

OWOSSO CITY COUNCIL

JULY 16, 2012

7:30 P.M.

PRESIDING OFFICER: MAYOR BENJAMIN R. FREDERICK

OPENING PRAYER: GINA MOSKAL
ST. PAUL CATHOLIC CHURCH LAY MINISTER

PLEDGE OF ALLEGIANCE: LES SEPKOSKI

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

ABSENT: Councilperson Loreen F. Bailey.

APPROVE AGENDA

Motion by Councilperson Eveleth to approve the agenda as presented.

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

APPROVAL OF THE MINUTES OF REGULAR MEETING OF JULY 2, 2012

Motion by Councilperson Erfourth to approve the Minutes of the Regular Meeting of July 2, 2012 as presented.

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

Mayor Frederick noted two attachments presented to Council for informational purposes:
1. Minutes of the most recent Main Street meeting and 2. The Annual Report for Memorial Healthcare.

PROCLAMATIONS / SPECIAL PRESENTATIONS

MEMORIAL HEALTHCARE UPDATE

Memorial Healthcare Chief Executive Officer Jim Full gave an update on the hospital's affiliation / partnership process saying the hospital was continuing to explore partnership opportunities to stay ahead of the anticipated changes to the healthcare system. He hoped the Board would be able make a decision whether to pursue negotiations with another entity or entities in September of this year.

He went on to give a brief overview of the Hospital's most recent Annual Report showing their strong financial standing and generous contributions to the community.

PUBLIC HEARINGS

ORDINANCE AMENDMENT – FIREWORKS

The proposed amendment would govern the use of fireworks within the City limits in light of recent changes in State law.

A Public Hearing was conducted to receive citizen comment on the proposed amendment to Chapter 19, Offenses, Article VII, *Offenses Against Public Safety*, Section 19-127, Fireworks prohibited.

The following person commented regarding the proposed amendment:

Eddie Urban, 601 Glenwood Avenue, said that while he was unsure of the details of the proposed ordinance he was in favor of regulating them because of the danger they present to people and property.

City Manager Crawford noted one minor change in section Sec. 19-127(4) to remove the reference to "novelties".

Councilperson Fox said he felt Council had an obligation to provide a certain quality of life for residents by restricting the hours that fireworks can be used. It was noted the new State law does not allow the City to regulate the use of fireworks the day before, the day of, and the day after listed holidays. Though some changes to the new law are expected as municipalities are forced to deal with its unintended consequences.

It was also noted that fireworks are not allowed on public land without the permission of City Council at any time during the year including the day before, the day of, and the day after a holiday.

Whereas, the Council, after due and legal notice, has met and having heard all interested persons, motion by Councilperson Cook that the following ordinance be adopted:

ORDINANCE NO. 735

**AN ORDINANCE TO AMEND
SECTION 19-127 OF THE CODE OF ORDINANCES
OF THE CITY OF OWOSSO, MICHIGAN
REGULATING FIREWORKS**

WHEREAS, the state of Michigan has enacted Act 256 of 2011 amending the Michigan Fireworks Safety Act, MCL 28.451 et seq., as amended, which preempted the current provision in the city of Owosso *Code of Ordinances*;

WHEREAS, the *Michigan Fireworks Safety Act*, MCL 28.451 et seq., as amended allows local units of government to regulate the ignition, discharge and use of consumer fireworks according to the amended Act;

NOW, THEREFORE BE IT RESOLVED by the city council of the city of Owosso, Michigan, that the following amendments to Chapter 19, Offenses, of the Code of the City of Owosso be recommended to regulate the use of fireworks within the city limits:

THE CITY OF OWOSSO ORDAINS:

SECTION 1. REPEAL. That Sec. 19-127. Fireworks prohibited, of the *Code of Ordinances*, which reads as follows, shall be repealed:

~~Sec. 19-127. -- Fireworks prohibited.~~

~~(a) *Sale prohibited.* Within the city limits, a person shall not sell at retail, offer for sale at retail, expose for sale at retail, keep with intent to sell at retail, give, furnish, transport, use, explode or cause to explode any firecrackers, torpedoes, sky rockets, Roman candles, day glow bombs or other fireworks of like construction containing more than .25 of a grain of explosive content per device, nor any fireworks containing an explosive or inflammable compound or a tablet or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus, or a compound containing these or other modern explosives.~~

~~(b) *Discharge, possession.* It shall be unlawful for any person to fire, discharge, display, or possess any fireworks except of the type and under the conditions permitted by chapter 38 of the Penal Code of the State of Michigan (MCL 750.243 et seq., MSA 28.440(1) et seq.).~~

SECTION 2. ADDITION. That a new Section 19-127 shall be adopted, which reads as follows:

Sec. 19-127. - Discharge of fireworks or explosives.

(a) *Definitions.* In this section, the following terms shall be defined as follows:

- (1) *APA standard 87-1* means the 2001 APA Standard 87-1 standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.
- (2) *Display fireworks* means large fireworks devices that are explosive materials intended for use in firework displays and designed to produce visible or audible effects by combustion, deflagration, or detonation, as provided in 27 CFR 555.11, 49 CFR 172, and APA standard 87-1, 4.1.
- (3) *Consumer fireworks* means fireworks devices designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR part 1500 and 1507, and are listed in APA standard 87-1.3.1.2, 3.1.3, or 3.5 Consumer fireworks do not include low-impact fireworks.
- (4) *Fireworks* means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for producing a visible or audible effect by combustion, deflagration, or detonation to include display, consumer, and low-impact as defined under Act 256 of 2011.

- (5) *Low-impact fireworks* means ground and handheld sparkling devices as defined under APA standard 87-1,3.1,3.1.1.1 to 3.1.1.8, and 3.5
- (6) *Minor* means an individual who is less than 18 years of age.
- (7) *National holiday* means the following legal public holidays: New Year's day (January 1), Martin Luther King, Jr. birthday (third Monday in January), Presidents' Day (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Columbus Day (second Monday in October), Veteran's Day, (November 11), Thanksgiving day (fourth Thursday in November), Christmas day (December 25).
- (8) *Novelties* means that term as defined under APA standard 87-1, 3.2 3.2.1, 3.2.2, 3.2.3, 3.2.4, and 3.2.5 and all of the following:
 - Toy plastic or paper caps for toy pistols in sheets, strips, rolls, or individual caps containing not more than .25 of a grain of explosive content per cap, in packages labeled to indicate the maximum explosive content per cap.
 - Toy pistols, toy cannons, toy canes, toy trick noisemakers, and toy guns in which toy caps as described in this section that are constructed so that the hand cannot come in contact with the cap when in-place for the explosion, and that are not designed to break apart or be separated to form a missile by the explosion.
 - Flitter sparklers in paper tubes not exceeding 1/8 inch in diameter.
 - Toy snakes and toy smoke devices not containing mercury, if packed in boxes with not more than 12 pieces per box for retail sale and if the manufacturer's name and the quantity contained in each box are printed on the box.
- (9) *Public land* means all property owned, leased or otherwise in the possession of the city or another governmental entity and shall include all parks, recreational fields, playgrounds, streets, alleys, trails and school grounds.

(b) Ignition, discharge and use of fireworks.

- (1) Display fireworks on public and private lands. No person(s) shall ignite, discharge or use display fireworks on any lands within the city without authorization and approval by the city council and subject to any fees, insurance coverage, licenses, forms, or applications required.
- (2) Consumer fireworks on public lands. No person(s) shall ignite, discharge or use consumer fireworks on public lands within the city limits without authorization by the governing body of such public lands and subject to any fees, insurance coverage, licenses, forms, or applications required.
- (3) Consumer fireworks on private property. No person(s) shall ignite, discharge or use consumer fireworks on private property in the city except on the day preceding, the day of, or the day after a national holiday as so defined under (a)(9) of this section and subject to the approval of property owner.
- (4) Low-impact fireworks on private property. Under Public Act 256 of 2011, all person(s) shall have the right to ignite, discharge or use low-impact fireworks subject to approval by the property owner and not in violation of other city ordinances including nuisance and noise provisions.
- (5) Low-impact fireworks on public property. All person(s) shall have the right to ignite, discharge or use low-impact fireworks on public lands within the city upon approval of the city council and subject to any other ordinances in the city such as nuisance, or noise restrictions.
- (6) Novelties under Public Act 256, subsection 28.453. The local unit of government has no authority to enact or enforce an ordinance, code, or regulation pertaining to, or in any manner regulating, the sale, storage, display for sale, transportation, use, or distribution of novelties.

