

OWOSSO CITY COUNCIL

FEBRUARY 19, 2013

7:30 P.M.

PRESIDING OFFICER: MAYOR BENJAMIN R. FREDERICK

OPENING PRAYER: PASTOR MARLENE WEBSTER
THE INTERSECTION CHURCH

PLEDGE OF ALLEGIANCE: KEVIN LENKART
DIRECTOR OF PUBLIC SAFETY

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 following changes:

- Remove Proclamation 1. Foster Families Proclamation
- Remove Item of Business 2. Property Purchase – Woodland Trails Condominium Project

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

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

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

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

PROCLAMATIONS / SPECIAL PRESENTATIONS

None.

PUBLIC HEARINGS

INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE – RUESS WINCHESTER

A Public Hearing was conducted to receive citizen comment regarding the application from Ruess Winchester, Inc. for an Industrial Facilities Exemption Certificate for real and personal property located at 705 McMillan Avenue.

The following people commented regarding the proposed tax exemption:

Lisa Cantu, RWI representative, thanked the City and the Chamber of Commerce for their support over the years. She said the business continues to grow and is now adding a 10,000 square foot addition to their current facility to accommodate that growth.

Brent Jones, Project Specialist with the SEDP, commended RWI as a great member of the business community and expressed the SEDP's full support for their application for tax abatement.

Motion by Councilperson Eveleth to approve a 12 year real property exemption for Ruess Winchester as follows:

RESOLUTION NO. 14-2013

**RESOLUTION APPROVING APPLICATION OF RUESS WINCHESTER, INCORPORATED
FOR INDUSTRIAL FACILITIES EXEMPTION CERTIFICATES FOR REAL PROPERTY**

WHEREAS, pursuant to PA 198 of 1974, as amended, after a duly noticed public hearing held on March 19, 1979, this City Council, by resolution established an Industrial Development District; and

WHEREAS, Ruess Winchester, Incorporated has filed an application for Industrial Facilities Exemption Certificates with respect to real property within the Industrial Development; and

WHEREAS, before acting on said application, the City of Owosso held a hearing on February 19, 2013, in City Hall, at 301 W. Main Street, Owosso, MI, 48867, at 7:30 p.m. at which hearing the applicant, the Assessor and a representative of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, construction of and/or acquisition of the real property had not begun earlier than six (6) months before January 21, 2013, the date application received for the Industrial Facilities Exemption Certificates; and

WHEREAS, construction of the real property is calculated to and will, at the time of issuance of the certificates, have the reasonable likelihood to retain, create or prevent the loss of employment in the City of Owosso; and

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

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

FIRST: The City Council finds and determines that the granting of the Industrial Facilities Exemption Certificate considered together with the aggregate amount of certificates previously granted and currently in force under PA 198 of 1974, as amended and PA 225 of 1978, as amended shall not have the effect of substantially impeding the operation of the City of Owosso, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Owosso.

SECOND: The application from Ruess Winchester, Incorporated for the Industrial Facilities Exemption Certificate, with respect to Real Property on the following described parcel of real property situated within the Industrial Development District, to wit:

Real Parcel

PART OF BLKS 8 & 9, GEO T ABREYS WOODLAWN PARK ADD DESC AS BEG AT A POINT N00°42'06"E ALONG THE W LN OF BLK 8 AND E LN OF MCMILLAN 528.55' FROM SW COR OF SAID BLK 8 TO POB, TH CONT N00°42'06"E ALONG SAID W LN OF BLK 8 AND E LN OF MCMILLAN AV 206.85', TH S89°58'12"E 443.36', S01°05'45"W 206.87', N89°58'12"W 441.94' TO W LN BLK 8 AND POB.

District

BLOCKS 8 & 9 ALSO BEG SW COR LOT 1, BLK 11 TH N 03°39', E 366.24', TH S 62°27', E 556.27' TH S 01°05', W 118.70' TH W TO POB INCLUDING VACATED ABREY AVE. & ALLEYS ADJACENT AND WITHIN SAID BLOCKS. GEO. T. ABREY'S WOODLAWN PARK ADDN

is hereby approved.

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

Motion supported by Councilperson Bailey.

Roll Call Vote.

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

NAYS: None.

SPECIAL ASSESSMENT DISTRICT NO. 2013-02 – HAZARDS AND NUISANCES

A public hearing was conducted to receive citizen comment regarding Resolution No. 2 for Special Assessment District No. 2013-02, Hazards and Nuisances, as it relates to unpaid costs incurred in the altering, repairing, tearing down, abating and removing of hazards and nuisances at 219 North Cedar Street.

There were no citizen comments.

Motion by Councilperson Eveleth to approve Resolution No. 2 establishing Special Assessment District No. 2013-02 – Hazards & Nuisances as follows:

RESOLUTION NO. 15-2013

**HAZARDS & NUISANCES ROLL FOR
219 NORTH CEDAR STREET**

WHEREAS, the City Council has met, after due and legal notice, and reviewed the Special Assessment Roll-Hazards and Nuisances prepared for the purpose of defraying the unpaid costs incurred in the altering, repairing, tearing down, abating or removing of hazards and nuisances of the following described property described as follows:

PARCEL NUMBER	ADDRESS	BALANCE
050-660-011-001-00	219 North Cedar Street	\$10,094.73

and

WHEREAS, after hearing all persons interested therein and after carefully reviewing said Special Assessment Roll-Hazards and Nuisances the Council deems said Special Assessment Roll-Hazards and Nuisances to be fair, just and equitable and that the assessment contained thereon results in the special assessment being in accordance with the unpaid costs incurred in the altering, repairing, tearing down, abating or removing of hazards and nuisances of said property.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said Special Assessment Roll-Hazards and Nuisances as prepared by the City Assessor in the amount of \$10,094.73 is hereby confirmed and shall be known as Special Assessment Roll-Hazards and Nuisances No. 2013-02.
2. Said Special Assessment Roll-Hazards and Nuisances No. 2013-02 shall be placed on file in the office of the City Clerk who shall attach his warrant to a certified copy thereof within ten (10) days commanding the Assessor to spread the various sums shown thereon as directed by the City Council.

