

**OWOSSO CITY COUNCIL**

**NOVEMBER 21, 2011**

**7:30 P.M.**

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

**OPENING PRAYER:** PASTOR CAL EMERSON  
NORTHGATE WESLEYAN CHURCH

**PLEDGE OF ALLEGIANCE:** OWOSSO WEBELO PACK #89

**PRESENT:** Mayor Benjamin R. Frederick, Mayor Pro-Tem Cindy S. Popovitch, Councilpersons Loreen F. Bailey, Thomas B. Cook, Michael J. Erfourth, Christopher T. Eveleth and Burton D. Fox.

**ABSENT:** None.

**APPROVE AGENDA**

Motion by Councilperson Eveleth to approve the agenda with the addition of a communication from E. Frazier.

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

**APPROVAL OF THE MINUTES OF REGULAR MEETING OF NOVEMBER 7, 2011**

Motion by Councilperson Cook to approve the Minutes of the Regular Meeting of November 7, 2011 with a correction to the grammar in the proclamation for former Council member Gary Martenis.

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

**APPROVAL OF THE MINUTES OF ORGANIZATIONAL MEETING OF NOVEMBER 14, 2011**

Motion by Mayor Pro-Tem Popovitch to approve the Minutes of the Organizational Meeting of November 14, 2011 as presented.

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

**SPECIAL PRESENTATIONS**

None.

**PUBLIC HEARINGS**

**2011 PARKS & RECREATION PLAN**

A public hearing was conducted to receive citizen comment regarding the proposed 2011 Parks & Recreation Master Plan.

There were no citizen comments.

There was discussion regarding the competing interests in Fayette Square park. Some expressed a desire to amend the plan to avoid any confusion as to the future plans for that park.

There was further discussion regarding supporting matching efforts such as that for the concession stand at Rudy Demuth Field and the creation of an adopt a park program.

Motion by Councilperson Eveleth to approve the plan as presented.

Motion supported by Councilperson Fox.

Mayor Frederick asked that a friendly amendment be introduced to formally note that the center of Fayette Square is dedicated for a Veteran's memorial.

Councilpersons Eveleth and fox withdrew the original motion and support.

Motion by Councilperson Eveleth to authorize the following resolution adopting the plan with the addition of a notation that formally sets aside the center circle area of Fayette Square for a Veteran's memorial as authorized previously by City Council.

**RESOLUTION NO. 175-2011**

**2011 OWOSSO PARKS AND RECREATION PLAN\***

WHEREAS, the City of Owosso must review its parks and recreation plan every five years in accordance with parts 19, 703 and 716 of Act 451, P.A. 1994 of the State of Michigan, as amended; and

WHEREAS, the city council has appointed a parks and recreation commission to oversee the plan; and

WHEREAS, the parks and recreation commission reviewed the 2006 plan this summer by holding workshops and meetings on August 22<sup>nd</sup>, September 13<sup>th</sup>, and September 26<sup>th</sup> in order to get public participation and input for a potential update; and

WHEREAS, updates and amendments to the plan were made in accordance with public, commissioner, and staff input; and

WHEREAS, the plan was approved by the Owosso parks and recreation commission for distribution and review by the city council on September 26, 2011; and

WHEREAS, a public hearing is required by the Owosso city council to be held no less than 30 days after distribution in accordance with the above statute and DNR guidelines in order to validate the plan and where this hearing was held on November 21, 2011.

NOW THEREFORE BE IT RESOLVED THAT City of Owosso City Council, County of Shiawassee, State of Michigan, hereby approves the amended 2011 Owosso Parks and Recreation Plan.

BE IT FURTHER RESOLVED THAT the council hereby directs staff to distribute the plan to the city clerk's office, the County of Shiawassee Planning Commission, the City of Corunna, the Region V Planning Commission, Caledonia Charter Township, Owosso Charter Township, SATA, and the city website.

Motion supported by Councilperson Fox.

Roll Call Vote.

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

NAYS: None.

\*Full text of the 2011 Parks & Recreation Plan is on file in the Clerk's Office.

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

Shelva Cebulski, 1243 Marion Street, announced a blood drive this Wednesday from noon until 5:45 p.m. at the Knights of Columbus Hall.

County Commissioner Ronald Elder gave an update of the budget proceedings at the county level saying they have a balanced budget that includes funding for the MSU extension.

Thomas Moorehead, 1265 Ada Street, indicated that a group of landlords had recently formed as a non-profit group. He said they would be meeting December 12 to develop a list of requests they will present to Council. He went on to ask Council for a moratorium.

Jane Setterington, 3900 Krouse Road, indicated she owns a number of rental units in the City and was recently notified, by posting, of a violation at one of her homes. The violation was posted on the front door and contained sensitive personal identification information. She said she felt federal laws were violated and her attorney was researching the matter. Mayor Frederick indicated the matter would be looked into.

Eddie Urban, 601 Glenwood Avenue, thanked the Mayor and others for their work on the Veteran's Memorial in Fayette Square.

Joseph Stehlik, 1011 North Hickory Street, commented on his concern with a local abandoned property that has a swimming pool and a gap in the fence around the pool. He wanted to know what could be done to make the property safer. It was noted that it was just this sort of property that the proposed Vacant & Foreclosed Property Registration Ordinance was designed to address. There was discussion regarding the situation brought forward by Mr. Stehlik. It was noted contact had been made with the current owner and there were hopes they would erect a fence. If they do not the City may be forced to take action.

There was further discussion regarding the posting of personal information with a violation notice. Mayor Frederick asked for the relevant statutes requiring posting so he could investigate the matter further.

Councilperson Eveleth reminded everyone about the Glow Parade and tree lighting taking place on Friday at 6:00 p.m. in the downtown.

**CITY MANAGER REPORT**

City Manager Crawford indicated he would also look into the posting matter.

**CONSENT AGENDA**

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

Set Public Hearing – Ordinance Amendment. Set a public hearing for December 5, 2011 to receive citizen comment regarding the proposed amendment to Chapter 2, Administration, Article VII, Municipal Employees’ Pensions, Section 2-403, Board of Trustees as follows:

**AN ORDINANCE TO AMEND THE MAKE-UP OF THE CITY EMPLOYEES’ RETIREMENT SYSTEM BOARD OF TRUSTEES**

AN ORDINANCE to amend Section 2-403, Board of Trustees, of Chapter 2, Administration, Article VII, Municipal Employees’ Pensions, to allow the Mayor to appoint a Council designee to serve in his/her place on the City Employees’ Retirement System Board of Trustees.