(c) Possession of consumer or display fireworks by a minor.

A minor shall not possess consumer or display fireworks.

(d) Determination of violation; seizure.

If a police officer determines that a violation of this section has occurred, the officer may seize the fireworks as evidence of the violation.

(e) Penalty.

A violation of this section shall constitute a misdemeanor. Following final disposition of a finding of responsibility for violating this ordinance, the city may dispose of or destroy any

consumer fireworks retained as evidence in that prosecution. In addition to any other penalty, a person who is found responsible for a violation of this ordinance shall be required to reimburse the city for the costs of storing, disposing of, or destroying fireworks confiscated for a violation of this ordinance.

SECTION 3. SEVERABILITY. If any section, subdivision, sentence or attachment to this ordinance is for any reason held invalid or to be unconstitutional, such a decision shall not affect the validity of the remaining portion of this ordinance or attachment.

SECTION 4. CONFLICTING ORDINANCES. All existing ordinances inconsistent or in conflict with the provisions of this ordinance are, to the extent of such conflict or inconsistency, hereby expressly repealed.

SECTION 5. EFFECTIVE. This amendment shall become effective August 5, 2012.

SECTION 6. INSPECTION. This ordinance may be purchased or inspected in the city clerks' office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

Motion supported by Councilperson Eveleth.

Roll Call Vote.

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

NAYS: None.

CITIZEN COMMENTS AND QUESTIONS

Tom Dignan, business owner at 224 North Ball Street, introduced himself as a candidate for probate and family court judge. He gave a brief history of his legal experience saying he has been practicing law for more than 23 years. He went on to briefly detail his desire to see the court more accessible to citizens via the internet and how he would implement this idea should he be elected.

Deana Finnegan, Corunna resident, introduced herself as a Republican candidate for prosecuting attorney saying she had over 20 years of experience and had grown up here and raised her family here. She went on to say that she felt the county deserved a prosecutor that was more than just an administrator and that she would strive to make the office more accessible to officers and provide guidance so they can better assist in prosecutions.

Tom Manke, business owner at 118 South Washington Street, welcomed Nick's Pizza to South Washington Street saying they had moved into the former Big City Dogs location. He went on to say that he had talked to numerous businesses downtown that were excited about the prospect of a car cruise in the downtown. He also commented on problems with disposed cigarette butts in the downtown saying he would like enforcement of the litter law increased.

Gary Ballenger, Stewart Street, thanked the City for putting up signs in his neighborhood bringing attention to the children in the area, though he expressed continued concern because many bicyclists run the stop sign near his home. He asked for stepped up enforcement of traffic laws for bikers to prevent an accident.

Eddie Urban, 601 Glenwood Avenue, spoke again about the dangers of firecrackers.

Tracy Peltier, Farmers Market Market Master, announced the Downtown Farmers Market Chair Fair to be held July 28th at 12:30. Chairs will be auctioned off benefitting the local hunger network. She went on to note her involvement in the car cruise and the reasons why it was scheduled for Friday night on South Washington Street saying the intent was to conduct the cruise with the Artisan Market and the placement of the cruise was to accent Jumbo's sponsorship of the event.

Jeff Peltier, 1888 Ketegawn Road, expressed his frustration with the road blocks the car cruise has experienced saying he didn't want downtown Owosso to become a place that promoters and organizers avoided because of red tape. He encouraged the Council to make a bold decision and approve the car cruise saying no one would know if it would be beneficial if they didn't try it. He also asked that the volunteers that organize and run such events be remembered when processes are created. He was fearful that roadblocks and a general lack of support would discourage them from even trying.

Mayor Frederick thanked Councilperson Eveleth for the surprise 30th birthday party he held for him last weekend. He went on to thank the community for giving him the opportunity to serve at such a young age.

Mayor Pro-Tem Popovitch said she works at Memorial Hospital and is extremely grateful it is a part of the community. She noted some of the efforts the hospital has made to support the community over the years. Mayor Frederick expressed his agreement with her statements.

Councilperson Cook announced the river clean up July 28th at 9:00 am.

Councilperson Fox said he was supportive of events in the downtown saying we need more to keep the downtown alive. He said he was discouraged by some commenters that seemed to focus only themselves instead of the downtown as a whole. He encouraged everyone to support downtown events and the volunteers that put them on. He went on to say that the City would probably make some missteps along the way but could always change course if needed.

CITY MANAGER REPORT

City Manager Crawford indicated he anticipated discussing the Master Plan at the 5th Monday meeting on the 30th.

CONSENT AGENDA

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

Workers' Compensation Board Election. Authorize the city clerk to cast the ballot of the municipality for the election of trustees to the Michigan Municipal League Workers' Compensation Fund Board as follows:

RESOLUTION NO. 80-2012

**AUTHORIZING THE VOTING FOR TRUSTEES
FOR THE MICHIGAN MUNICIPAL LEAGUE WORKERS' COMPENSATION FUND**

WHEREAS, the city of Owosso is a member of the Michigan Municipal League Workers' Compensation Fund;

WHEREAS, the 2012 ballot for the election of trustees requires action by the governing body prior to the casting of the ballot by a city official;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OWOSSO, MICHIGAN:

SECTION 1. The city of Owosso cast votes for a two year term as trustee for the Michigan Municipal League Workers' Compensation Fund beginning October 1, 2012 for George Bosanic, Christine Burns, Ken Hibl, Elva Mills and James Rynberg.

SECTION 2. The city of Owosso authorizes the city clerk to cast the ballot on behalf of the city.

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

Name	Board/Commission	Term Expires
Don Schneider	Historical Commission	12-31-2012
Scott Newman	Historical Commission	12-31-2013
Karen Stadler	Historical Commission	12-31-2014
Lori Bailey	Westown Corridor Improvement Authority	Term of office

Change Order. Approve Change Order No. 2012-2 adding to the water main replacement contract with Glaeser Dawes Corporation for the replacement of water main on Grace Street from Cedar to Lyons and Grand Avenue from Auburndale to Franklin in the amount of \$ 98,490.34 as follows:

RESOLUTION NO. 81-2012

**AUTHORIZING CONTRACT CHANGE ORDER 2012-2 TO
THE 2011 WATER MAIN REPLACEMENT CONTRACT
WITH THE GLAESER DAWES CORPORATION**

WHEREAS, Glaeser Dawes Corporation was the low bidder on the 2011 Water Main Replacement Contract, and

WHEREAS, the city of Owosso, Shiawassee County, Michigan, entered into a unit price contract with Glaeser Dawes Corporation for the 2011 Water Main Replacement Project, and now finds it necessary and beneficial to the City to extend that unit price work to accomplish similar Water Main Replacement in 2012,

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 contract with Glaeser Dawes Corporation for Water Main Replacement in 2012 Project by approving Change Order 2012-2 to the 2011 Water Main Replacement Contract.

SECOND: The Contract Change Order 2012-2 is substantially in the form attached as Exhibit A, and is based on bid unit prices with an estimated total increase in the contract amount of \$98,490.34.

THIRD: The above expenses shall be paid from the 2012-13 Water Fund Budget.

Warrant No. 445. Authorize Warrant No. 445 as follows:

Vendor	Description	Fund	Amount
Brown & Stewart, PC	Professional Services- June 5, 2012 – July 9, 2012	General	\$11,620.36
Owosso Charter Township	Owosso Charter Township water sales payment covering the period from April – June 2012	Water	\$ 8,201.74
Caledonia Charter Township	Caledonia Utility Fund payment covering the period from April – June 2012	Water	\$17,156.05
Logicalis, Inc	Network Engineering Support- June 2012	General	\$ 8,806.00
		TOTAL	\$45,784.15

*Check Register. Receive and approve the Check Register for June 2012.

Motion supported by Councilperson Erfourth.

Roll Call Vote.

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

NAYS: None.

* Full text of this item is on file in the Clerk's Office.

ITEMS OF BUSINESS

FIRE FIGHTER CONTRACT

Motion by Councilperson Eveleth to approve a contract with the International Association of Fire Fighters Local 504 for a three year contract beginning July 1, 2012 and ending June 30, 2015.

Motion supported by Councilperson Erfourth

Roll Call Vote.

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

NAYS: None.