Motion supported by Councilperson Erfourth.

Roll Call Vote.

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

NAYS: None.

CITIZEN COMMENTS AND QUESTIONS

Ryan Kuchar, 1401 Whitehaven Court, expressed his concerns with vehicle and pedestrian traffic near the High School saying the intersection of Whitehaven Court and North Street is particularly dangerous and something should be done before someone gets injured.

Eddie Urban, 601 Glenwood Avenue, welcomed Mr. Lenkart to Owosso.

Mayor Frederick extended his appreciation to the SEDP for all the work they do and the positive effects they've had on the area.

Mayor Pro-Tem Popovitch thanked Mr. Kuchar for his comments and indicated she too was concerned with the High School area as well as the intersection of Main Street and Michigan Avenue.

Councilperson Cook echoed Mayor Pro-Tem Popovitch's comments and suggested a redesign of the sidewalk system may be called for in areas of concern. He also noted the annual meeting of the Friends of the Shiawassee River this Thursday at 6:45 p.m. at the Baker College Welcome Center and invited all to attend.

Councilperson Erfourth agreed with assessment of the traffic situation near the High School. On a separate note, he reminded everyone present that there was still time for the public to comment on any items included on the Consent Agenda.

Councilperson Fox expressed his concern with the traffic near the High School and suggested that talking with the students may have a positive effect on the situation.

Councilperson Fox went on to announce that it was City Attorney Brown's birthday and everyone joined in singing Happy Birthday to him.

Councilperson Bailey welcomed the new Public Safety Director to the community.

CITY MANAGER REPORT

City Manager Crawford distributed copies of the proposed fee schedule and indicated he was looking for feedback from Council and staff on the matter.

CONSENT AGENDA

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

First Reading and Set Public Hearing – Ordinance Amendment Chapter 38, Zoning. Conduct first reading and set a public hearing for March 4, 2013 to gather citizen comment on the proposed amendments to Chapter 38, Zoning, Sections 38-399 and 38-504(4)(a) of the Code of the City of Owosso to further define

and provide clear regulation regarding temporary uses, temporary structures, and outdoor displays as follows:

RESOLUTION NO. 16-2013

TO CONDUCT THE FIRST READING AND SET A PUBLIC HEARING FOR AN ORDINANCE AMENDING CHAPTER 38 ZONING OF THE CODE OF ORDINANCES TO PROVIDE FOR TEMPORARY USES, TEMPORARY STRUCTURES, AND OUTDOOR DISPLAYS

WHEREAS, the City of Owosso completed a master plan in 2012; and

WHEREAS, the master plan indicates that zoning changes should be pursued to modernize the city code; and

WHEREAS, the planning commission has held a public hearing on this proposed amendment and finds the changes to meet the guidelines of the master plan.

NOW THEREFORE, THE CITY OF OWOSSO ORDAINS that Chapter 38, Zoning, Article XVII, General Provisions, Sections 38-399 and 38-504(4)(a) of the City of Owosso city code be amended as follows:

SECTION 1. REPEAL. That Section 38-504(4)(a) of the *Code of Ordinances*, which read as follows, shall be repealed:

~~Temporary permits. For temporary structures for dwelling purposes, including trailer coaches, subject to the following procedures and limitations:~~

~~1.—An application for a permit for the erection or movement of a temporary structure for dwelling purposes, including trailer coaches, shall be made to the board on a special form used exclusively for that purpose.~~

~~2.—The board shall give due notice to the applicant and to all property owners within three hundred (300) feet of the property affected at least five (5) days before the hearing will be held on such application.~~

~~3.—A temporary permit shall not be granted unless the board finds adequate evidence that the proposed location or use will not be detrimental to property in the immediate vicinity; and that the proposed water supply and sanitary facilities have been approved by the county health department or the city director of public services.~~

~~4.—The board may impose any reasonable conditions, including setbacks, land coverage, off-street parking, landscaping, and other requirements deemed necessary to protect adjoining properties and the public welfare. The violation of any such condition shall automatically invalidate the permit.~~

~~5.—The permit issued shall clearly set forth the conditions under which the permit is granted and shall state that the proposed temporary dwelling structure is to be vacated upon expiration of a specific time limit not to exceed six (6) months. No permit shall be transferable to any other owner or occupant.~~

SECTION 2. ADDITION. That new Section 38-399 which read as follows, shall be adopted:

Sec. 38-399. Temporary structures and uses.

(a) *Temporary structures used for residential purposes.* A building or structure may be approved for temporary residential use only while damage to the principal dwelling due to fire, flood, ice, wind, or other natural disaster is being repaired. Any such temporary building shall not be used as a residence without prior review and approval by the building official.

Also, a manufactured dwelling unit or other approved living quarters may be occupied as a residence on a temporary basis on sites for which a building permit has been issued for construction, major repair, or remodeling of a new dwelling unit, subject to the following:

- (1) An occupancy permit is issued by the building official for the temporary residence.
- (2) Such permits may be issued by the building official for up to six months in duration and may be renewed for periods of up to six months, provided that work is proceeding in an expeditious manner.
- (3) Temporary structures shall comply with the setback standards for the district in which they are located.
- (4) The building official shall approve electrical and utility connections to any temporary structure.

