the water main along Bradley Street which could delay the project near the church. He further expressed his concern that the project be completed by the opening of school in the fall.

Eddie Urban, 601 Glenwood Avenue, thanked organizers for putting a Vietnam memorial together. He also said he felt portable toilets were essential in each park.

Burton Fox, 216 East Oliver Street, indicated he had heard Charter Communications was planning on taking away the City's cable access channel. He asked if it was possible to solicit another cable company to the area. He said he felt people were getting shortchanged with the poor signal quality provided by Charter. It was explained that Charter was not taking the channel away but the City would soon be required to obtain an independent return path. It was further explained previous Councils had attempted to attract other cable companies to the area but had been unsuccessful.

Councilperson Martenis reminded everyone of the closing ceremony for Holman Pool on Thursday.

### **NEXT MEETING**

Monday, June 6, 2011

### **BOARDS AND COMMISSIONS OPENINGS**

Cable Access Advisory Commission, term expires 06-30-2011

**ADJOURNMENT**

Motion by Councilperson Eveleth for adjournment at 9:51 p.m.

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

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Benjamin R. Frederick, Mayor

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Amy K. Kirkland, City Clerk

DRAFT