

CITY OF OWOSSO

AUGUST 19, 2013

7:30 P.M.

PRESIDING OFFICER: MAYOR BENJAMIN R. FREDERICK
OPENING PRAYER: REVEREND PEG FAULMANN
ST. JOHNS UNITED CHURCH OF CHRIST
PLEDGE OF ALLEGIANCE: RANDY WOODWORTH
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 Mayor Pro-Tem Popovitch to approve the agenda with the following changes:

Move Consent item 1. Lease Agreement – WWTP Screening Equipment to Item of Business 3.
Move Consent item 3. Bid Award – 2013 Slurry Seal & Double Chip Seal Program to Item of Business 4.

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

APPROVAL OF THE MINUTES OF SPECIAL MEETING OF JULY 30, 2013

Motion by Councilperson Fox to approve the Minutes of the Special Meeting of July 30, 2013 with changes to his comments regarding the provision of water service in the dog park to indicate he had mentioned the issue at a prior Council meeting.

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

APPROVAL OF THE MINUTES OF REGULAR MEETING OF AUGUST 5, 2013

Motion by Councilperson Bailey to approve the Minutes of the Regular Meeting of August 5, 2013 as presented.

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

PROCLAMATIONS / SPECIAL PRESENTATIONS

SWEARING IN NEW FIREFIGHTERS – J. EHLEN AND T. VANDEMARK

Mayor Frederick conducted a pinning ceremony swearing in the City's newest firefighters: Joseph Ehlen and Tyler Vandemark. Friends and family of both employees were on hand to witness the event.

PUBLIC HEARINGS

SPECIAL ASSESSMENT DISTRICT NO. 2013-04 – KRUST DRIVE FROM DEWEY TO NORTH

A public hearing was conducted to receive citizen comment regarding authorization of Resolution No. 5 for Special Assessment District No. 2013-04 for Krust Drive from Dewey Street to North Street for street reconstruction.

The following people commented regarding the proposed special assessment district:

June Keeler, 618 Krust Drive, said that from her driveway to North Street the condition of the road isn't that bad and she felt it could be easily patched instead of being reconstructed. She said she felt the amount of her assessment was unfair as she didn't know how it was determined.

Charles Kincaid, 811 Krust Drive, inquired whether the manholes along the street would be inspected and repaired prior to reconstruction of the street so the new street wouldn't need to be torn up again. He went on to note that the street is utilized by many garbage trucks and he wondered whether it would be feasible to increase the depth of the asphalt near the corners to accommodate the extra weight and prevent early deterioration of the street surface.

Public Works Director Mark Sedlak indicated all manholes would be repaired prior to street reconstruction. He also said the street should be able to handle the weight of garbage trucks and school buses as it was currently designed and it would be easier to reconstruct the entire street at one time rather than doing the project one block at a time.

Public Safety Director Kevin Lenkart noted the City has two officers in training that will be able to weigh trucks to ensure they are not too heavy.

There was discussion regarding beefing up the base of the street in high stress areas, following the recommendations of the street study, and reconstructing the street in sections vs. reconstructing the entire street. City Manager Donald D. Crawford noted that the purpose of tonight's hearing was to determine whether the amounts assessed to individual residents were fair and equitable, not whether the project was needed or not.

In light of the discussion the Mayor suggested tabling the item to allow staff to speak with Ms. Keeler regarding her concerns.

Motion by Councilperson Eveleth to table the motion.

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

As a result of the motion Council moved on to the next item on the agenda.

(This item was picked back up after the nine o'clock recess.)

ORDINANCE AMENDMENT – TEMPORARY STRUCTURES

Assistant City Manager/Community Development Director Adam Zettel communicated the intent of the ordinance amendment saying it would allow administrative approval of certain business activities taking place on public property as well as allowing transient businesses to conduct business on private property within certain guidelines.

A Public Hearing was conducted to hear citizen comment regarding the proposed amendment to Chapter 38, Zoning, to clarify temporary uses, temporary structures, and outdoor displays.

There were no citizen comments.

Councilperson Fox indicated he had concerns with the proposed ordinance because he felt that business owners would not leave enough room for handicapped individuals to navigate the sidewalk and enforcement. He also asked how transient merchants such as hot dog vendors would be permitted in light of the proposed ordinance. Assistant City Manager Zettel noted that permit holders (businesses) will be held responsible for maintaining proper clearances. He also said that hotdog vendors would not fall under the proposed ordinance as they had no permanent place of business in town, but would seek a traffic control order for permission to occupy private property and conduct business.

Motion by Councilperson Cook to approve the ordinance amendment as proposed.

Motion supported by Mayor Pro-Tem Popovitch.