HUD SECTION 3 POLICY

City Manager Crawford noted the policy had probably been adopted many years ago because the City had been taking advantage of CDBG funds for decades though a signed copy was unable to be located thus necessitating the action for readoption.

Motion by Councilperson Eveleth to adopt a policy detailing compliance with HUD's Section 3 requiring preference in training and hiring for local low income residents when using CDBG funds as follows:

RESOLUTION NO. 82-2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OWOSSO AUTHORIZING THE IMPLEMENTATION OF A "SECTION 3" PROGRAM, WHICH SEEKS TO ENSURE THAT TO THE GREATEST EXTENT FEASIBLE, JOB TRAINING,

**EMPLOYMENT, AND CONTRACTING OPPORTUNITIES ARE MADE AVAILABLE TO
"SECTION 3 RESIDENTS" AND "SECTION 3 BUSINESSES"**

WHEREAS, the city of Owosso has received Community Development Block Grant funds and other federal housing and community development funds in the past and anticipates receiving such funds in the future;

WHEREAS, these federal housing and community development funding programs require the city of Owosso to implement Section 3;

WHEREAS, a Section 3 resident is a public housing resident or a low or very-low income person, as determined by the U.S. Department of Housing and Urban Development, who lives in the area where a federal housing and community development fund project is located;

WHEREAS, a Section 3 business is a business owned by a Section 3 resident (no less than 51% ownership interests) or a business of which at least thirty percent (30%) of the permanent, full-time employees are Section 3 residents;

WHEREAS, federal housing and community development programs produce employment and other economic opportunities and these employment and other economic opportunities offer a means to empower low and very low-income persons;

WHEREAS, the Section 3 policy established more than forty (40) years ago by the Congress of the United States of America, is that employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low and very low-income persons, and,

WHEREAS, the city of Owosso is fully committed to achieving the goals of Section 3 of the Housing and Community Development Act of 1968 (as amended and codified at 12 U.S.C. 1701u), the city of Owosso commits to ensure that, to the greatest extent feasible, job training, employment and contracting opportunities made possible by the expenditure of Community Development Block Grant and other federal housing and community development funds be directed toward low-income and very-low income residents of the project area, the city of Owosso and Shiawassee County and to businesses that are owned by or employ such persons. The specific steps the city will take to implement this policy include the following:

- A. The city council will adopt this policy by resolution.
- B. The duties related to implementation of this policy are assigned to the designated labor standards officer for each covered contract or grant.
- C. This policy will apply to all federal housing and community development grants of \$200,000 or more received by the city of Owosso and to all construction contracts of \$100,000 or more awarded from such funds.
- D. Low-income and very low-income residents of the city of Owosso Shiawassee County and businesses owned by or employing such persons will be notified of potential employment and contracting opportunities generated by the expenditure of Community Development Block Grant funds and other federal housing and community development funds through: (1) public hearings and related advertisements; (2) bidding advertisements and bid documents; and (3) notification to Michigan Works in Shiawassee County, the local chapter of the National Association of Minority Contractors, and/or other local business organizations and associations as they are identified.
- E. A list of businesses that identify themselves as Section 3 businesses will be made and maintained for use in procurements funded by federal housing and community development funds, those businesses will be notified of pending contractual opportunities, and the list will be made available to prime contractors awarded covered contracts.
- F. This Section 3 policy will be included in all covered solicitations and contracts. Section 3 performance will be monitored along with other federal labor requirements. Section 3 contractual obligations include the making and maintaining of records that document all actions taken to comply with Section 3, including outreach regarding employment and contracting opportunities, hiring of new employees, and the solicitation and award of subcontracts. The preparation and submission of reports as required by the relevant federal and state agencies will also be required.

NOW THEREFORE BE IT RESOLVED by the city council of the city of Owosso, Michigan:

SECTION 1. The city of Owosso *Section 3 Policy* attached hereto is hereby adopted.

SECTION 2. The city of Owosso *Section 3 Policy* attached hereto shall become effective immediately.

HUD SECTION 3 POLICY

The City shall provide economic opportunities to low- and very low-income persons (as defined in § 135.5 of 24 CFR Part 135) living in the City of Owosso and its' immediate area (Shiawassee County). The City should also provide economic opportunities to businesses within that area that meet the § 135.5 of 24 CFR Part 135 definition of "Section 3 Business Concern." Accordingly, the City shall implement policies and procedures to ensure that Section 3, when required, is followed to the "*greatest extent feasible*" for all contracts where labor/professional services are provided.

This policy shall not apply to contractors who only furnish materials or supplies through Section 3 Covered Assistance. It will apply to contractors who install materials or equipment (see definition of "Section 3 Contractor" below). Where federal housing and community development assistance provides for partial funding for a Section 3 Covered Project or activity, the entire project or activity is subject to Section 3 requirements. Nothing in this policy shall be construed to require the employment or contracting of a Section 3 Resident or Section 3 Business Concern who does not meet the qualifications of the position to be filled or who cannot fulfill the contract.

Successful compliance with the Section 3 Act and regulations by the Developer and/or General Contractor will be a factor in determining future awards of Section 3 Covered Assistance.

Definitions

The City incorporates into this policy and handbook the definitions contained in §135.5 of 24 CFR Part 135. (Also, see the June 30, 1994 Federal Register.)

Defined Terms of Policy and Handbook

- **Section 3** – Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u). This act recognizes that funds of HUD are typically one of the largest sources of federal funding expended in communities through the form of grants, loans, entitlement allocations and other forms of financial assistance. By doing so, this act seeks to guarantee that when employment or contracting is generated due to these activities, that preference in employment and contracting is given to low- and very low- income persons or Section 3 Business Concerns residing in the community where the project is located.
- **Section 3 Business Concern(s)** – Section 3 Business Concern(s) refers to a business or businesses that meet the following criteria:
 1. That is 51 percent or more owned by Section 3 Residents; **OR**
 2. Whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 Residents, or within three years of date of first employment with the business concern were Section 3 Residents; **OR**
 3. Provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition.
- **Section 3 Contractor** – An entity that contracts to perform work generate by Section 3 Covered Assistance, a Section 3 Covered Project, or to perform the work of Section 3 Covered Community Planning and Development Funding.
- **Section 3 Coordinator** – Refers to the individual appointed by the City to enforce the City's Section 3 Policy and Handbook, and to see that the goals established for Section 3 are being met by Section 3 Developers, Contractors, and Subcontractors.
- **Section 3 Covered Assistance** – Section 3 Covered Assistance relates to the following types of development:
 1. Public and Indian housing development assistance provided pursuant to section 5 of the 1937 Act;
 2. Public and Indian housing modernization assistance provided pursuant to section 9 of the 1937 Act;
 3. Assistance provided under any HUD housing or community development program that is expended for work arising in connection with:
 - i) Housing rehabilitation (including reduction of lead-based paint hazards, but excluding routine maintenance, repair and replacement);
 - ii) Housing construction; **OR**
 - iii) Other public construction projects (which includes other buildings or improvements, regardless of ownership).
- **Section 3 Covered Community Planning and Development Funding** – Community Development Block Grant (CDBG), Home Investment Partnership (HOME), Emergency Shelter Grants (ESG), Neighborhood Stabilization Programs (NSP), and certain other

grants awarded under HUD Notices of Funding Availability (NOFAs). The requirements for Section 3 only apply to the portion(s) of covered funding that are used for projects/activities involving housing construction, rehabilitation, demolition, or other public construction.