(5) An approved temporary structure may be moved onto a site 14 days prior to commencement of construction and shall be removed within 14 days following issuance of a certificate of occupancy for the permanent dwelling.

(b) *Performance guarantee.* The applicant shall furnish the city with a performance guarantee to assure removal of the temporary structure.

(c) *Temporary structures used for nonresidential purposes.* Temporary buildings for nonresidential use, including semi-trucks/trailers and concrete batch plants, shall be permitted only when the intended use is by a contractor or builder in conjunction with a construction project, and only after review and approval by the building official. Such temporary structures shall be removed immediately upon completion of the construction project and prior to a request for a certificate of occupancy for the project.

(d) *Permits.* Permits for the utilization of temporary structures shall be issued by the building official. The permit shall specify a date for the removal of the temporary structure, and the zoning administrator may require posting of a bond to insure removal. A certificate of occupancy shall be required for such structures.

(e) *Use as an accessory structure.* A temporary building or structure may only be used as an accessory building or structure if it meets all accessory structure requirements of this code.

(f) *Special events and other temporary uses.* The zoning administrator or building official may grant temporary use of land and structures for special events and other temporary uses, subject to the following general conditions:

- (1) The use must be one permitted as-of-right within the applicable zoning district.
- (2) Adequate off-street parking, site ingress/egress, and adequate clear vision areas shall be provided.
- (3) The applicant shall specify the exact duration of the temporary use.
- (4) Electrical and utility connections shall be approved by the building official.
- (5) A performance bond may be required to assure proper clean-up.
- (6) Review by and approval by the police and fire departments.
- (7) Approval of other applicable government agencies to ensure compliance with applicable health and safety regulations and standards.
- (8) The use must be carried out so as to meet all other zoning and general ordinance provisions and performance standards, including but not limited to signs, lighting, noise, etc.
- (9) The approval of the building official is required and all performance standards of this ordinance must be met.

(g) *Specific temporary use conditions.* The following conditions apply to specific temporary uses:

- (1) *Carnival, circus, festival, seasonal markets.*
 - a. *Operator, sponsor or beneficiary.* Government or not for profit entities only.
 - b. City council approval required.
- (2) *Sidewalk uses including display, sales, and other features.*
 - a. *Time.* Operating hours only. The business must be open and staffed.
 - b. *Location.* In the B-3 zoning district only.
 - c. *Sidewalk coverage.* An area no less than four feet wide shall be maintained for passage of pedestrians at all times.
 - d. *Uses.* For portable signs, display, sale, and/or service of onsite products and activities only, including retail goods and food service. No off-premise advertising, sales, or services are permitted (i.e. vendors are not permitted).
 - e. *Exceptions.* Planters, bike racks, and decorative features may remain outside provided they adhere to all performance standards of the ordinance.

f. *Additional requirements.* The approval of the building official and street administrator is required; owner must provide liability insurance for activities in the right-of-way.

(3) *Christmas tree sales:*

a. *Maximum duration.* 45 days.

b. *Clean-up.* Stumps, branches, and other debris shall be completely removed from site.

c. Building official approval required.

(4) *Roadside produce or farm stands:* Because roadside stands are seasonal in character and utilized on a temporary basis, roadside stands shall be allowed in Business Districts by the city for periods not to exceed six months provided a temporary permit is obtained from the city and provided the following provisions are met:

a. The sale of farm products in a roadside stand shall not take place within the dedicated right-of-way of any thoroughfare within the city, and assurances shall be made to the city that ample off-street parking has been provided, and adequate ingress and egress provided to the stand.

b. No permanent structure of any type shall be erected, and upon discontinuance of the temporary use, the temporary structures shall be removed from the roadside.

(5) *Outdoor sales and display.*

a. *Time.* Operating hours only. The business must be open and staffed.

b. *Location.* In the B-1, B-2, & B-4 zoning districts only; front or side yards only; use cannot occur in areas dedicated to parking, storm water detention/collection, or areas required for emergency use or clear vision.

c. *Lot coverage.* An area no more than two hundred (200) square feet shall be used as outdoor sales and display area.

d. *Setbacks.* Setbacks from the right of way and all lot lines must be a minimum of 10 feet or that setback require by Article XVI, whichever is less.

e. *Uses.* For display, sale, and/or service of onsite products and activities only. No off-premise advertising, sales, or services are permitted (i.e. vendors and/or leased space are not permitted).

f. *Exceptions.* Gas stations may store product in the vicinity of the fueling islands/pumps provided the product does not inhibit parking, traffic circulation, fueling, or vehicle occupant ingress/egress.

g. *Additional requirements.* The approval of the building official is required and all performance standards of this ordinance must be met. Any loose debris, damaged products, unsecured materials, or products determined to be junk, waste, or scrap in nature shall be deemed a nuisance per se.

SECTION 4. SEVERABILITY. The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance other than the section or provision so declared to be unconstitutional or invalid.

SECTION 5. INCONSISTENT ORDINANCES. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are repealed.

SECTION 6. EFFECTIVE DATE. This amendment shall become effective 20 days after passage.

SECTION 7. AVAILABILITY. This ordinance may be purchased or inspected in the city clerks' office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

SECTION 8. PUBLIC HEARING. A public hearing is set for Monday, March 4, 2013 at approximately 7:30 p.m. in the City Hall Council Chambers to hear citizen comment regarding the proposed amendment.