WHEREAS, the City of Owosso has a retirement system that is managed by a Board of Trustees; and

WHEREAS, Ordinance currently dictates the Mayor serve as a part of this Board; and

WHEREAS, it has been requested Council consider allowing the Mayor the option of appointing a Council designee to serve in his/her place on the Board; and

WHEREAS, it is felt such an amendment will provide flexibility while maintaining the composition of the Board.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Owosso, Michigan that, Chapter 2, Administration, Article VII, Municipal Employees’ Pensions, Section 2-403, Board of Trustees, read as follows:

THE CITY OF OWOSSO ORDAINS:

SECTION 1. Sec. 2-403 shall read as follows:

**Sec. 2-403. Board of trustees.**

(a) There is hereby created a board of trustees (the "board") in whom is vested the general administration, management, and responsibility for the proper operation of the retirement system and for making effective the provisions of this article. The board shall consist of seven (7) trustees as follows:

- (1) The mayor **or a councilman who is not eligible to participate in the retirement system as a member or retiree;**
- (2) A **second** councilman who is not eligible to participate in the retirement system as a member or retiree;
- (3) A citizen who has the qualifications required by the charter for holding an elective city office and who is not eligible to participate in the retirement system as a member or retiree, to be appointed by the council;
- (4) A police officer member to be chosen by the police officer members;
- (5) A fire fighter member to be chosen by the fire fighter members; and
- (6) Two (2) general city members: one (1) general city member to be chosen by non-unionized general city members and one (1) general city member to be chosen by the unionized general city members.

(b) The choosing of the trustees provided for in paragraphs (4), (5), and (6), above, shall be held in the month of May in each year under such rules and regulations as the board shall, from time to time, adopt.

Section 2: Effective Date.

This ordinance shall take effect 20 days after passage.

Section 3: Inspection.

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

Homelessness Awareness Event Permission. Consider the request from Owosso High School National Honor Society for use of the Main Street Plaza Saturday, December 3, 2011 from 5:00 pm until 8:00 am December 4, 2011 for an event to raise homelessness awareness in the community and authorize Traffic Control Order No. 1261 formalizing the action.

Boards and Commissions Appointments. Approve the following Mayoral boards and commissions appointments:

<b>Name</b>	<b>Board/Commission</b>	<b>Term Expires</b>
Brent Wesley	Owosso Community Airport Board	12-31-2013
Christopher Eveleth	Zoning Board of Appeals	06-30-2014
Jerry Jones	Board of Review	12-31-2016

Repair Authorization. Waive competitive bidding requirements and authorize the rehabilitation of one Peerless split case centrifugal pump at the Water Treatment Plant in the amount of \$7,423.00 as follows:

**RESOLUTION NO. 176-2011**

**RESOLUTION AUTHORIZING THE EXECUTION  
OF A PURCHASE ORDER FOR  
REHABILITATION OF HIGH SERVICE PUMP # 4  
FOR THE WATER TREATMENT PLANT  
WITH PEERLESS MIDWEST, INC.**

WHEREAS, the City of Owosso, Shiawassee County, Michigan, requires rehabilitation of a Peerless Split Case Centrifugal Pump at its Water Treatment Plant; and

WHEREAS, Peerless Midwest, Inc. is an authorized Peerless pump distributor and repair facility and has inspected the pump and developed a detailed proposal to restore the pump to like new condition;

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 have peerless Midwest, Inc. rehabilitate the pump at a cost of \$7,423.
- SECOND: The purchase agreement between the City and Peerless Midwest, Inc. shall be in the form of a City Purchase Order.
- THIRD: The above expenses shall be paid from the Water Fund.

Warrant No. 432. Accept Warrant No. 432 as presented.

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

Motion supported by Mayor Pro-Tem Popovitch.

Roll Call Vote.

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

NAYS: None.

**ITEMS OF BUSINESS**

**NATIONAL REGISTER OF HISTORIC PLACES CONSIDERATION**

City Manager Crawford introduced the topic by giving a brief history of the City's pursuit of tax abatements for downtown property owners. The downtown was recently declared a Michigan State historic district but unfortunately the State has cut the available abatements due to budget constraints. The State Historic Preservation Office recommended the Historic District Commission explore the idea of applying for the National Register of Historic Places in an attempt to make the downtown eligible for federal tax credits. It is anticipated the application would cost between \$15,000 - \$30,000. SHPO has indicated there is grant money available for such costs if the City agrees to start the application process by November 30, 2011.

Motion by Councilperson xxx to approve application to the Michigan State Historic Preservation Organization seeking funding for an application to the National Register of Historic Places for the downtown, with the contingency that should grant funding be unavailable the item will be returned to Council for further consideration, as follows:

**RESOLUTION NO. 177-2011**

**RESOLUTION AUTHORIZING THE NOMINATION OF  
THE OWOSSO DOWNTOWN HISTORIC DISTRICT FOR REGISTRY ON  
THE NATIONAL REGISTER OF HISTORIC PLACES  
AND SEEKING GRANT SUPPORT FROM  
THE STATE HISTORIC PRESERVATION OFFICE (SHPO)**

WHEREAS, the City of Owosso is authorized by the provision of Act 169, Public Acts of Michigan, 1970, as amended, to create an Historic District Commission (HDC); and

WHEREAS, the Owosso Downtown Historic District Commission (HDC) was created by Ordinance No. 717 in August of 2010; and

WHEREAS, the historic district was created to preserve historic buildings in the downtown through regulation as well as through the provision of dedicated state tax credits that would provide an incentive for preservation work; and

WHEREAS, the State of Michigan has greatly reduced the amount and availability of these tax credits; and

WHEREAS, SHPO is offering funds to the City of Owosso to perform a nomination study to place this district on the National Register of Historic Places, thereby making the district eligible for federal tax credits; and

WHEREAS, the Owosso Planning Commission and the Historic District Commission, finding such a study and nomination to be in the best interest of the community, have resolved to recommend pursuit of the national nomination and the funds to execute nomination study.

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

- FIRST: The City of Owosso, finding that the pursuit of a designation for the district on the National Register of Historic Places (NRHP) is in the best interest of the city, hereby approves and permits an application to the NRHP for the current and/or amended downtown historic district for nomination.
- SECOND: The City of Owosso further directs staff to pursue a grant by the State Historic Preservation Office (SHPO) to conduct such a nomination study and to consider the Steam Railroading Institute for inclusion in a resulting district.
- THIRD: Furthermore, the council resolves to support the nomination by showing a willingness to educate the community on the NRHP, and to provide local assistance to any retained consultant via access to historic information, local education activities, and by taking part in the research and public participation process.
- FOURTH: Furthermore, the council hereby directs staff to engage other community and private interests to secure letters of support, resolutions, and correspondence as necessary to fulfill the needs of SHPO and the grant process timeline.