- **Section 3 Covered Contract** – A contract or subcontract (including professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 Covered Assistance, or for work arising in connection with a Section 3 Covered Project. “Section 3 Covered Contracts” do not include contracts awarded under HUD’s procurement program, which are governed by the Federal Acquisition Regulation System (see 48 CFR, Chapter 1). “Section 3 Covered Contracts” also do not include contracts for the purchase of supplies and materials. However, whenever a contract for materials includes the installation of the materials, the contract constitutes a Section 3 Covered Contract. For example, a contract for the purchase and installation of a furnace would be a Section 3 Covered Contract because the contract is for work (i.e. the installation of the furnace) and thus is covered by Section 3.
- **Section 3 Covered Project** – A Section 3 Covered Project involves the construction or rehabilitation of housing (including reduction of lead-based paint hazards), or other public construction such as street repair, sewage line repair or installation, updates to building facades, etc.
- **Section 3 Developer** – Any entity engaged in the business of development of affordable housing which is an applicant for Section 3 Covered Community Planning and Development Funding from HUD.
- **Section 3 Recipient (the City)** – The entity which receives Section 3 Covered Assistance, a Section 3 Covered Project, or Section 3 Covered Community Planning and Development Funding from HUD.
- **Section 3 Regulations** – Regulations found in 24 CFR Part 135 which govern the application of the Section 3 Act.
- **Section 3 Requirements** – Employment, training and contracting opportunities imposed by the Section 3 Act upon recipients, developers and contractors.
- **Section 3 Resident** – A Section 3 Resident is one of the following:
 1. A public housing resident; OR
 2. An individual who resides in the metropolitan area or non-metropolitan county in which the Section 3 Covered Assistance is expended, and who is:
 - o Low-income – A family (includes single-person household) whose family income does not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development.
 - o Very Low-income – A family (includes single-person household) whose family income does not exceed 50 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development.
- **Section 3 Subcontractor** – An entity which has a contract with the general contractor to undertake a portion of the contractor’s obligation for the performance of work generated by Section 3 Covered Assistance, a Section 3 Covered Project, or to perform the work of a Section 3 Covered Community Planning and Development Funding project.

Responsibilities of Recipient (the City):

A recipient of Section 3 Covered Assistance, a Section 3 Covered Project, or Section 3 Covered Community Planning and Development Funding is required, by law, to comply with Section 3 in its own operations, and to ensure that the contractor and subcontractors of the Section 3 Contractor comply with Section 3 to the “greatest extent feasible.” To that end, the recipient is required to comply with Section 3 in its own operations by doing the following:

- a) Notify Section 3 Residents and Section 3 Business Concerns about jobs and contracts generated by Section 3 Covered Assistance, a Section 3 Covered Project, or Section 3 Community Planning and Development Funding;
- b) Notify potential contractors of the objectives and numerical goals of Section 3 and the ways in which each contractor can reach these goals;
- c) Require that a Section 3 Clause be included in all contracts signed by Section 3 Developers, Contractors, and Subcontractors;
- d) Facilitate training and employment opportunities for Section 3 Residents; AND
- e) Document the action that Section 3 Developers, Contractors, and Subcontractors take to comply with the Section 3 Requirements, the results of such action, and impediments, if any.

The recipient also has a responsibility to “ensure compliance” by contractors involved. In that spirit, the recipient will require a contractor to do the following:

- a) Notify subcontractors of their responsibilities under Section 3, which includes incorporating the Section 3 Clause in all contracts with subcontractors, as well as requiring all subcontractors to fill out necessary Section 3 forms that the City requires.
- b) Refrain from entering into contracts with subcontractors that are in violation of the regulations in 24 CFR Part 135;
- c) Respond to complaints made to the Section 3 Recipient by Section 3 Residents or Section 3 Business Concerns that the contractor or subcontractor is not in compliance with 24 CFR Part 135; AND
- d) Cooperate with HUD in obtaining the compliance of contractors and subcontractors when allegations are made that the contractors and subcontractors are not in compliance with the regulation of 24 CFR Part 135.

Section 3 Coordinator

The City shall appoint a Section 3 Coordinator, who will serve as the immediate point of contact for the Section 3 Recipient, Developer, Contractor, and Subcontractor(s). This coordinator shall be tasked with ensuring that all the Section 3 Requirements are met, and if they are not met, they should document the reason as to why. The Section 3 Coordinator shall provide technical assistance as it relates to the Section 3 Requirements to Section 3 Developers, Contractors and Subcontractors. The Section 3 Coordinator will also be responsible for Interpreting Section 3 regulations, assisting Section 3 Developers, Contractors, and Subcontractors in identifying employment opportunities and training programs for Section 3 Residents, and provide methods to help Section 3 Developers, Contractors and Subcontractors outreach to Section 3 Residents and Section 3 Business Concerns to inform them of economic opportunities that are available.

Numerical Goals and Preference for Employment, Contracting and Training Opportunities

The City has established numerical goals that comply with Section 3 regulations and priorities, consistent with those set forth by HUD. These goals and priorities serve as a tool for ensuring the effectiveness of the City’s efforts to ensure that Section 3 Residents and Section 3 Business Concerns are given an economic opportunity to the “*greatest extent feasible.*”

The City of Owosso’s Minimum Numerical Goals are as follows:

- 30 percent of the aggregate number of new hires by a Section 3 Contractor or Section 3 Subcontractor(s) shall be Section 3 Residents annually.
- 10 percent of the total dollar amount of all Section 3 Covered Contracts will be awarded to Section 3 Business Concerns.
- 3 percent of the total dollar amount of all non-construction Section 3 Covered Contracts, shall be awarded to Section 3 Business Concerns.

In order to meet these numerical goals, and demonstrate compliance with the “greatest extent feasible” requirement of Section 3, contractors must meet the priorities set forth below for providing training and employment to Section 3 Residents. These priorities are pursuant to § 135.34, 24 CFR Part 135 and are the following:

First Priority: Residents of the development where the work is to be performed;

Second Priority: Other residents of the neighborhood where the work is to be performed;

Third Priority: Other residents of the neighborhood who are participants in HUD- Youthbuild or other federal, state, and local job programs being carried out in the city or county area; **OR**

Fourth Priority: Other persons from the project’s immediate area who meet the definition of Section 3 Resident contained in § 135.5, 24 CFR Part 135.

And, in order to comply with Section 3 Requirements on contracting, contractors must give contracting preference to Section 3 Business Concerns, by following priorities that are pursuant to § 135.34, 24 CFR Part 135:

Public and Indian Housing Programs:

First Priority: Business Concerns that are 51 percent or more owned by residents of the housing development or developments for which Section 3 Covered Assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees;

Second Priority: Business Concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the housing authority that is expending the Section 3 Covered Assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees;

Third Priority: HUD Youthbuild programs being carried out in Shiawassee County for which Section 3 Covered Assistance is expended; **OR**

Fourth Priority: Business Concerns that are 51 percent or more owned by Section 3 Residents, or whose permanent, full-time workforce includes no less than 30 percent Section 3 Residents, or that subcontract in excess of 25 percent of the total amount of subcontracts to Section 3 Business Concerns.

Housing and Community Development Programs:

First Priority: Section 3 Business Concerns that provide economic opportunities for Section 3 Residents in the service area or neighborhood in which the Section 3 Covered Project is located;

Second Priority: Applicants selected to carry out HUD Youthbuild programs; **OR**

Third Priority: Other Section 3 Business Concerns.

In the event that a Section 3 Contractor or Subcontractor cannot hire based on Section 3 Resident employment and training priorities or contract based on the Section 3 Business Concerns contracting priorities, they must then document and explain the reasons as to why, and then submit that explanation to the Section 3 Coordinator for the City.

Formal Section 3 Plan

After the Section 3 Contractor has been selected, the Section 3 Recipient shall schedule a meeting with the Section 3 Developer and Contractor to discuss Section 3 Requirements.

After such meeting is complete, a comprehensive Section 3 Plan shall be completed and signed by a representative of all parties involved (Section 3 Developer, Contractor, and Subcontractors). This comprehensive Section 3 Plan needs to also include the Section 3 goals of the Section 3 Developer, Contractor, and Subcontractor(s). After successfully completing the plan, the Section 3 Developer, Contractor, and Subcontractor(s) are then required to submit it to the Section 3 Coordinator for the City for review and approval.