First Reading and Set Public Hearing – Ordinance Amendment Chapter 38, Zoning. Conduct first reading and set a public hearing for March 4, 2013 to gather citizen comment on the proposed amendments to Chapter 38, Zoning, Sections 38-393 and 38-396 through 38-398 of the Code of the City of Owosso to further define regulations pertaining to fences and hedges and to modernize the code through the

incorporation of new design standards for commercial properties and new residential properties as follows:

RESOLUTION NO. 17-2013

TO CONDUCT THE FIRST READING AND SET A PUBLIC HEARING FOR AN ORDINANCE AMENDING CHAPTER 38 ZONING OF THE CODE OF ORDINANCES TO PROVIDE FOR DESIGN STANDARDS

WHEREAS, the City of Owosso completed a master plan in 2012; and

WHEREAS, the master plan indicates that zoning changes should be pursued to modernize the city code, specifically including new design standards; and

WHEREAS, the planning commission has held a public hearing on this proposed amendment and finds the changes to meet the guidelines of the master plan.

NOW THEREFORE, THE CITY OF OWOSSO ORDAINS that Chapter 38, Zoning, Article XVII, General Provisions, Sections 38-393 and 38-396 through 38-398 of the City of Owosso city code be amended as follows:

SECTION 1. REPEAL. That Section 38-393 of the *Code of Ordinances*, which read as follows, shall be repealed:

~~Sec. 38-393. Fences, walls, or screens.~~

~~(a) Definition. "Required yard" means that portion of any lot on which the erection of a main building is prohibited.~~

~~(b) Where permitted; height.~~

~~(1) In the residential districts; also the OS-1, B-1, B-2, B-3, B-4, C-OS, and P-1 districts: Fences, walls or screens are permitted on all lots of record within required side or rear yards, provided they do not exceed six (6) feet in height, measured from the surface of the ground, and are permitted in front required yards provided they do not exceed three (3) feet if of such a nature to obstruct vision; where fencing is open weave or chain link and does not obstruct vision, the permitted height shall be four (4) feet, measured from the ground surface except as otherwise provided in this chapter.~~

~~(2) In the I-1 and I-2 districts:~~

~~a. Fences, walls and screens are permitted in the required front, side and rear lots provided they do not exceed six (6) feet in the front yard and eight (8) feet in the side and rear lots. To preserve open space character in the front yard, fences higher than four (4) feet must be setback two (2) feet for each additional foot above four (4) feet.~~

~~b. Except as provided below, barbed wire strands are permitted on fences six (6) feet or higher on industrial parcels with the barbed wire tilted in toward the fenced parcel. Barbed wire is not permitted in the front yard on major streets.~~

~~(c) Visibility at street intersections. On any corner lot, no fence, wall or screen, whether structural or botanical, shall be more than thirty (30) inches above the curb or the centerline of the street pavement, or within twenty-five (25) feet of the intersection of the two (2) right-of-way lines, so as to interfere with motorists' vision across the corner.~~

~~(d) Visibility at intersections of driveways or alleys with streets. No fence, wall or screen, whether structural or botanical, may obstruct vision within twenty (20) feet in any direction of the intersection of the edge of a driveway with the right-of-way line. The area of non-obstructed vision shall be between the heights of three (3) feet and ten (10) feet measured from the centerline of the street pavement.~~

~~(e) Prohibited fences. Except for the provisions of (b)(2)b. above and (f) below, fences, walls or structural screens may not contain barbed wire, electric current, charges of electricity or any wire fence other than a chain-link fence.~~

~~(f) Essential services and school off-campus facilities and bus garages. For essential services and off-campus school facilities and bus garages, the use of barbed wire atop fences six (6) feet in height is permitted in all zoning districts with the barbed wire tilted in toward the fenced parcel.~~

~~(g) Installation. Any fence with an unfinished side, e.g. stockade fence, shall be installed along or about a lot line so that the finished side of the fence faces the exterior of the lot.~~

~~(h) Permit fee. A permit shall be required with a fee to be prescribed by resolution of the council and paid to the city treasurer.~~

SECTION 2. REPLACE. That a new Section 38-393 which reads as follows, shall be adopted:

Sec. 38-393. Fences and hedges.

- (a) A fence is defined as any partition, structure or gate that is erected as a dividing marker, barrier or enclosure.
- (b) A hedge is defined as any bush, shrub or any living green fence of any nature that serves as a dividing marker, barrier or enclosure.
- (c) Regulations applicable to R-1, R-2, RM-1, RM-2, OS-1, B-1, B-2, B-3, B-4, C-OS, and P-1.
- (1) A fence shall not exceed six (6) feet in height in the rear or side lot of any parcel;
 - (2) Front yard (exterior side yard) fences or hedges must be of a decorative nature (chain-link is not considered to be of such quality), be less than fifty percent (50%) solid, impervious, or of an obscuring nature above a height of 30" above the curb or centerline of the street, and not exceed four (4) feet in total height;
 - (3) No fence or hedge shall extend across property lines;
 - (4) The finished side of any fence shall face away from the property on which the fence is located;
 - (5) No portion of any fence shall be constructed with or contain barbed wire, electric current or charge of electricity, glass, spikes or other sharp protruding objects;
 - (6) Fences must be maintained so as not to endanger life or property. Any fence which, through lack of maintenance or type of construction which will obstruct vision so to create a hazard to vehicular traffic or pedestrians upon the public streets and/or sidewalks shall be deemed a nuisance.
 - (7) Fences shall not be constructed, in whole or in part, with any of the following materials:
 - a. used materials, junk or other debris
 - b. scrap building materials or metals
 - c. organic materials known to be poisonous or hazardous to human or animal life
 - d. other materials which may be deemed unsafe to person or property by the Zoning Administrator or Building Official.
 - (8) No hedge shall be constructed with noxious weeds or grasses, as defined by PA 359 of 1941, being MCL 247.62.
 - (9) Screening walls are required as prescribed in section 38-389.
- (d) Regulations applicable to industrial districts.
- (1) Fences, walls and screens are permitted in the required front, side and rear lots provided they do not exceed six (6) feet in the front yard and eight (8) feet in the side and rear lots. To preserve open space and aesthetic character in the front yard, fences higher than four (4) feet must be setback two (2) feet for each additional foot above four (4) feet and all front yard fences must be black vinyl chain link or decorative in nature.
 - (2) Except as provided below, barbed wire strands are permitted on fences six (6) feet or higher on industrial parcels with the barbed wire tilted in toward the fenced parcel. Barbed wire is not permitted in the front yard.
 - (3) On any corner lot, no fence, wall or screen, whether structural or botanical, shall be more than thirty (30) inches above the curb or the centerline of the street pavement, or within twenty-five (25) feet of the intersection of the two (2) right-of-way lines, so as to interfere with motorists' vision across the corner.
 - (4) Screening walls are required as prescribed in section 38-389.
- (e) The Zoning Administrator or Building Official may require removal, reconstruction, or repair of any fence or wall which, in their judgment is dilapidated, unsafe, or a threat to the health, safety and welfare of the residents of the City of Owosso.
- (f) A permit shall be required for new fence construction, with a fee to be prescribed by resolution of the council.