Motion supported by Councilperson Fox.

Roll Call Vote.

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

NAYS: None.

**RECREATION PASSPORT GRANT AGREEMENT ACCEPTANCE**

Mayor Frederick noted that he continues to be impressed by Community Development Director Zettel's work with such projects.

Motion by Councilperson Eveleth to authorize an agreement with the Michigan Department of Natural Resources for a Recreation Passport Grant in the amount of \$29,300 for the renovation of Bentley Park as follows:

**RESOLUTION NO. 178-2011**

**RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT\* FOR  
THE RENOVATION OF BENTLEY PARK  
UTILIZING MICHIGAN DEPARTMENT OF NATURAL RESOURCES GRANT FUNDS**

WHEREAS, Bentley Park is noted as being one of the oldest parks with the most public exposure in the city; and

WHEREAS, the park facilities are exceeding their useful life, and regular maintenance cannot effectively address some shortcomings anymore; and

WHEREAS, the City of Owosso has developed partnerships with area civic groups to rehabilitate the existing facilities, increase accessibility, enhance the natural features, and increase use with a planned playscape; and

WHEREAS, the City of Owosso has also submitted a grant application to the State of Michigan Department of Natural Resources seeking funding assistance to renovate the park; and

WHEREAS, as a result of the application the Department of Natural Resources has awarded the City with a grant in the amount of \$29,300; and

WHEREAS, the State requires City matching funds in the amount of \$36,500 for the project; and

WHEREAS, the City of Owosso, the Evening Owosso Kiwanis Chapter, and the Shiawassee Community Foundation are morally and financially committed to carrying out the improvements in Bentley Park as noted in the grant application; 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 accept the grant and enter into an agreement with the Michigan Department of Natural Resources for the renovation of Bentley Park.
- SECOND: The Mayor and City Clerk are instructed and authorized to sign the document substantially in the form attached, Agreement between the City of Owosso, Michigan and the Michigan Department of Natural Resources.
- THIRD: The Owosso City Council commits to funding the capital rehabilitation plan as outlined in the Bentley Park Capital Rehabilitation Grant application. Expenses related to this project shall be paid from the General Fund with reimbursement from the Michigan Department of Natural Resources in the amount of \$29,300.
- FOURTH: The City of Owosso agrees to maintain satisfactory financial accounts, documents and records and make them available to the Department of Natural Resources for auditing at reasonable times.
- FIFTH: The City of Owosso agrees to regulate the use of the facility under this agreement to assure the use thereof by the public on equal and reasonable terms.

Motion supported by Councilperson Erfourth.

Roll Call Vote.

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

NAYS: None.

\*Full text of the agreement is on file in the Clerk's Office.

### **PROPERTY SALE POLICY**

City Manager Crawford explained the need for a property sale policy. He went on to say that the policy had been developed over his years in city management and was intended to be a road map by which the City could efficiently and fairly sell property.

There was discussion regarding whether the City could dictate covenants when selling a parcel, how the value of a parcel would be determined, environmental testing, and ensuring the City maintains sufficient latitude to dispose of property by whatever means are dictated by the situation.

Motion by Councilperson Cook to approve the proposed Property Sale Policy as follows:

### **RESOLUTION NO. 179-2011**

### **RESOLUTION APPROVING POLICY FOR DISPOSITION OF CITY-OWNED REAL PROPERTY**

WHEREAS, the city of Owosso is the owner of real property which is used for various municipal purposes, including land-banking;

WHEREAS, as public service needs change, the requirements for these properties may be revised, and, on occasion, certain parcels may be found greater than the city's current need;

WHEREAS, this requires that the site be reviewed as to its potential for future public use and its potential economic benefit to the city;

Whereas it is in the best interest of the city to have a policy which:

1. establishes a procedure by which unused or marginally used city-owned real estate is reviewed for its potential public use and for designating unneeded parcels for lease or sale; and
2. provides guidance for the auction, negotiated sale, or exchange of city-owned real estate; and
3. establishes the conditions under which city-owned real property may be leased.

NOW THEREFORE BE IT RESOLVED by the city council of the city of Owosso, Shiawassee County, Michigan that the City of Owosso Policy for the Disposition of City-Owned Real Property, as attached, is adopted and becomes effective immediately.

### **CITY OF OWOSSO POLICY FOR DISPOSITION OF CITY-OWNED REAL PROPERTY**

#### **BACKGROUND**

The city of Owosso is or may become the owner of real property which is used for various municipal purposes, including land-banking. As public service needs change, the requirements for these properties maybe revised, and on occasion, certain parcels may be found greater than the city's current need. This requires reviewed of the site's potential for future public use and its potential economic benefit to the city.

#### **PURPOSE**

It is the purpose of this policy to:

- A. establish a procedure by which unused or marginally used city-owned real estate is reviewed for its potential public use and for designating unneeded parcels for lease or sale; and
- B. provide guidance for the auction, negotiated sale, or exchange of city-owned real estate; and
- C. establish the conditions under which city-owned real property may be leased.

#### **POLICY**

It is the city's policy to manage its real estate assets so that they may properly carry out municipal needs which rely on these assets. It is not the city's policy to speculate in real estate. The city council will review all city-owned real estate not adequately used for municipal purposes and determine the appropriate use of the property. Those properties needed for municipal purposes may be so designated. If a property is not needed for public use within the foreseeable future, it may be made available for lease or sale, or if it will be needed at a future time, it may be suitable for lease in the interim. Those properties not required for municipal use, including those acquired because the owner failed to pay taxes, or designated for lease may be designated for sale or reserved to be exchanged for other land the city needs. The city shall optimize the sale price or lease rent from city-owned real estate based on relevant factors including:

- A. an appraisal of the property which is no more than six months old at the time the sales agreement is presented to the city council,
- B. prevailing economic conditions and recent applicable trends, and
- C. any special benefits to accrue from the sale or lease.

Discounts will not be negotiated unless an extraordinary need or circumstance is recognized by city council resolution before negotiation, setting forth the amount of the discount and the justification for it. The purpose of this is to demonstrate to the community that the city is not making a gift of public assets.

The *Owosso City Charter* places limitations on the sale of property as follows:

Section 14.3(b). Limitations on Contractual Power.