Components of Section 3 Plan

The Section 3 Plan must contain specific information, including but not limited to the following:

- a) Statement certifying that the Section 3 Developer, Contractor, and/or Subcontractor(s) agree to comply with the Section 3 Act and regulations, as well as the City of Owosso's Section 3 Policy and Handbook;
- b) Statement certifying that the Section 3 Developer, Contractor, and/or Subcontractor(s) are aware of the employment, training, and contracting goals, and agree to work together to meet these goals;
- c) Name and contact information of the Section 3 Developer, Contractor, and/or Subcontractor(s) Section 3 Coordinator;
- d) Identification of the Section 3 project area (area in which project is located);
- e) Section 3 Developer, Contractor, and/or Subcontractor(s) current workforce, and additional workforce that will be needed to complete the project;
- f) Section 3 Developer, Contractor, and/or Subcontractor(s) employment, training and contracting opportunity goals for this project;
- g) Specific strategies for notifying Section 3 Residents of Section 3 employment and training goals;
- h) Specific strategies for notifying Section 3 Business Concerns of Section 3 contracting opportunities;
- i) Commitment by Section 3 Contractor to inform all potential Section 3 Subcontractor(s) of its Section 3 Plan, and ensure that the Section 3 Contractor hold Section 3 Subcontractor(s) accountable to all Section 3 Requirements;
- j) Commitment by Section 3 Developer and Contractor to prepare and submit to the City of Owosso's Section 3 Coordinator, monthly Section 3 reports;
- k) Commitment by Section 3 Developer and Contractor to include Section 3 Clause (see attachments) in all construction contracts and subcontracts for Section 3 Covered Contracts: AND
- l) Commitment by Section 3 Developer, Contractor, and Subcontractor(s) to conduct aggressive outreach and notify Section 3 Residents and Section 3 Business Concerns of Section 3 goals, including the use of site signage, fliers, etc.

Implementation Strategies for Notifying of Employment, Training and Contracting

In order to comply with the Section 3 Act and regulations, the Section 3 Developer, Contractor and Subcontractor(s), as applicable to each project, shall implement an aggressive campaign to encourage participation of Section 3 Residents and Section 3 Business Concerns. Some strategies to implement this campaign include the following:

- a) Publish a notice in a local newspaper of the potential employment and training opportunities for Section 3 Residents and Section 3 Business Concerns. Written notice must be provided in sufficient time to enable Section 3 Business Concerns the opportunity to respond to bid invitation;
- b) Post in a prominent location at the Section 3 Covered Project site notice of the potential employment and training opportunities for Section 3 Residents, and potential contracting opportunities for Section 3 Business Concerns;
- c) Submit letters or fliers to the residents of a Section 3 Covered Project advising them of employment, training and contracting opportunities for the Section 3 Covered Project (applies to rehabilitation only when there are existing residents);
- d) Provide residents of the Section 3 Covered Project and the surrounding area with information on how to get certified as a Section 3 Resident or Section 3 Business Concern;
- e) Provide public housing authorities in Shiawassee County with fliers, notices and other information related to Section 3 employment, training and contracting opportunities for the Section 3 Covered Project;
- f) Provide information to residents of a Section 3 Covered Project and the surrounding area regarding established job training programs located with the Section 3 Covered Project area;
- g) Provide minority and women-focused labor and trade organizations with notice of Section 3 employment, training and business opportunity goals;
- h) Provide minority and women-focused labor and trade organizations with notice of when and where plans and specifications for bid review will be distributed; **OR**
- i) Contact the following groups that have been identified as assisting to find Section 3 Residents employment; and Section 3 Business Concerns contracting opportunities:

Michigan Works! Shiawassee County Service Center

1975 West Main Street
 2nd Floor
 Owosso, MI 48867
 Phone 989.729.9599
 Fax 989.729.2659

Baker College Business and Corporate Services

621 W. Oliver St. Owosso, MI 48867
 Phone 989.729.3621

Section 3 Certifications

The City requires that Section 3 Residents and Section 3 Business Concerns register with the City's Section 3 Coordinator to ensure that they are Section 3 certified. This is a self-certification that the Section 3 Coordinator will verify upon successful completion of the required forms by a Section 3 Resident or Section 3 Business Concern applicant. The following documents will be required to apply for Section 3 Resident and Section 3 Business Concern status, respectively:

Section 3 Resident – Any person requesting Section 3 preference in hiring and training shall complete the City's Section 3 Resident Certification Form. Additionally, the person seeking certification shall provide the adequate documentation regarding permanent residence and income. Verification of income eligibility will be determined using one of the following forms:

- a) A public housing or Section 8 lease agreement;
- b) Evidence of income (most recent W-2 or income tax return);
- c) Evidence of receipt of public assistance;
- d) Any other evidence acceptable to the City's Section 3 Coordinator.

Section 3 Business Concern – Any business seeking Section 3 preference shall complete the City's Section 3 Business Concerns Certification Form. This form is a self-certification, and Section 3 Business Concerns bear the ultimate responsibility of ensuring and maintaining their Section 3 status, as well as complying with all related HUD regulations.

Applications requesting Section 3 Business Concern status must be submitted to the City's Section 3 Coordinator prior to submission of bids for review. Section 3 Business Concerns shall provide additional documentation to the City upon request.

After reviewing the required documents submitted requesting Section 3 Resident and Section 3 Business Concern status, the Section 3 Coordinator for the City will then send a letter certifying Section 3 status. The City will also keep a database of eligible Section 3 Residents and Section 3 Business Concerns.

Section 3 Compliance and Monitoring

The City is available to provide guidance and technical support to Section 3 Developers, Contractors, and Subcontractor(s) to ensure that they understand the goals and regulations of Section 3. Additionally, the City will maintain a database of eligible Section 3 Residents and Section 3 Business Concerns to assist Section 3 Developers, Contractors, and Subcontractors in outreaching to both constituencies.

Section 3 Developers, Contractors and Subcontractors are required to retain copies of all outreach attempts, copies of all responses to notices published in papers and posted publicly, copies of all responses to bid invitations, and any other relevant information pertaining to Section 3 outreach. Copies of all outreach shall be surrendered to the City upon request.

The City also retains the right to conduct on-site reviews of a Section 3 Covered Project to determine whether the Section 3 Developer, Contractor, and/or Subcontractor(s) are complying with the approved Section 3 Plan.

In the event that the City determines that a Section 3 Developer, Contractor, and/or Subcontractor(s) are not in compliance with the approved Section 3 Plan, the party in violation will be provided with a written notice of non-compliance. The notice will require the party in violation to meet with the City's Section 3 Coordinator to determine if the best efforts were used to follow the plan. If they were not, then the Section 3 Coordinator will advise on the necessary steps to meet the goals of the Section 3 Plan.

Motion supported by Councilperson Cook

Roll Call Vote.

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

NAYS: None.

Full text of the policy is available in the Clerk's Office.

WATER REFUNDING BONDS

There was brief discussion regarding what kind of savings the City could expect by refunding the bonds. It was noted that the City hoped to see a savings of \$350,000 to \$400,000.

Motion by Councilperson Erfourth to adopt the following ordinance authorizing the issuance and sale of Water Refunding Bonds for capital improvements in an amount not to exceed \$ 4,250,000 to achieve a net interest cost savings by refunding the existing 2002 Water Revenue Bonds.

ORDINANCE NO. 736

AN ORDINANCE SUPPLEMENTING ORDINANCE NO. 614 TO AUTHORIZE AND PROVIDE FOR THE ISSUANCE OF A REVENUE REFUNDING BOND TO PAY THE COST OF REFUNDING THE WATER SUPPLY SYSTEM REVENUE BOND, SERIES 2002 UNDER THE PROVISIONS OF ACT 94, PUBLIC ACTS OF MICHIGAN, 1933, AS AMENDED; TO PRESCRIBE THE FORM OF THE BOND; AND TO PROVIDE FOR OTHER MATTERS RELATIVE THERETO.

WHEREAS, the City of Owosso, County of Shiawassee, State of Michigan (the "City") has previously issued its \$4,800,000 Water Supply System Revenue Bond, Series 2002 dated July 1, 2002 (the "Series 2002 Bond") under the provisions of Act 94, Public Acts of Michigan, 1933, as amended, and Ordinance No. 614 enacted by the City Council on June 3, 2002; and

WHEREAS, the Series 2002 Bond is payable solely and only from and secured by the Net Revenues of the Water Supply System of the City under Ordinance No. 614; and

WHEREAS, the City may be able to accomplish a net savings of debt service costs by refunding the Series 2002 Bond through issuance of a revenue refunding bond; and

WHEREAS, the Michigan Finance Authority has offered to purchase a Water Supply System Revenue Refunding Bond, Series 2012 (the "Series 2012 Bond") from the City; and

WHEREAS, Section 21(c) of Ordinance No. 614 authorizes the issuance of Additional Bonds for the purpose of refunding a part of the Outstanding Bonds and paying costs of issuing such Additional Bonds, if the maximum amount of principal and interest maturing in any operating year after giving effect to the refunding shall be less than the maximum amount of principal and interest maturing in any operating year prior to giving effect to the refunding; and

WHEREAS, in order to take advantage of the most favorable market for sale of the proposed Series 2012 Bond, City Council wishes to authorize the Finance Director to sell the Series 2012 Bond at negotiated sale without further action of the City Council.