SECTION 3. ADDITION. That new Sections 38-396, 38-397, and 38-398 which read as follows, shall be adopted:

Sec. 38-396. Mechanical equipment and utilities.

The following requirements shall apply to all site plans and new installations, not including replacement equipment and wind energy systems, for uses in the RM-1, RM-2, OS-1, B-1, B-2, B-3, B-4, and PUD zoning districts.

- (a) Ground mounted mechanical equipment, such as blowers, ventilating fans, and air conditioning units, are permitted only in non-required side yards and in any rear yard, as determined by the Building Official/Zoning Administrator.
- (b) Mechanical equipment shall be placed no closer than three (3) feet to any lot line in the B-3 zoning district.
- (c) Any ground, building, or roof mounted mechanical equipment or utilities, including water and gas meters or related devices, utility boxes, transformers, elevator housings, stairways, tanks, heating, ventilation and air condition equipment (HVAC), and other similar equipment, shall comply with the following standards.
 - (1) All such equipment shall be screened by a solid wall, fence, landscaping, and/or architectural features that are compatible in appearances with the principal building.
 - (2) Roof mounted equipment shall not exceed a height of ten (10) feet above the surrounding roof surface, and shall occupy no more than fifteen percent (15%) of the total roof area. All roof mounted mechanical units must be screened so they are not visible from ground level.

Sec. 38-397. Commercial design requirements.

The following design requirements for commercial buildings shall be applied during site plan review to development within the RM-1, RM-2, OS-1, B-1, B-2, B-3, B-4, and PUD zoning districts. These standards shall also apply to those elevations and parking areas that face a state highway and are within 200 feet of the right-of-way.

- (a) *Exterior building design.*
 - (1) Buildings shall possess architectural variety, but enhance the overall cohesive community character. All buildings shall provide architectural features, details, and ornaments such as archways, colonnades, cornices, recesses, projections, wall insets, arcades, window display areas, peaked roof lines, or towers.
 - (2) Building walls and roofs over 50 feet in length shall be broken up with varying building lines, windows, gables, and/or architectural accents such as pilasters, columns, dormers, or awnings.
 - (3) Window area or spandrel glass shall make up at least 20 percent or more of the exterior wall area facing the principal street(s).
 - (4) In addition, a portion of the on-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street. Additional landscaping requirements of this ordinance must also be satisfied.
 - (5) Overhead doors shall not face a public street or residential district. The Planning Commission can modify this requirement upon a determination that there is no reasonable alternative and the visual impact will be moderated through use of building materials, architectural features and landscaping beyond that required by the ordinance.
 - (6) Additions to existing buildings must complement the current building design with regard to height, proportions, scale, materials, and spacing of openings.
- (b) *Building materials.*
 - (1) Durable building materials which provide an attractive, quality appearance must be utilized.
 - (2) The predominant building materials (50% or more of the face) should be quality materials such as earth-toned brick, native stone, and tinted/textured concrete masonry units and/or glass products.

(3) Other materials such as smooth-faced concrete block, EIFS panels, or pre-fabricated steel panels should only be used as accents and not dominate the building exterior of the structure.

(4) Metal roofs may be allowed if deemed by the Planning Commission to be compatible with the overall architectural design of the building.

(c) *Building colors.*

(1) Exterior colors shall be of low reflectance, subtle, neutral, or earth tone colors. The use of high intensity colors such as neon, metallic, or fluorescent for the facade and/or roof of the building are prohibited except as approved by the Planning Commission for building trim.

(2) The use of trademark colors not meeting this requirement must be approved by the Planning Commission.

(3) Mechanical and service features such as gutters, ductwork, service doors, etc. that cannot be screened must be of a color that blends in with the color of the building.

(d) *Roof design.*

(1) Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest, and be appropriate to the architectural style of the building.

(2) Roofs shall have no less than two (2) of the following features:

a. Parapets concealing flat roofs and rooftop equipment, such as HVAC units from public view. The average height of such parapets shall not exceed fifteen (15) percent of the height of the supporting wall and such parapets shall not at any point exceed one-third (1/3) of the height of the supporting wall. Such parapets shall feature three-dimensional cornice treatment;

b. Overhanging eaves, extending no less than one (1) foot past the support walls;

c. Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one (1) foot of vertical rise for every three (3) feet of horizontal run and less than or equal to one (1) foot of vertical rise for every one (1) foot of horizontal run;

d. Three (3) or more roof slope planes.

e. A specific architectural element proposed by the applicant's architect that is acceptable to the City Planner and Planning Commission.