(b) The city shall not have power to purchase, sell, lease, or dispose of any real estate, unless:

- (1) Such action is approved by the affirmative roll call vote of five or more members of the Council, and, unless;
- (2) In the case of real estate owned by it, the resolution authorizing the sale, lease, or disposal thereof shall be completed in the manner in which it is to be finally passed and has remained on file with the Clerk for public inspection for twenty-one days after its original introduction at a meeting of the Council before the final adoption or passage thereof and, unless;
- (3) When the proposition is to sell any park cemetery or any part thereof, except when such park is not required under an official master plan of the city, or any property bordering on a water front, the proposition to sell, lease, or dispose of the same shall also be approved by a three-fifths vote of the electors of the city voting thereon at any general or special election.

#### Section 15.5. Disposal of Municipal Utility Plants and Property.

The city shall not sell, exchange, lease, or in any way dispose of any property, easement, equipment, privilege, or asset needed to continue the operation of any municipal public utility, unless the proposition to do so is approved by a three-fifths majority vote of the electors of the city voting on such proposition at a regular or special city election. All contracts, grants, leases, or other forms of transfer in violation of this section shall be void and of no effect as against the city. The restrictions of this section shall not apply to the sale or exchange of articles of machinery or equipment of any municipally owned public utility which are no longer useful or which are replaced by new machinery or equipment, or to the leasing of property not necessary for the operation of the utility, or to the exchange of property or easements for other needed property or interests in property

### PROCEDURE

#### A. Real estate review

All unused and marginally used city-owned real estate will be reviewed on a continuing basis to determine public facility needs and to implement the comprehensive plan on a timely basis. The following procedure will apply:

1. Review by appropriate city departments.
2. Review by any applicable city commission(s).
3. Review by the planning commission for consistency with the comprehensive plan and environmental impact.
4. The staff's recommendation and relevant comments along with those of the planning commission are submitted to the city council.
5. The city council then determines the designation to be applied to the property (e.g., public facility, open space, surplus, sale, or lease).

#### B. Comprehensive plan and rezoning.

Before marketing a parcel, staff will review the parcel for likely changes in density or intensity of use since the city acquired the property. If such changes are likely, then staff shall initiate a necessary rezoning and comprehensive plan amendment through the planning commission to enable marketing the property at its highest and best use. When different land-use classifications divide projects, staff will seek lot splits, lot mergers, or property-line adjustments to divide the property along use lines, to reserve rights-of-way for streets and utilities, and to be able to disclose the terms of development of the property.

#### C. Lease versus sale

City-owned real property not required for municipal uses may be designated for lease or sale using criteria listed below. At the time staff recommends whether the property should be sold, leased, or reserved for exchange purposes, council shall be provided with an appropriate analysis of the alternatives.

#### D. Sale of real estate

##### 1. Auction

Unless otherwise directed by the city council, land which is readily marketable and unrestricted in its sale potential will be sold to the highest bidder at a public auction by either oral or sealed bid, provided that the highest bid equals or exceeds the minimum published price established by the city before bid opening, which price shall not be lower than the amount shown on the appraisal. Notice of the sale by bid shall be published in a newspaper of general circulation at least ten days before bid opening. If sealed bids are requested, a deposit must accompany each bid in the form of certified or cashiers' check made payable to the city in an amount equal to at least 10 percent of the bid amount. After sealed bids are opened, oral bids are permitted from bidders who can meet the 10 percent deposit requirement. The initial oral bid must be at least 5 percent higher than highest sealed bid. Subsequent oral bids must be in increments of not less than \$100.00. If the person whose bid is accepted fails to pay the total bid price within 60 days from acceptance of bid, the bidder's



deposit is forfeited, and at the sole option of this city, property may be offered for sale to the next highest bidder on the same terms as granted the high bidder. The council shall be notified of bids received or, if applicable, the fact that no bids had been received. The council may reject any and all bids.

The minimum acceptable bid will usually be the appraised fair market value as determined by the city assessor or an independent Member of Appraisal Institute (MAI) appraiser. The intent of this procedure is to set a minimum bid which will ensure a fair return to the city for its property, while encouraging maximum participation in the bidding process.

The city council may determine that property should be developed in a specific manner and may issue a request for competitive proposals (RFP) based upon preestablished criteria, in which case the property would not be sold at auction but sold through public advertising and the solicitation of proposals which will be publicly examined. See appendix A.

## 2. Negotiated sales

If the property is to be developed in a manner that would satisfy a long-term objective of the city or no bids are received or no bids are deemed acceptable by the city council, the city may seek to sell land by one of the following:

*Marketing* - Competitive offers for lease or sale may be solicited from the open market. This may be accomplished through several marketing techniques, such as requests for proposals (RFPs), a marketing subscription system, direct advertising, exposure through real estate services, posting the property, and any other appropriate means.

*Direct marketing* - seeking to sell the property through direct contacts under the following circumstances:

- a. When the land is not readily marketable because of its odd shape, lack of sufficient area to meet minimum space requirements for building in the zone in which it is located, landlocked state, or other lack of sales potential, the land may be sold by taking offers or by negotiation with adjoining landowners, provided the purchase price agreed upon is within 10 percent of the appraisal or the land is exchanged for public improvements of equal or greater value that would otherwise be the obligation of the city.
- b. When the sale to a contiguous owner would correct a site deficiency or improve access to the other property in a manner desired by the city.
- c. When a fee interest in public right-of-way is no longer required, it may be sold to a contiguous owner or exchanged for public improvements of equal or greater value. A restrictive easement of adequate width or other required easements may be reserved from said sale.
- d. When other governmental, public, and quasi-public agencies submit proposals to acquire city property, the city shall consider such requests before making the land available to the general public. Such sales shall be at fair market value, unless the council finds that selling at a lesser value is in the city's interest. Selling land at less than the appraised fair market value shall require a four-fifths vote of the city council to do so.
- e. When qualified, nonprofit institutional organizations offer to purchase city-owned land, a negotiated sale may be consummated at fair market value, providing there is (1) a development commitment and (2) a right to repurchase or a reversion upon a condition subsequent. Nonprofit and institutional organizations are required to develop under the city's conditional use permit procedure.
- f. When a property has been offered by public auction and no acceptable bids have been received, it may be sold on a negotiated basis to any applicant submitting an acceptable offer within six months following the date of auction. After six months, any offer must be based on an updated appraisal.
- g. When a property is to be developed in a manner that would satisfy a long term objective of the city, the sale may be negotiated as long as the objectives of the city are protected by the sale agreement.
- h. Real property exchanges may be consummated by direct negotiation; however, exchanges will be considered only when there is an advantage to the city, when it results in land needed for a public purpose, or to further the goals and objectives of the city's comprehensive plan.

## E. Easements

Where the city or other governmental agency has paid for easements, rights-of-way, or access rights and requests to vacate such interests are received and approved, the city shall receive the

current fair market value or equivalent compensation for the removal of the restriction. Easements may be exchanged for other easements or relocated to other locations without compensation.