THE CITY OF OWOSSO ORDAINS:

Section 1. Definitions. All terms not defined herein shall have the meanings set forth in Ordinance No. 614, and whenever used in this Ordinance, except when otherwise indicated by the context, the following terms shall have the following meanings:

- (a) "Act 94" means Act 94, Public Acts of Michigan, 1933, as amended.
- (b) "Additional Bonds" shall mean Bonds, including Bonds of prior and senior or equal standing and priority of lien with the Series 2012 Bond, issued under Section 20 or Section 21 of Ordinance No. 614.
- (c) "Authorized Officer" means the Finance Director of the City or, in the event that the Finance Director is not available at the time that it becomes necessary to take actions directed or authorized under this Ordinance, the City Manager or a person designated by the Finance Director or the City Manager.
- (d) "Bonds" means the Series 2002 Bond, the Series 2012 Bond, and any Additional Bonds of equal or prior standing hereafter issued under Ordinance No. 614.
- (e) "Escrow Fund" means the escrow fund established to hold the cash and investments necessary provide for payment of principal of and interest on the portion of the Series 2002 Bond being refunded.
- (f) "Internal Revenue Code" shall mean the Internal Revenue Code of 1986, as amended, and the regulations propounded thereunder.
- (g) "Michigan Finance Authority" shall refer to the Michigan Finance Authority as successor under Executive Order No. 2010-2 to the Michigan Municipal Bond Authority created under Act 227 Public Acts of Michigan, 1985, as amended.
- (h) "Ordinance No. 614" refers to by Ordinance No. 614 enacted by the City Council on June 3, 2002 authorizing the issuance of the Bonds.
- (i) "Purchase Contract" means the Purchase Contract for the Series 2012 Bond between the City and the Michigan Finance Authority.
- (j) "Redemption Fund" means the Bond and Interest Redemption Fund created under Ordinance No. 614.
- (k) "Revenues" and "Net Revenues" mean the revenues and net revenues of the System and shall be construed as defined in Section 3 of Act 94, including with respect to "Revenues" the earnings derived from the investment of moneys in the various funds and accounts established by Ordinance No. 614.
- (l) "Savings Agreement" means a Savings Agreement between the City and the Michigan Finance Authority authorized under this Ordinance.
- (m) "Series 2002 Bond" means the Water Supply System Revenue Bond, Series 2002, authorized by Ordinance No. 614.
- (n) "Series 2012 Bond" means the Water Supply System Revenue Refunding Bond, Series 2012, authorized by Ordinance No. 614 and this Ordinance.
- (o) "State Revenue Sharing Pledge Agreement" means the revenue sharing pledge agreement between the City and the Michigan Finance Authority authorized under this Ordinance.
- (p) "System" means the entire Water Supply System of the City including the facilities acquired and constructed with the proceeds of the Series 2002 Bond, and such other facilities as are now existing including all appurtenances, enlargements, extensions, repairs and improvements thereto hereafter made.

Section 2. Conditions Permitting Issuance of Additional Bonds. Pursuant to Section 21(c) of Ordinance No. 614, the City Council hereby determines that the Series 2012 Bond shall be issued as an Additional Bond for the purpose of refunding all or a portion of the Series 2002 Bond and paying costs of issuance of the Series 2012 Bond, only if, after giving effect to the refunding, the maximum amount of principal and interest maturing in any operating year after giving effect to the refunding shall be less than the maximum amount of principal and interest maturing in any operating year prior to giving effect to the refunding.

Section 3. Refunding of Series 2002 Bond; Series 2012 Bond Authorized; Applicable Law. If refunding all or a portion of the Series 2002 Bond will accomplish a net savings of debt service costs, then in order to pay costs of refunding the Series 2002 Bond, including payment of the costs of legal, financial, bond insurance (if any), purchaser's discount, and other expenses incident thereto and incident to the issuance and sale of the Series 2012 Bond, the City shall borrow the sum of not-to-exceed Four Million Two Hundred Fifty Thousand Dollars (\$4,250,000) and issue the Series 2012 Bond therefor. The Series 2012 Bond shall be payable solely out of the Net Revenues of the System. The principal amount of the Series 2012 Bond will be finally determined by the Authorized Officer in the Purchase Contract.

The Series 2012 Bond shall be sold and the proceeds applied in accordance with the provisions of Act 94.

Section 4. Series 2012 Bond Details, Registration and Execution. The Series 2012 Bond shall be designated as the WATER SUPPLY SYSTEM REVENUE REFUNDING BOND, SERIES 2012, shall be payable solely out of the Net Revenues and other moneys pledged under Ordinance No. 614 and this Ordinance, and shall not be a general obligation of the City. The Authorized Officer may change the series designation in the designated name of the Series 2012 Bond to differentiate the Series 2012 Bond from other series of bonds authorized by the City or, if the Series 2012 Bond is sold or delivered after December 31, 2012, to reflect the year of sale or delivery.

The Series 2012 Bond shall initially consist of one fully registered bond. The Series 2012 Bond shall be issued in the principal amount of not to exceed Four Million Two Hundred Fifty Thousand Dollars (\$4,250,000) as shall be finally determined by the Authorized Officer at the time of sale of the Series 2012 Bond. The Series 2012 Bond shall be dated as of the date of original delivery thereof; shall bear interest at a rate or rates to be determined upon the sale thereof, payable semiannually on May 1 and November 1 of each year commencing November 1, 2012 or such other date as shall be determined by the Authorized Officer at the time of sale. In addition, if required by the Michigan Finance Authority,

the Series 2012 Bond will bear additional interest, under the terms required by Michigan Finance Authority, in the event of a default by the City in the payment of principal or interest on the Series 2012 Bond when due. The Series 2012 Bond shall be payable in the amounts and on the dates as shall be determined by the Authorized Officer at the time of sale, provided that the final principal payment shall not be later than November 1, 2022. The Series 2012 Bond shall be subject to redemption prior to maturity, if at all, as shall be determined by the Authorized Officer at the time of sale. The Series 2012 Bond shall be payable in the manner provided in the Series 2012 Bond as executed. The Series 2012 Bond may be transferred by the holder thereof as provided in the Series 2012 Bond as executed.

The Series 2012 Bond shall be executed in the name of the City by the manual or facsimile signature of the Mayor and the City Clerk provided that at least one signature on the Bond shall be a manual signature. The Series 2012 Bond shall have the corporate seal of the City impressed or printed thereon. The Series 2012 Bond shall be delivered to the initial purchaser thereof in accordance with instructions from the Authorized Officer upon payment of the purchase price for the Series 2012 Bond in accordance with the bid therefor when accepted.

Section 5. Sale of Series 2012 Bond; Purchase Contract. The City hereby determines that a negotiated sale of the Series 2012 Bond to the Michigan Finance Authority may result in the most efficient and expedient means of selling the Series 2012 Bond and result in the lowest interest cost to the City.

If the Authorized Officer determines that a negotiated sale of the Series 2012 Bond to a purchaser other than the Michigan Finance Authority will achieve the most advantageous interest rates and cost to the City, then the Authorized Officer is authorized to negotiate the sale of the Series 2012 Bond to another purchaser in lieu of sale to the Michigan Finance Authority and to execute and deliver such documents as may be necessary or convenient to complete the sale, issuance and delivery of the Series 2012 Bond.

If refunding all or a portion of the Series 2002 Bond will produce net present value savings to the City of at least 3.00% after payment of costs of issuance, then the Authorized Officer is authorized to accept an offer from the Michigan Finance Authority or another purchaser to purchase the Series 2012 Bond. The Series 2012 Bond shall be sold at a price of not less than 95% of its par value and at a net interest cost not-to-exceed 5.00%. This authorization includes, but is not limited to, determination of original principal amount of the Series 2012 Bond; the price at which the Series 2012 Bond is sold; the date of the Series 2012 Bond; the schedule of principal maturities; provisions for early redemption, if any; the interest rates and principal and interest payment dates of the Series 2012 Bond; and application of the proceeds of the Series 2012 Bond. Approval of the matters delegated to the Authorized Officer under this Ordinance may be evidenced by his execution of the Purchase Contract.