(e) *Customer entrances.*

(1) Each large retail establishment (15,000 square feet or more) on a site shall have clearly defined, highly visible customer entrances featuring no less than five (5) of the following:

a. canopies or porticos;

b. overhangs;

c. recesses/projections;

d. arcades;

e. raised corniced parapets over the door;

f. peaked roof forms;

g. arches;

h. outdoor patios;

i. display windows;

j. architectural details such as tile work and moldings which are integrated into the building structure and design;

k. integral planters or wing walls that incorporate landscaped areas and/or places for sitting.

l. a specific architectural element proposed by the applicant's architect that is acceptable to the City Planner and Planning Commission.

(2) Where additional units will be located in the large retail establishment, each such store may have at least one (1) exterior customer entrance, which shall conform to the above requirements.

(3) A bike rack or other acceptable form of bike parking or storage shall be provided near the primary entrance of all commercial structures in a ratio of no less than one bike slot or space for each ten parking spaces provided onsite, with a minimum of two such slots or spaces. This shall not apply to structures in the B-3 zoning district.

(f) *Community amenities.* Community amenities such as patio/seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches, or other features located adjacent to the primary entrance to the building(s) are highly encouraged and may be calculated as part of the landscaping requirement.

(g) *Signs.* Signs shall be in accordance with the city's sign ordinance. All sign bases shall be constructed of materials compatible with the architecture of the building(s) located on the premises.

(h) *Natural features.* Buildings shall be sited to protect existing natural areas such as steep natural grades, trees, significant groupings of healthy vegetation (shrubs and trees), and rock outcroppings. To the extent practical, these areas shall be incorporated into the overall site plan.

(i) *Building location and orientation.* New buildings shall have at least one principal building entrance oriented toward the front lot line.

(j) *Sidewalks.* All development shall include a provision for sidewalks within the site and within the right-of-way to provide connectivity between adjacent sites, the public realm, parking areas, primary structures, and any other on-site amenities.

Sec. 38-398. – Residential dwelling design standards.

(a) *Intent.* This Section is intended to establish regulations for the construction of new residential dwellings zoned R-1 and R-2, including reconstructed and in-fill housing. The standards herein are intended to:

- (1) Prevent grossly dissimilar dwellings which would adversely affect the value of dwellings in the surrounding area.
- (2) Prevent adverse effects on the desirability of an area to existing or prospective homeowners.
- (3) Ensure the stability of the environment.
- (4) Promote the most appropriate use of real estate.
- (5) Increase the opportunity to realize the development pattern envisioned in the Owosso Master Plan.

These regulations are based on the finding that the cohesiveness and character of the city's neighborhoods are significant factors in the city's quality of life, contribute to the distinct character in the various neighborhoods and help retain property values. These regulations further ensure new housing units are harmonious with the general character of the adjacent houses and the city overall and ensure a stable housing stock. While some level of diversity is desirable, these regulations are intended to ensure the design variation of new homes is similar to the level of variation in existing homes in the immediate area, or surrounding neighborhoods with similar densities for new residential projects. The standards shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.

(b) *Applicability.* The regulations of this Section shall apply to all new single family home construction zoned R-1 and R-2. Major home expansions where the homeowner is expanding the footprint of the home by forty percent (40%) or more shall comply with subsections TBD.D.9, TBD.D.10, and TBD.D.11, in addition to required building codes, to ensure the resulting home continues to maintain the character of the neighborhood. The standards shall not apply to minor home expansions, interior remodeling, or to residences outside of the one and two family zoning districts.

(c) *Approval.* Compliance with these regulations shall be determined by the Building and Zoning Administrator at the time the building permit is reviewed and shall be based on the standards of subsection D below.

(d) Standards

(1) Each such dwelling unit shall comply with all pertinent building and fire codes. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements. Where there are conflicting applicable regulations, the more stringent shall apply.

(2) All construction required herein shall be commenced only after a building permit has been obtained in accordance with the City Building Code and other building regulations.

(3) Each such dwelling unit shall comply with the minimum standards listed throughout the zoning code for the Zoning District in which it is located, including minimum lot area, minimum lot width, minimum floor area, required setbacks and maximum building height.

(4) Each dwelling unit shall be firmly attached to a permanent basement or crawl space foundation constructed on the site in accordance with the City Building Code.

(5) The dwelling shall have an attached or detached structure of equal workmanship as the dwelling unit, designed for the parking and storage of vehicles. Said structure shall be functionally and aesthetically compatible in design and appearance with other residences in the surrounding area as defined in subsection 12 below. When attached to a mobile home, modular home, pre-fabricated home or pre-constructed home, said structure shall comply with all requirements of the Michigan Building Code relative to grade separation and fire restrictive requirements.

(6) Each such dwelling unit shall contain a storage area equal to or greater than ten percent (10%) of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less. This storage area shall consist of a basement, attic or in a separate detached accessory structure that complies with the standards of this Section regarding accessory buildings and structures. The intent of these standards is to limit the extent of outdoor storage.

(7) The roof shall have a minimum 4:12 pitch and with a drainage system that will collect and concentrate the discharge of storm water or snow away from the sides of the dwelling. The roof shall be composed of metal or wood shake, asphalt, or other acceptable shingles. A roof overhang of not less than six (6) inches on all sides shall be provided, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.