#### F. Exchanges

When land is exchanged, it shall be done based on the fair market value of each property as determined by MAI appraisal. Any difference in value shall be made up by the party with the lower appraisal value.

#### G. Payment for city surplus property

Sales of real property shall be on an all cash-basis, with the following exceptions:

1. Upon written recommendation and approval by the council, a parcel of surplus real property may be sold on such credit terms as are deemed to be necessary in each case. After the required down payment has been made, the balance of the purchase price shall be secured by a note and deed of trust. The credit payment period shall not exceed five years from the date of execution of the trust deed. Interest shall be at the prevailing rate in the community, and the use of term payments shall be linked to job generation for the sale of commercial or industrial property.
2. Sales to nonprofits performing a public purpose may be in the form of a loan or residual receipts note at less than the prevailing interest rates and for more than five years, provided the note is tied to affordable housing.

#### H. Leasing

1. Rate of return. Except for the areas listed below, the city shall obtain a fair market rate of return on city-owned property being considered for lease and negotiate terms and conditions which will continue to sustain a fair rate of return through rent review, consumer price index adjustments, reappraisals, or the application of percentage rents to gross income. The rate of return shall be based upon the highest rate commensurate with the highest and best use of the property or a fair rate of return commensurate with the designated public use. Rental rates shall be established by the city council based on a current appraisal, comparative studies, or past rents received.
2. Long-term lease. A lease greater than one (1) year requires council approval.
3. Short-term lease. Unless there are special circumstances, the city manager without council approval may execute a lease term of less than one (1) year. A short-term lease may not be renewed without council approval.
4. Selection of lessee. Lease proposals shall be evaluated in terms of:
  - a. Consideration offered as rent,
  - b. Financial capability,
  - c. Expertise regarding the proposed leasehold development and operation,
  - d. Nature of proposed development,
  - e. Special public benefits to be derived (if any), and
  - f. Consistency of the intended use with the comprehensive plan and zoning.
5. Leasehold assignments. Requests for assignment of leasehold interest will be evaluated on the same basis as the criteria used in evaluating a leasehold proposal. The city manager may authorize assignments which do not require amendment of the master lease provisions and do not extend beyond the term of the lease.
6. Subleases. Requests for sublease approval will be considered on the merits of each individual transaction. No sublease shall be approved which would be detrimental to the city's rights under the master lease. The city manager may authorize subleases which meet this condition and which do not require amendment of the master lease or extend the term of the lease.
7. Amendments. Amendments of long-term leases require council authorization. Whenever there is a substantial amendment, staff shall provide the council an indication of the fair return for the leasehold. This can be accomplished by appraisals, a survey of the market rate of return, a combination of the above, or any other relevant information.
8. Updating lease terms. Lease terms shall be updated as often as practicable whenever there is a request for assignment or significant amendments or subleases are proposed.
9. Financial encumbrances. The city will generally not subordinate its fee interest to encumbrances placed against the leasehold by the lessee without specific authorization of the city council.
10. Tenant improvements. Improvements installed by the lessee will be removed at termination without cost to the city or they will revert to the city. In the event of removal,

the property will be returned to "as was" condition. All leasehold improvements and alterations require prior approval by the city manager or city council, depending on the term of the lease. Any improvements within a public right-of-way by a lessee shall be deeded to the city.

11. Lease term. Lease terms will be limited to the shortest practical time commensurate with capital investment in permanent improvements to be made by the lessee following state law.
12. Audits. The city may audit all percentage leases in the first year of operation to establish proper reporting procedures and at least once every three years afterwards. More frequent audits may be made if appropriate. The city shall reserve the right to audit all other leases and agreements if determined warranted by the director of finance or city manager. Absent a city audit, a lessee shall submit an annual report certified by a certified public accountant each year within 30 days of the anniversary date of the lease.
13. Cancellation clauses. Short-term leases shall not have cancellation clauses unless they are month-to-month leases.

#### I. Option agreements

1. Option to sell. When properties have been put up for sealed or oral bids and bids have not either been received or been rejected by the city, the city manager may enter an option agreement of up to 90 days with someone interested in purchasing surplus property. Any such option agreement shall be subject to the following minimum terms:
  - a. Shall not exceed 90 days without approval of the city council;
  - b. Shall provide time for the prospective buyer to perform do diligence to see if the property is feasible for his/her purposes;
  - c. Shall require a minimum non-refundable deposit of not less than 10 percent of the value of the property per month of the option agreement;
  - d. Shall require forfeiture of the deposit if the property is not placed in escrow within 90 days;
  - e. Shall set the minimum purchase price of the property at not less than the appraised fair market value, based on an appraisal prepared within six months of the date escrow was opened, and shall provide a non-refundable deposit in an amount agreed upon by the city council and set the length of escrow;
  - f. Shall disclose all realtors involved, if any; and
  - g. Shall disclose the name of the buyer and his/her intended use of the property.

#### J. Real estate listing

It will be the presumption that the city will act as its own agent and that any real estate agent or broker will represent the buyer. When it is determined that any real property owned by the city is to be disposed of by sale, the city council may authorize a written listing contract with a real estate broker licensed by the state of Michigan.

Selecting a real estate broker to provide real estate services will be accomplished through a competitive recruitment process based on the type of property to be marketed, relevant experience, knowledge of the community, proposed commission, qualifications, necessary licenses in good standing, and demonstrated competence.

Absent a real estate listing, the council may still designate certain surplus property for sale or lease for which the city would pay a partial commission upon the successful conclusion of a sale or lease. The agent or broker that procures a buyer or lessee for the city would be eligible for a commission. A commission would not be paid for subleases and existing leases on city property.

While the city will allow agent or broker participation on designated properties in the sale and lease of land not covered by contract, inherent in this is the right of the city to solicit and obtain sales or leases through in-house capabilities. There will not be any discount in land values or lease rates due to the absence of a commission to real estate brokers.

#### K. Time of payment of a real estate commission for a sale

In the event an agent or broker covered by contract with the city gets a buyer who submits either the highest bid or an offer to purchase based on the fair market value of the parcel and the sale is made and completed in due course, the commission provided in the contract will be paid to the agent or broker by the escrow agent from the sales proceeds.

#### L. Real estate commissions

Unless there is a written contract between a real estate agent or broker and the city, the city shall represent itself and practice good business practices in all real estate transactions. The city may pay a real estate brokerage fee for qualified representation of a selected lessee or purchaser of city property. While the amount of rental or purchase price offered is a criterion for selecting a lessee or purchaser in competitive situations, the selection will be based on the highest net rental or net purchase price, without taking into account any brokerage fees involved in the competition.