The City Council hereby approves and authorizes the execution and delivery of the Purchase Contract between the City and the Michigan Finance Authority by the Authorized Officer in substantially the form presented to the City Council with this Ordinance, with such changes as may be necessary or desirable, permitted by law, and not materially adverse to the City as determined by the Authorized Officer.

Section 6. State Revenue Sharing Pledge. As additional security for repayment of the Series 2012 Bond, the City Council agrees to pledge the payments that the City is eligible to receive from the State of Michigan under Act 140, Public Acts of Michigan, 1971, as amended ("State Revenue Sharing") to the Michigan Finance Authority as purchaser and holder of the Series 2012 Bond, and the City Council hereby approves and authorizes the execution and delivery of a revenue sharing pledge agreement between the City and the Michigan Finance Authority in substantially the form presented to the City Council with this Ordinance, with such changes as may be necessary or desirable, permitted by law, and not materially adverse to the City as determined by the Authorized Officer.

Section 7. Savings Agreement. In the event that the Michigan Finance Authority offers to execute a savings agreement with the City for the Series 2002 Bond as an alternative to issuing the Series 2012 Bond, and thereby accomplish a net savings of debt service costs, then the City Council hereby approves and authorizes the execution and delivery of a savings agreement between the City and the Michigan Finance Authority in substantially the form presented to the City Council with this Ordinance, with such changes as may be necessary or desirable, permitted by law, and not materially adverse to the City as determined by the Authorized Officer.

Section 8. Proceeds of Series 2012 Bond. The Authorized Officer shall provide for deposit to the Escrow Fund from the proceeds of sale of the Series 2012 Bond, and other moneys as necessary, an amount which, together with investment proceeds to be received thereon, will be sufficient, without reinvestment, to pay the principal of and interest on the portion of the Series 2002 Bond being refunded upon call for redemption.

The Authorized Officer is authorized to execute and deliver an escrow agreement to provide for administration of the Escrow Fund, to transfer any moneys as he may deem necessary from the Redemption Fund to the Escrow Fund, and to purchase, or cause to be purchased, escrow securities, including, but not limited to, United States Treasury Obligations – State and Local Government Series (SLGS), for deposit in the Escrow Fund.

The remaining proceeds of the Series 2012 Bond shall be deposited in a costs of issuance fund to pay costs of issuance of the Series 2012 Bond and the costs of refunding the Series 2002 Bond. Any moneys remaining after payment of costs of issuance and costs of refunding shall be transferred to the Redemption Fund and used to pay interest on the Series 2012 Bond.

Section 9. Tax Covenant. The City covenants and agrees with the holders of the Series 2012 Bond that as long as the Series 2012 Bond remains Outstanding and unpaid as to either principal or interest the City shall not invest, reinvest or accumulate any moneys deemed to be proceeds of the Series 2012 Bond pursuant to the Internal Revenue Code in such a manner as to cause the Series 2012 Bond to be an "arbitrage bond" within the meaning of the Internal Revenue Code. The City hereby covenants that, to the extent permitted by law, it will take all actions within its control and that it shall not fail to take any action as may be necessary to maintain the exclusion of interest on the Series 2012 Bond from gross income for federal income tax purposes, including but not limited to, actions relating to the rebate of arbitrage earnings, if applicable, and the expenditure and investment of bond proceeds and moneys deemed to be bond proceeds, all as more fully set forth in the Non-Arbitrage and Tax Compliance Certificate(s) to be delivered by the Authorized Officer at the time of delivery of the Series 2012 Bond.

Section 10. Conditions Permitting Issuance of Senior or Prior Lien Bonds. Since the City has secured payment of the Series 2012 Bond through the State Revenue Sharing Pledge made to the Michigan Finance Authority under this Ordinance, the City reserves the right to issue Additional Bonds of senior or prior standing and priority of lien on the Net Revenues of the System to the Series 2012 Bond (the "Senior Lien Bonds") but only if the City does not pledge State Revenue Sharing for payment of said Senior Lien Bonds. If Senior Lien Bonds are issued, then Net Revenues of the System would be used first to pay debt service on the Senior Lien Bonds prior to providing for payment of the Series 2012 Bond.

Section 11. Series 2012 Bond Form. The Series 2012 Bond shall be in substantially the following form with such revisions, additions and deletions as may be advisable or necessary to comply with the final terms of the Series 2012 Bond established upon sale thereof:

No. R-___
UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF SHIAWASSEE

CITY OF OWOSSO
WATER SUPPLY SYSTEM REVENUE REFUNDING BOND, SERIES 2012

Principal Amount: \$4,250,000
Date of Original Issue: July 25, 2012
Registered Owner: Michigan Finance Authority (the "MFA")

"Installments of Principal" "Payment Dates" and "Interest Rate" shall have the meanings as described in Exhibit A.

THE CITY OF OWOSSO, County of Shiawassee, State of Michigan (the "City"), for value received, hereby promises to pay to the Registered Owner specified above, or registered assigns, but only out of the hereinafter described Net Revenues of the City's Water Supply System (defined below), the Principal Amount specified above, in lawful money of the United States of America, on the November 1 Payment Dates shown on Exhibit A unless prepaid prior thereto as hereinafter provided, in the Installments of Principal shown on Exhibit A. The City also promises to pay to the Registered Owner specified above, or registered assigns, interest on the unpaid Installments of Principal from the Date of Original Issue specified above, or such later date to which interest has been paid, until paid, at the per annum Interest Rate for each Installment of Principal shown on Exhibit A, payable on the Payment Dates. For the prompt payment of principal and interest on this Bond, the City has irrevocably pledged the revenues of the City's Water Supply System, including all appurtenances, extensions and improvements thereto (the "Water Supply System"), after provision has been made for reasonable and necessary expenses of operation, maintenance and administration (the "Net Revenues"), and a statutory first lien thereon is hereby recognized and created subject to the issuance of additional bonds of prior and senior standing and priority of lien to this Bond on the conditions stated in the Ordinances as described below.

Notwithstanding any other provision of this Bond, so long as the Michigan Finance Authority (the "MFA") is the owner of this Bond, (a) this Bond is payable as to principal, premium, if any, and interest at the corporate trust office of U. S. Bank National Association, St. Paul, MN or at such other place as shall be designated in writing to the City by the MFA (the "MFA's Depository"); (b) the City agrees that it will deposit with the MFA's Depository payments of the principal of, premium, if any, and interest on this Bond in immediately available funds at least five business days prior to the date on which any such payment is due whether by maturity, redemption or otherwise; and (c) written notice of any redemption of this Bond shall be given by the City and received by the MFA's Depository at least 40 days prior to the date on which such redemption is to be made.

ADDITIONAL INTEREST

In the event of a default in the payment of principal or interest hereon when due, whether at maturity, by redemption or otherwise, the amount of such default shall bear interest (the "additional interest") at a rate equal to the rate of interest which is two percent above the MFA's cost of providing funds (as determined by the MFA) to make payment on the bonds of the MFA issued to provide funds to purchase this Bond but in no event in excess of the maximum rate of interest permitted by law. The additional interest shall continue to accrue until the MFA has been fully reimbursed for all costs incurred by the MFA

(as determined by the MFA) as a consequence of the City's default. Such additional interest shall be payable on the interest payment date following demand of the MFA. In the event that (for reasons other than the default in the payment of any municipal obligation purchased by the MFA) the investment of amounts in the reserve account established by the MFA for the bonds of the MFA issued to provide funds to purchase this Bond, fails to provide sufficient available funds (together with any other funds which may be made available for such purpose) to pay the interest on outstanding bonds of the MFA issued to fund such account, the City shall and hereby agrees to pay on demand only the City's pro rata share (as determined by the MFA) of such deficiency as additional interest on this Bond.

This Bond is transferable only upon the books of the City kept for that purpose at the office of the City Treasurer by the registered owner hereof in person, or by his attorney duly authorized in writing, upon the surrender of this Bond together with a written instrument of transfer satisfactory to the City duly authorized in writing and thereupon a new registered Bond or bonds in the same outstanding principal amount and of the same maturity shall be issued to the transferee in exchange therefor as provided in the Ordinances, and upon the payment of the charges, if any, therein prescribed.

This Bond is a single fully registered bond representing the entire series of bonds aggregating the principal sum of [insert amount] issued pursuant to Ordinance No. 614 and Ordinance No. [insert number] (together, the "Ordinances") duly enacted by the City Council of the City, and under and in full compliance with the Constitution and statutes of the State of Michigan, including specifically Act 94, Public Acts of Michigan, 1933, as amended ("Act 94"), for the purpose of refunding a bond previously issued to acquire and construct improvements and extensions to the City's Water Supply System.