(8) A minimum of two (2) exterior doors shall be provided with the second one being in either the rear or side of the dwelling. All dwelling units shall be oriented toward the public right-of-way such that the façade that faces the street contains a door, windows, and other architectural features customary to the front facade of a residence.

(9) The width across any front, side or rear elevation shall be a minimum of twenty (20) feet and comply in all respects with the City Building Code.

(10) In-fill housing or development on vacant lots in an existing platted subdivision shall consider the gross floor area and lot coverage of surrounding homes to ensure compatibility. The gross floor area and lot coverage of the proposed dwelling shall be at least ninety percent (90%) and no more than one-hundred and thirty-five percent (135%) of the average square footage of constructed single family dwellings within five hundred (500) feet, up to the boundary of the existing neighborhood, of the subject dwelling unit, with measurements made from the edge of the street.

(11) In-fill housing or development on vacant lots in an existing platted subdivision shall maintain a consistent front building line along the street. The front yard setback of the proposed dwelling shall be no less than ninety percent (90%) and no more than one-hundred and thirty-five percent (135%) of the average established front yard setback of other single family dwelling unit within five hundred (500) feet, up to the boundary of the existing neighborhood, of the subject dwelling unit, with measurements made from the edge of the street.

(12) Building appearance for all new single family dwelling unit construction shall be aesthetically compatible in design and appearance with other residences in the surrounding area.

Definitions for what constitutes the surrounding area are as follows:

(a) For new single family neighborhood development (in the form of a new subdivision plat or new site condominium project), the surrounding area is defined as the nearest existing neighborhoods with similar densities.

(b) For in-fill housing development where there are one (1) or a few isolated sites being developed within the existing neighborhood (in the form of an existing lot of record

or recent land division), surrounding area shall be defined as within five hundred (500) feet, up to the boundary of the existing neighborhood, of the subject dwelling unit; with measurements made from the edge of the lot in each direction, including the opposite side of the street.

The determination shall be made by the Building and Zoning Administrator and in considering similarity and compatibility with the surrounding area the following features must be considered in order to meet this requirement:

1. Exterior building material used on the proposed dwelling
2. Roof style
3. The design and position of windows
4. Front entry design (presence of porches, front door location, etc.)
5. Garage style and design

If the Building and Zoning Administrator cannot reach a determination on architectural compatibility, the application shall be forwarded to the Planning Commission for review and final action.

(13) *Appeal.* An applicant may appeal the decision of either the Building and Zoning Administrator or the Planning Commission to the Zoning Board of Appeals. The City shall provide written notification of denial at the last address of record. A written application for an appeal hearing before the Zoning Board of Appeals shall be filed with the office of the Building and Zoning Administrator within 15 calendar days of the receipt of the notice of denial.

(14) *Exceptions.* The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this ordinance and pertaining to such parks.

SECTION 4. SEVERABILITY. The various sections and provisions of this Ordinance shall be deemed to be severable, and should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of this Ordinance as a whole or any section or provision of this Ordinance other than the section or provision so declared to be unconstitutional or invalid.

SECTION 5. INCONSISTENT ORDINANCES. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are repealed.

SECTION 6. EFFECTIVE DATE. This amendment shall become effective 20 days after passage.

SECTION 7. AVAILABILITY. This ordinance may be purchased or inspected in the city clerks' office, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.

SECTION 8. PUBLIC HEARING. A public hearing is set for Monday, March 4, 2013 at approximately 7:30 p.m. in the City Hall Council Chambers to hear citizen comment regarding the proposed amendment.

Set Public Hearing – IFT Exemption Amendment. Set a public hearing for Monday, March 4, 2013 to gather citizen comment on the application from Ruess Winchester, Inc., 705 McMillan Avenue, to amend the Industrial Facilities Tax Exemption Certificate originally approved in October 2011 to add an additional \$113,512.98 in new personal property as follows:

RESOLUTION NO. 18-2013

SETTING PUBLIC HEARING TO CONSIDER APPLICATION FOR AN AMENDMENT TO AN INDUSTRIAL FACILITIES TAX EXEMPTION CERTIFICATE RUESS WINCHESTER, INCORPORATED 705 McMILLAN AVENUE

WHEREAS, an application to amend their October 2011 IFT, (Certificate No. 2011-493) was received February 12, 2013 from Ruess Winchester, Incorporated; and

WHEREAS, the application will amend the personal property component of the original IFT by adding \$113,512.98 in new personal property to the original cost of \$388,800 for a new total personal property amount of \$502,312.98; and

WHEREAS, Act 198 of 1974 allows an application for tax abatement to be amended for a period up to two years after the original application; and

WHEREAS, an Industrial Development District was established March 19, 1979 for property described as:

BLOCKS 8 & 9 ALSO BEG SW COR LOT 1, BLK 11 TH N 03*39', E 366.24', TH S 62*27', E 556.27' TH S 01*05', W 118.70' TH W TO POB INCLUDING VACATED ABREY AVE. & ALLEYS ADJACENT AND WITHIN SAID BLOCKS. GEO. T. ABREY'S WOODLAWN PARK ADDN.; and

WHEREAS, the Industrial Facilities Tax Exemption certificate, being part of Act 198 of 1974, is available to the city of Owosso; and

WHEREAS, the city of Owosso is a qualified local governmental unit according to the Act and is permitted to grant an Industrial Facilities Tax Exemption Certificate; and

WHEREAS, it was determined by city staff that the Industrial Facilities Exemption Certificate is within the guidelines of the City of Owosso Tax Abatement Policy of June 7, 2010; and

WHEREAS, notification will be sent to all taxing jurisdictions per the City of Owosso Tax Abatement Policy of June 7, 2010.