#### M. Real estate agent or broker certification

For any sale or lease involving a real estate agent or broker not under contract to the city on designated properties, the city shall require the following:

1. That the buyer or lessee certify that the real estate agent or broker is his/her agent in the transaction and has performed a service and procured the sale or lease.
2. That the real estate agent or broker certify that he or she is not an employee of the lessee or buyer.

#### N. Use of proceeds

Unless otherwise directed by the city council, proceeds from sales or leases shall be assigned as follows:

1. To enterprise accounts, if the property was purchased using ratepayer funds.
2. To the general fund
3. To a program or grant that requires refunding if the land was purchased using a source of money with that type of restriction.

#### O. Costs to sell, lease, and market surplus properties

Unless otherwise directed, the costs to sell, lease, exchange, or market surplus properties will be charged to the fund to which the proceeds of a sale would go.

### **APPENDIX A**

Owosso from time to time will have parcels that are vital to community and economic development for which proposals should be sought and examined by preestablished criteria. This will normally involve redevelopment projects. In such circumstances, Owosso will follow a process similar to the following.

#### 1. Preparation of a site development program

Illustrative development plans and guidelines are prepared by the city that reflect and address:

- economic parameters and feasibility
- community goals and design criteria
- physical capacity

There may be extensive public participation in the process to address critical issues such as height, orientation, parking, traffic, general design/materials, and community character. Open workshops or charettes may be held early in the process. Typically, this task includes the services of a planning/design firm, civil engineer, and traffic planners and often the services of a development advisor. The result should be a project that is economically feasible and physically reasonable and that meets the goals of Owosso.

Development guidelines will be crafted that give prospective developers direction but still allow the community to tap the creativity and resourcefulness of the private sector.

#### 2. Address development readiness of the site

There must be realistic assessment of factors that may impede development and may be difficult for the developer to address. Issues may include ownership holdouts, demolition, environmental contamination, soil conditions, storm water requirements, infrastructure status and responsibility, title exceptions and other similar problems.

Who is in the best position to address these issues must be evaluated and action taken to resolve the issues. Decisions must be made as to the role the developer may have to play in their resolution. At the very least the key issues should be disclosed.

#### 3. Prepare request for qualifications and proposals

A two-step process will usually be followed, first seeking qualifications (RFQ), then requesting proposals (RFP) from only a shortlist of not more than five qualified firms or teams. The request

for qualifications provides full background information on the project and seeks the experience, track record, financial capacity, and references of development teams.

The two-step process is followed because Owosso wants to advertise sale of land and other development opportunities. This creates a "beauty contest" in the eyes of qualified developers. Firms may hire an architect to prepare attractive exhibits, whether or not they represent a feasible plan or the firm has the financial and development capability to deliver. As a result, many best qualified firms will avoid a request for full proposals that is open to all and for which they cannot reasonably assess the odds of success. The cost of a full proposal is too great to incur unless there is a reasonable chance of success.

#### 4. Review qualifications and determine a short list

Qualifications will be reviewed and a short list selected. The review of qualifications will include assessing the relevance and depth of the background of each team, a confidential review of financial capacity, and interviews of references. A short list will be made. This may require interviews and staff/ consultant review.

#### 5. Solicit/receive proposals from a short list

Meetings will be held with short-listed teams to provide additional background information and to answer questions that may arise. Other discussions also may occur during this period to help the developers fully understand the municipality's goals. The full proposals will include conceptual site and building plans, financial analysis, requests for city participation, and proposed payments to the city. Each developer will approach the project differently.

#### 6. Evaluate proposals

Proposals will be evaluated in terms of overall quality, financial proposal, responsiveness, level of commitment from financing sources and tenants, etc. This is sometimes a summary and comparison or may be more evaluative. In either case, this provides information for use in interviews of the teams.

#### 7. Interviews

Developers will publicly present their proposals to the city council.

#### 8. Selection

Results of the interviews and public comment, if any, then will be considered along with the evaluation of the proposal as for quality, character, track record, ease of working relationship, price offered, and other factors.

#### 9. Negotiation of redevelopment agreement

Following selection, Owosso will negotiate the business terms of the redevelopment agreement for the project. This includes both financial terms and the responsibilities of parties. City and special legal counsel may be involved. A redevelopment agreement is the basis for the public-private partnership that occurs. It will be far more than a land sale contract to ensure that Owosso gets what it wants. The typical redevelopment agreement will include:

- Approved development
- Time of performance
- Protection on undeveloped land
- Acceptable tenants
- Payments to city
- Excess profit sharing
- Financing terms and public financial role, if any
- Requirements for closing, such as full funding, in balance
- Review and monitoring provisions

This is the opportunity to provide for requirements that reflect the desire to steward the land and achieve key public goals. Some may impact the economics of the project and value of the land, but if they are affordable and acceptable, the redevelopment agreement and covenants that run with the land are the mechanisms to do so and must be done before transfer.

Motion supported by Councilperson Bailey.  
Roll Call Vote.

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

NAYS: None.

**THE COUNCIL RECESSED AT 8:54 P.M.**

**THE COUNCIL RETURNED AT 9:02 P.M.**

**VACANT AND FORECLOSED PROPERTY ORDINANCE**

City Manager Crawford distributed information to Council members on the reasons why houses become vacant and the benefits the City would realize if these properties were registered. There was discussion regarding adding a clause requiring inspection prior to re-occupancy and what the fee structure may look like.

City Manager Crawford noted the ordinance would be quite comprehensive when dovetailed with code enforcement.

Motion by Councilperson Cook to approve the amendment to Chapter 8, Buildings and Building Regulations, Article VIII, *Registering Abandoned and Foreclosed Homes*, Sections 8-160 through 8-176 of the Code of Ordinances of the City of Owosso, Michigan and renaming current Articles VIII and IX as Articles IX and X, respectively, as follows:

**ORDINANCE NO. 724**

**AN ORDINANCE TO REQUIRE ABANDONED OR FORECLOSED PROPERTY REGISTRATION AND MAINTENANCE**

AN ORDINANCE to amend Sections 08-160 through 08-176, naming a new Article VIII, *Registering Abandoned and Foreclosed Homes*, Chapter 8, Buildings and Building Regulations, to insure the health, safety and welfare of the residents of the city of Owosso, by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring safe and sanitary maintenance of structures, and repealing all ordinances and/or resolutions in conflict therewith.