For a complete statement of the revenues from which and the conditions under which this Bond is payable, a statement of the conditions under which additional bonds of equal or prior standing with this Bond may hereafter be issued, and the general covenants and provisions pursuant to which this Bond is issued, reference is made to the Ordinances. The Ordinances are on file at the office of the City Clerk and reference is made to the Ordinances and any and all supplements thereto and modifications and amendments thereof, if any, and to Act 94 for a more complete description of the pledges and covenants securing this Bond, the nature, extent and manner of enforcement of such pledges, the rights and remedies of the registered owner of this Bond with respect thereto and the terms and conditions upon which this Bond is issued and may be issued thereunder.

THIS BOND IS A SELF-LIQUIDATING BOND AND IS NOT A GENERAL OBLIGATION OF THE CITY AND DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY WITHIN ANY CONSTITUTIONAL, STATUTORY OR CHARTER LIMITATION, AND IS PAYABLE BOTH AS TO PRINCIPAL AND INTEREST SOLELY FROM THE NET REVENUES OF THE WATER SUPPLY SYSTEM AND CERTAIN FUNDS AND ACCOUNTS ESTABLISHED UNDER THE ORDINANCES. THE PRINCIPAL OF AND INTEREST ON THIS BOND ARE SECURED BY THE STATUTORY LIEN HEREINBEFORE DESCRIBED.

The City has reserved the right, on the conditions stated in the Ordinances, to issue additional bonds of prior and senior or equal standing and priority of lien with this Bond as to the Net Revenues.

The City hereby covenants and agrees to fix and maintain at all times while any bonds authorized by the Ordinances shall be outstanding, such rates for service furnished by the Water Supply System as shall be sufficient to provide for payment of the interest upon and the principal of all bonds payable from the revenues of the Water Supply System as and when the same become due and payable, and to create and maintain a bond redemption fund therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the Water Supply System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the Water Supply System as are required by the Ordinances.

It is hereby certified and recited that all acts, conditions and things required to be done, exist and happen, precedent to and in the issuance of this Bond, in order to make them valid and binding obligations of the City, have been done, exist and have happened in regular and due form and time as provided by law.

IN WITNESS WHEREOF, the City, by its City Council, has caused this Bond to be executed by [the facsimile signatures of] its Mayor and its City Clerk, and its corporate seal to be hereunto [impressed] [printed], all as of the Date of Original Issue.

CITY OF OWOSSO

(Seal)

By _____ [Mayor to sign bond]
Mayor

Countersigned:

[manual or facsimile signature]
By _____ [City Clerk to sign bond]
City Clerk

Section 12. Bond Counsel. The City hereby requests that Miller, Canfield, Paddock and Stone, P.L.C. continue to serve the City as Bond Counsel for the Series 2012 Bond, notwithstanding the representation by Miller Canfield of the Michigan Finance Authority in connection with the Local Government Loan Program through which the Michigan Finance Authority may offer to the purchase the Series 2012 Bond,

or the potential concurrent representation by Miller Canfield of the underwriter of the Local Government Loan Program bonds in matters not related to the Series 2012 Bond.

Section 13. Other Actions. In the event that the Finance Director is not available at the time that it becomes necessary to take actions directed or authorized under this Ordinance, the City Manager or a person designated by the Finance Director or the City Manager is authorized to take the actions delegated to the Authorized officer under this Ordinance. The officers, administrators, agents and attorneys of the City are authorized and directed to take all other actions necessary and convenient to facilitate issuance, sale and delivery of the Series 2012 Bond, and to execute and deliver all other agreements, documents and certificates and to take all other actions necessary or convenient in accordance with this Ordinance, and to pay costs necessary to accomplish sale and delivery of the Series 2012 Bond and the refunding of the Series 2002 Bond.

Section 14. Applicability of Ordinance No. 614. Except to the extent supplemented or otherwise provided in this Ordinance, all of the provisions and covenants provided in the Ordinance No. 614 shall apply to the Series 2012 Bond, such provisions of Ordinance No. 614 being made applicable to the Series 2012 Bond.

Section 15. Repeal of Prior Ordinances. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this Ordinance are repealed.

Section 16. Severability and Paragraph Headings. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. The paragraph headings in this Ordinance are furnished for convenience of reference only and shall not be considered to be part of this Ordinance.

Section 17. Publication and Recordation. In accordance with the provisions of Section 6 of Act 94, this Ordinance shall be published once in full in the *Argus Press*, a newspaper of general circulation in the City qualified under State of Michigan law to publish legal notices, promptly after its adoption, and shall be recorded in the Ordinance Book of the City and such recording authenticated by the signatures of the Mayor and the City Clerk.

Section 18. Effective Date. This Ordinance is hereby determined by the City Council to be immediately necessary for the preservation of the public peace, property, health, and safety of the City. In accordance with the provisions of Section 6 of Act 94, this Ordinance shall become effective immediately upon its adoption.

Motion supported by Councilperson Cook.

Roll Call Vote.

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

NAYS: None.

FRIDAY NIGHT CAR CRUISE PERMISSION

There was significant discussion regarding the clunky way the matter had been handled from the beginning, not wanting to harm any downtown businesses with the event, and the use of events with an aim toward growing the downtown. While most Council members expressed an interest in seeing such an event move forward they also felt this particular event needed more time to work out issues prior to approval.

There was further discussion regarding the location of the proposed event, whether it could be held at another location, whether Council should approve just one date to see how the event goes and what effect it has on businesses.

Motion by Councilperson Fox to waive the insurance requirement, approve the application of Owosso Main Street and Friday Car Cruise organizer Bill Young for use of Washington Street from Comstock Street to Water Street between 5:00 pm and 9:00 pm on the first Friday of each month from August to October 2012 for a cruise-in, and authorize Traffic Control Order No. 1273 formalizing the request with the contingency the event be reviewed and potentially modified to accommodate the needs of organizers and businesses owners prior to next years' application.

Motion supported by Councilperson Eveleth.

Roll Call Vote.

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

NAYS: None.

COMMUNICATIONS

M. Erfourth, Westown Corridor Improvement Authority. Letter of resignation.

Charles P. Rau, Building Official. June 2012 Building Department Report.
Charles P. Rau, Building Official. June 2012 Code Violations Report.
Michael T. Compeau, Public Safety Director. June 2012 Police Report.
Michael T. Compeau, Public Safety Director. June 2012 Fire Report.

CITIZEN COMMENTS AND QUESTIONS

Tom Manke, business owner at 118 South Washington Street, said he did not mean to offend anyone with his negative description of the riverbank along Jerome Street nor his comments about the car cruise. He asked that Council look at the benefit events give to the entire downtown and not let one business hold the area hostage because it feels it would be damaged by an event. He encouraged the Council to step out and grow the downtown.

Eddie Urban, 601 Glenwood Avenue, noted that a program is planned detailing veteran’s benefits and he would notify Council when the program would play on Channel 95.

Tom Brown, Park Street, explained why Friday night was chosen for the car cruise this year and said they could potentially look at other days of the week when planning next year’s event so as not to disrupt the businesses downtown. He went on to say that car cruise organizers will attempt to refer business to the party store downtown and he thanked the owners for their willingness to give the event a try.

Les Sepkoski, 3972 North M52, said the intent of the car cruise was to bring people to the downtown, not to harm any businesses. He thanked everyone involved for the opportunity to make the event work. Councilperson Fox suggested spreading show cars all over town to attract people to different areas. Mayor Pro-Tem Popovitch said she supports the car cruise but was concerned about the idea of harming even a single business with such an event. As a former downtown business owner she said she was well aware of the difficulties of creating and maintaining a successful business.

NEXT MEETING

Monday, July 30, 2012 – 5th Monday
Monday, August 6, 2012 - Regular

BOARDS AND COMMISSIONS OPENINGS

Zoning Board of Appeals – Alternate, term expiring June 30, 2013
Shiawassee District Library Board, term expiring June 30, 2016

ADJOURNMENT

Motion by Councilperson Eveleth for adjournment at 9:21 p.m.

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

Benjamin R. Frederick, Mayor

Amy K. Kirkland, City Clerk