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

FIRST: the Owosso City Council sets a public hearing for March 4, 2013 on or about 7:30 p.m. in the council chambers for the purpose hearing comments for those within the proposed district, governmental taxing jurisdictions and any other resident or taxpayer; and

SECOND: the city clerk gives the notifications as required by law.

Warrant No. 458. Accept Warrant No. 458 as follows:

Vendor	Description	Fund	Amount
Brown & Stewart, PC	Professional Services - Jan 15, 2013 – Feb 11, 2013	General	\$ 8,398.20
Johnson Controls, Inc	Planned Service Agreement – Feb 1, 2013 – Jul 31, 2013	General	\$11,641.00

*Check Register – January 2013. Affirm check disbursements totaling \$2,140,133.68 for the month of January 2013.

Motion supported by Mayor Pro-Tem Popovitch.

Roll Call Vote.

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

NAYS: None.

*Due to its length full text of the Check Register is not included in the minutes. Complete copies of this are on file in the Clerk's Office.

ITEMS OF BUSINESS

CDBG LOAN – LEBOWSKY CENTER RECONSTRUCTION

Consider loaning \$200,000 from the City's Community Development Block Grant fund to the Owosso Community Players to be used toward the reconstruction of the Lebowsky Center.

Assistant City Manager Adam Zettel gave a brief detail of the CDBG fund, the requirement for use of such funds, the purpose of the loan, and the level of risk involved. He indicated staff recommends approval of the loan with the conditions noted.

Linda Keenan, Executive Director of the Owosso Community Players, thanked the City for their support over the course of their reconstruction effort. If Council approves the motion before them it is anticipated construction on the building will begin one week from today.

George Larimore, Financial Consultant with Colliers International, explained that the loan serve as a bridge that would allow OCP to leverage funds already in its possession as a match for grant funding. Payback of the loan does not hinge upon the future revenues of OCP but rather whether construction is completed and the grant funds in question are received.

It was anticipated construction would take approximately 9-12 months.

Motion by Councilperson Erfourth to approve the loan of \$200,000 from the City's Community Development Block Grant fund to the Owosso Community Players to be used toward the reconstruction of the Lebowsky Center, subject to review of the final details by the City Attorney and Finance Director as follows:

RESOLUTION NO. 19-2013

**AUTHORIZING THE EXECUTION OF LOAN DOCUMENTS
RELATED TO A CDBG REVOLVING LOAN FUND LOAN
TO OWOSSO COMMUNITY PLAYERS
FOR THE REHABILITATION OF THE LEBOWSKY CENTER
AT 114, 120, AND 124 EAST MAIN STREET**

WHEREAS, the city of Owosso, Shiawassee County, Michigan, has determined that occupation and reoccupation of historic commercial structures downtown serves an economic and public benefit to the community; and

WHEREAS, the Owosso Community Players, operating out of the Lebowsky Center, create a unique economic and symbolic attraction for the downtown; and

WHEREAS, the Owosso master plan recognizes the importance of arts, entertainment, and culture in the downtown as it relates to improving the quality of life and generating sustainable economic activity; and

WHEREAS, the city of Owosso operates a Community Development Block Grant loan program, with program guidelines, to fund such activities; and

WHEREAS, the loan review committee has recommended approval of this loan under specific conditions that the city council finds fulfilled.

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 support the renovation of the Lebowsky Center.
- SECOND: The mayor and city clerk are instructed and authorized to sign the loan documents substantially in the form attached, to loan the Owosso Community Players \$200,000, provided that the submitted term agreement substantially reflects the existing term sheet and is approved by the city attorney and finance director.
- THIRD: The accounts payable department, under the direction of the finance director, is authorized to release funds in the above amount immediately following the execution of all necessary loan documents.
- FOURTH: The city finance director shall adjust the budget as needed, and the above expenses shall be paid from the Community Development Block Grant Fund.

Motion supported by Councilperson Cook.

Roll Call Vote.

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

NAYS: None.

PROPERTY PURCHASE – WOODLAND TRAILS CONDOMINIUM PROJECT

Consider resolution authorizing the purchase, with conditions, of 17 unsold lots in the Woodland Trails Site Condominium project in an amount not to exceed \$50,000.

This item was removed from the agenda pending further developments.

COMMUNICATIONS

Charles P. Rau, Building Official. January 2013 Building Department Report.

Charles P. Rau, Building Official. January 2013 Code Violations Report.

Michael T. Compeau, Public Safety Director. January 2013 Police Report.

Michael T. Compeau, Public Safety Director. January 2013 Fire Report.

CITIZEN COMMENTS AND QUESTIONS

Ryan Kuchar, 1401 Whitehaven Court, suggested a pressure activated traffic signal, similar to that near Carmen Ainsworth High School in Flint, may be a good solution for the area near the High School. He went on to say that he did not feel a four-way stop would be effective, nor would talking to the students be a complete solution.

Eddie Urban, 601 Glenwood Avenue, indicated the sidewalk along the side of his house had sunken below the level of the lawn and was collecting water. He inquired what could be done to remedy the

situation. City Manager Crawford noted the problem may be resolved by grading the lawn down to a level slightly below the sidewalk.

Councilperson Fox inquired whether City crews would be picking up the brush left behind by the Consumers Energy tree trimming crews as it appears they have left the area and not cleaned up after themselves.

NEXT MEETING

Monday, March 04, 2013

BOARDS AND COMMISSIONS OPENINGS

Building Board of Appeals, term expires 06-30-2015 (candidate must possess construction knowledge)

ADJOURNMENT

Motion by Councilperson Eveleth for adjournment at 8:14 p.m.

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

Benjamin R. Frederick, Mayor

Amy K. Kirkland, City Clerk