WHEREAS, the City of Owosso has been hit particularly hard by the recent recession; and

WHEREAS, the recession has lead to a large increase in foreclosed and abandoned homes in the City; and

WHEREAS, foreclosed and abandoned homes are many times subject to neglect bringing down property values and presenting a health and safety risk to the neighborhoods they are a part of; and

WHEREAS, the City needs a mechanism to track foreclosed and abandoned homes to prevent them from becoming nuisances.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Owosso, Michigan that all foreclosed and abandoned homes in the City of Owosso be registered in accordance with Article VIII, *Registering Abandoned and Foreclosed Homes*, of Chapter 8, Buildings and Building Regulations, as follows:

THE CITY OF OWOSSO ORDAINS:

SECTION 1. Short Title.

This Ordinance shall be known and cited as the *City of Owosso Abandoned or Foreclosed Property Registration and Maintenance Ordinance*.

SECTION 2. Secs 8-160 through 8-176 shall read as follows:

**Sec. 8-160. Purpose.**

It is the purpose and intent of the city of Owosso, through the adoption of this article, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

**Sec. 8-161. Definitions.**

For the purpose of this article, certain words and phrases are defined as follows:

*Abandoned* means a property that is vacant and is under a current complaint for foreclosure or notice of foreclosure and/or notice of trustee's sale, pending tax sale, and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

*Accessible property* means a property that is accessible through a compromised/breached gate, fence, wall, etc.

*Accessible structure* means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

*Agreement* means any agreement or written instrument which provides that title to residential property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer, or exchange.

*Assignment of rents* means an instrument that transfers the beneficial interest under a mortgage from one lender/entity to another.

*Beneficiary* means a lender under a note secured by a mortgage.

*Buyer* means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this section.

*Dangerous building* means any building/structure that is in violation of any condition referenced in chapter 8 of this Code.

*Days* means consecutive calendar days.

*Deed in lieu of foreclosure/sale* means a recorded document that transfers ownership of a property from the trustor to the holder of a mortgage upon consent of the beneficiary of the mortgage of a deed from mortgagor to mortgagee.

*Default* means the failure to fulfill a contractual obligation, monetary, or conditional.

*Distressed* means a property that is under a current notice of default and/or notice of trustee's sale and/or pending tax assessor's lien sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

*Evidence of vacancy* means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

*Foreclosure* means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor or mortgagor (borrower) defaults.

*Local* means within forty (40) road/driving miles distance of the subject property.

*Mortgage* means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan or by which a mortgagor grants mortgagee a lien on real estate.

*Mortgagee* means a lender that has taken a lien on real property to secure a loan.

*Mortgagor* means an owner of real property that has granted a lien on real property to secure a loan.

*Neighborhood standard* means those conditions that are present on a simple majority of properties within a three-hundred-foot radius of an individual property. A property that is the subject of a neighborhood standard comparison, and any other abandoned property within the three-hundred-foot radius, shall not be counted toward the simple majority.

*Out-of-area* means in excess of forty (40) road/driving miles distance of the subject property.

*Owner* means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property excluding governmental agencies.

*Owner of record* means the person having recorded title to the property.

*Property* means any unimproved or improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the property regardless of condition.

*Residential building* means any improved real property, or portion thereof, situated in the city, designed, or permitted to be used for dwelling purposes, and shall include the buildings or structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as residential whether or not it is legally permitted and/or zoned for such use.

*Secure or secured* means such measures as may be directed by the city of Owosso building official or his or her designee that render the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, and the repair or boarding of doors, broken windows and/or other openings. In the case of broken windows, securing means the reglazing or boarding of the window. Boarding shall be completed or required. In addition, secure or secured means closing and locking windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a person to access the interior of a property and/or structure(s).

*Trustee* means the person, firm, or corporation holding a mortgage on a property.

*Trustor* means a borrower under a mortgage, who deeds property to a trustee as security for the payment of a debt.

*Vacant* means a building/structure that is not legally occupied.

#### **Sec. 8-162. Registration.**

Any beneficiary/trustee or mortgagee, who holds a mortgage on a property located within the city, shall perform an inspection, to the extent permitted by law or under the mortgage, of the property that is the security for the mortgage, upon default by the trustor or mortgagor, within five (5) days after either filing a complaint for foreclosure (if foreclosure is by judicial action) or publishing a notice of foreclosure (if foreclosure is by advertisement). If the property is found to be vacant or shows evidence of vacancy, it is, by this article, deemed abandoned and the beneficiary/trustee or mortgagee shall, within ten (10) days of the inspection, register the property with the city of Owosso building official or his or her designee on forms provided by the city.

If the property is occupied but remains in default, it shall be inspected, to the extent permitted by law and the mortgage, by the beneficiary/trustee or mortgagee, or his designee, monthly until (1) the trustor, mortgagor or other party remedies the default or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee shall, within ten (10) days of that inspection, register the property with the city of Owosso building official or his or her designee on forms provided by the city.

In either case the registration shall contain the name of the beneficiary/trustee or mortgagee (corporation or individual), the direct street/office mailing address of the beneficiary/trustee or mortgagee (no P.O. boxes), a direct contact name and phone number for the beneficiary/trustee or mortgagee and, in the case of a corporation or out-of-area beneficiary/trustee or mortgagee, the local property management company responsible for the security, maintenance, and marketing of the property. Registration fees will not be prorated.

An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1 of each year and must be received no later than January 31 of the year due.

This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage or mortgagee involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale. Such properties shall be registered with the city in accordance with the terms of this section upon transfer even if occupied at the time of transfer.

Properties subject to this article shall remain under the annual registration requirement, security, and maintenance standards of this section as long as they remain vacant. A person, firm, or corporation that has registered a property under this article must report any change of information contained in the registration to the city of Owosso building official within ten (10) days of the change.

#### **Sec. 8-163. Maintenance requirements.**

Vacant and abandoned properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, dry bush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circular, flyers, notices, except those required by federal, state, or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

The property shall be maintained free of graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required. Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.



Maintenance includes but is not limited to regular watering, irrigation, cutting, pruning, and moving of required landscape and removal of all trimmings.

Pools and spas shall be either kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry or drained and covered. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the state of Michigan.

Adherence to this section does not relieve the beneficiary/trustee or property owner of any obligations set forth in any covenants, conditions, and restrictions and/or homeowners' association rules and regulations which may apply to the property.

**Sec. 8-164. Security requirements.**

Properties subject to this section shall be secured so as not to be accessible to unauthorized persons. If the property is owned by a corporation and/or out-of-area beneficiary/trustee/owner/mortgagee, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.

The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this article.

**Sec. 8-165. Additional authority.**

In addition to the enforcement remedies established in this article or other chapters of the *Code of Ordinances*, the city of Owosso building official or his or her designee shall have the authority to require the beneficiary/trustee/owner/mortgagor/mortgagee and/or owner of record of any property affected by this section to implement additional maintenance and/or security measures including but not limited to securing any/all door, window, or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

**Sec. 8-166. Fees.**

The fee for registering an abandoned residential property shall be set by resolution of the city of Owosso.

**Sec. 8-167. Failure to secure and maintain.**

If a property has not been maintained or secured, the city and/or its contracted agent may maintain and/or secure the property and assess costs to the owner, beneficiary or trustee.

**Sec. 8-168. Re-occupancy.**

A registered property may not be occupied until all outstanding costs, assessments and/or liens owed to the city have been paid in full.

An abandoned and/or vacant residential structure shall not be occupied until a certificate of occupancy has been issued by the city, and all violations have been corrected in accordance with the applicable requirements of the *Michigan Building/Residential Code*, *Michigan Electrical Code*, *Michigan Mechanical Code*, *Michigan Plumbing Code*, *International Property Maintenance Code* and applicable provisions of the *City of Owosso Code of Ordinances*. All mechanical, electrical, plumbing, and structural systems shall be certified by a licensed contractor as being in good repair.

**Sec. 8-169. Violation/abatement.**

Violations of this article shall be treated as a strict liability offense regardless of intent. Violations of this article may be enforced as allowed in this chapter. Alternatively, at the sole discretion of the city, the city may issue to the beneficiary/trustee/owner/mortgagor/mortgagee and/or owner of record a notice to abate. The notice to abate shall include:

- (1) The nature and location of the violation;
- (2) The time within which the violation must be abated;
- (3) Notice that the city may act to abate the violation if it is not abated by the owner within a reasonable time stated in the notice, but which may not exceed fifteen (15) days;
- (4) Notice that the cost of such action by the city, plus an administrative fee, shall be a personal debt of the owner, which may be assessed as a lien against the property until paid; and
- (5) Notice that any refusal to allow the city to abate an uncorrected violation shall be a separate violation under this Code.

**Sec. 8-170. Authorization for city abatement.**

Upon failure of a beneficiary/trustee/owner/mortgagor/mortgagee and/or owner of record to abate a violation as ordered in a notice to abate, the city may abate the nuisance. This abatement may be performed by the city, by a contract vendor, or by other means determined by the city.

**Sec. 8-171. Administrative fees.**

The fees necessary for the administration of this article shall be established from time to time by resolution of the city council. Such administrative fees shall include the following:

- (1) Notice to abate;
- (2) Search warrant;
- (3) Contact request or warning of abatement action;
- (4) Warning letter;
- (5) Civil infraction preparation;
- (6) Additional inspections;
- (7) Vending;
- (8) Second and subsequent vending;
- (9) Vehicle removal;
- (10) Second and subsequent vehicle removal; and
- (11) Denied entry.

**Sec. 8-172. Charge for costs.**

When the city has abated a cited nuisance, the cost of abatement, plus any applicable administrative charges as established by city council resolution, shall be billed to the property owner or beneficiary/trustee/mortgagor/mortgagee. Such billing shall be a personal debt of the owner to the city, which may be assessed as a lien against the property, including interest thereon, until paid.

**Sec. 8-173. Appeals.**

Any person aggrieved by any of the requirements of this section may appeal to the Owosso Building Board of Appeals, provided that a written application for appeal is filed within twenty (20) days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, the requirements of this Code are adequately satisfied by other means, or the strict application of any requirement of this Code would cause an undue hardship.

**Sec. 8-174. Owner, unoccupied premises.**

If a property is not in foreclosure but is otherwise unoccupied, the owner shall comply with all of the following:

- (1) Maintain the property in accordance with section 8-163 herein and article VI of this chapter.
- (2) Register the property in accordance with section 8-162
- (3) Responsible for the fee identified pursuant to section 8-166 herein.
- (4) Keep the property secure in accordance with sections 8-164 and 8-165 herein.
- (5) Not permit re-occupancy until all outstanding costs, assessments and/or liens owed to the city are paid in full.
- (6) If the owner leases or lets the property, the owner shall comply with article VII of this chapter in addition to the requirements herein.

**Sec. 8-175. Exempt properties.**

Properties currently registered with the City as a rental dwelling unit in accordance with Section VII of this Chapter are exempt from the *City of Owosso Abandoned or Foreclosed Property Registration and Maintenance Ordinance*.

**Sec. 8-176. Penalty.**

Violation of this article is a civil infraction wherein a fine of up to five hundred dollars (\$500.00) may be assessed for each violation.

Section 3: Renumbering of Articles VIII, IX & X.

The current Article VIII, *Numbering of Buildings*, will become Article IX, *Numbering of Buildings*, with Sections 8-161 and 8-162 becoming Sections 8-190 and 8-191 respectively, the text to remain as written.

The current Article IX, *Historic Districts*, will become Article X, *Historic Districts*.

Section 4: Severability.

If any section, subsection, sentence, clause or phrase of this article is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article. The city hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5: Effective Date.

This ordinance shall take effect December 11, 2011.

Section 6: Inspection.

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

Motion supported by Councilperson Fox.

Roll Call Vote.

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

NAYS: None.

**COMMUNICATIONS**

E. Frazier, Zoning Board of Appeals. Letter of Resignation (added to agenda).  
Charles Wascher, Historical Commission. Letter of Resignation.  
Gary Palmer, Building Official. October 2011 Building Department Report.  
Gary Palmer, Building Official. October 2011 Code Violations Report.  
Michael T. Compeau, Public Safety Director. October 2011 Police Department Report.  
Michael T. Compeau, Public Safety Director. October 2011 Fire Department Report.  
Historical Commission. Minutes of the Meeting of November 15, 2011.

**CITIZEN COMMENTS AND QUESTIONS**

Thomas Moorehead, 1265 Ada Street, said he felt the posting of personal information with a notice of violation violated many statutes. He went on to ask for a moratorium on the rental registration ordinance once again.

Jane Settingington, 3900 Krouse Road, asked why her husband's social security number was not abbreviated on the notice. She asked that Council fix the rental registration ordinance.

Eddie Urban, 601 Glenwood Avenue, commented on a recent picture in the newspaper.

**NEXT MEETING**

Monday, December 5, 2011

**BOARDS AND COMMISSIONS OPENINGS**

Historical Commission, term expiring December 31, 2014  
Planning Commission, term expiring June 30, 2012  
Zoning Board of Appeals – Alternate, term expiring June 30, 2013

**ADJOURNMENT**

Motion by Councilperson Eveleth for adjournment at 9:28 p.m.

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

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Benjamin R. Frederick, Mayor

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Amy K. Kirkland, City Clerk