Further discussion ensued. City Attorney William C. Brown indicated he had concerns with the proposed prohibition of carnivals on private property. There was also discussion regarding how many businesses may be precluded from conducting business on the sidewalk in front of their location because the permanent brick planters may not allow enough room for merchandise and a proper walkway, whether it was fair if one business had the opportunity to do business outside and another didn't, if there was an alternate location where "blocked" businesses could conduct outdoor sales, and sending the ordinance back to the Planning Commission for further refinement. Councilperson Cook indicated that he appreciated the concerns expressed but felt that not adopting the ordinance would be perceived as discouraging business. He felt that Main Street would be able to communicate the rules established by the ordinance and enforcement of the ordinance would resolve concerns about maintaining pedestrian passage. Councilperson Erfourth inquired whether the ordinance could be further refined to eliminate some of the paperwork and lower the cost. Assistant City Manager Zettel indicated that the City had an obligation to protect the public when using the public right of way. Maintaining the process as proposed would allow staff to affirm the business applicant held proper insurance coverage and the owners/operators were aware of the rules.

Councilperson Cook made a friendly amendment to his original motion to strike Sec. 38-399(e)(1)a prohibiting carnivals on private property and amending Sec. 38-399(e)(2)c to read: Sidewalk coverage: An area no less than **five** feet wide shall be maintained for passage of pedestrians at all times.

The friendly amendment was supported by Mayor Pro-Tem Popovitch as follows:

Whereas, the Council, after due and legal notice, has met and there being no one to be heard, the Council authorizes the following ordinance be adopted:

ORDINANCE NO. 744

CITY OF OWOSSO
AMENDMENT TO CHAPTER 38, ZONING
OF THE CODE OF ORDINANCES
TO CLARIFY 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, BE IT RESOLVED, THE CITY OF OWOSSO ORDAINS that Chapter 38, Zoning, of the City of Owosso city code be amended as follows:

SECTION 1. REPEAL. That a specific definition within Section 38-5, Definitions, of the *Code of Ordinances*, which read as follows, shall be repealed:

~~*Temporary use or building.* A use or building permitted by the board of appeals to exist during periods of construction of the main building or use, or for special events.~~

SECTION 2. REPEAL. That the Code of Ordinances of the City of Owosso, Michigan, is hereby amended by deleting a section, numbered 38-504(4)a, Temporary permits, 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 3. NAME. The amended Ordinance shall be known and cited as the "City of Owosso Temporary Structures and Uses."

SECTION 4. ADDITION. That new definitions within Section 38-5, Definitions, shall be added to read as follows:

Temporary Structure. Any structure erected for the purpose of temporarily housing displaced persons or permitting occupancy for construction related functions related to an ongoing construction or building project.

Temporary Use. Any use, event, or display of a temporary, seasonal, or portable nature that is customary and incidental to the primary permitted use, providing that such use is not otherwise regulated or permitted by this ordinance or a valid site plan.

SECTION 5. ADDITION. That the Code of Ordinances of the City of Owosso, Michigan, is hereby amended by adding a section, to be numbered 38-399, Temporary structures and uses, which shall read as follows:

Section 38-399. Temporary structures and uses.

- (a) *Conditions applicable to all temporary structures, uses, and displays:* Unless otherwise noted, the following conditions shall apply to all temporary structures, uses, and displays.
- (1) All such uses and structures must first be reviewed and approved by the building official.
 - (2) The use of any space or structure must be one permitted as-of-right within the applicable zoning district.
 - (3) Adequate off-street parking, site ingress/egress, and adequate clear vision areas shall be provided.
 - (4) The applicant shall specify the exact duration of the temporary use, and no permit for any temporary use, structure, or display shall be valid for more than one calendar year.
 - (5) Approval of other applicable government agencies is required to ensure compliance with applicable health and safety regulations and standards.
 - (6) The use must be carried out so as to meet all zoning and general ordinance provisions and shall not create or result in any Nuisance Factors.
 - (7) Temporary structures shall comply with the setback standards for the district in which they are located.
 - (8) The building official or his/her designee shall approve any and all plumbing, electrical, and mechanical connections to any temporary structure.
 - (9) The building official or zoning administrator may require the applicant to furnish the city with a performance bond in accordance with Section 29-48 of the city ordinance to ensure removal of the temporary structure, use or display.
- (b) *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) 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.
- (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.
- (1) 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.
 - (2) 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. A certificate of occupancy shall be required for such structures.
- (d) *Temporary uses in accessory structures:* A temporary building or structure may be used as an accessory building or structure if it meets all accessory structure requirements of this code.
- (e) *Special purpose temporary uses:* The following conditions apply to specific temporary uses:
- (1) *Carnival, circus, festival, seasonal markets (public and/or private lands):*
 - a. 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 five 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.

- (f) *Outdoor sales and display in conjunction with an existing business (private lands only):*
 - (1) *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.
 - (2) *Lot coverage:* An area no more than three hundred (300) square feet shall be used as outdoor sales and display area.
 - (3) *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.
 - (4) *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).
 - (5) *Additional requirements:* 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 6. 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 7. INCONSISTENT ORDINANCES. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are repealed.

SECTION 8. EFFECTIVE DATE. This amendment shall become effective September 8, 2013.

SECTION 9. 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.

Roll Call Vote.

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

NAYS: Councilpersons Erfourth and Fox.

ORDINANCE AMENDMENT – DESIGN STANDARDS

Assistant City Manager Zettel gave a brief description of each part of the proposed ordinance as follows:

Fences & hedges – This portion of the ordinance simply passes forward much of what is already on the books, the big change involves limits on the types of materials that can be used to construct a fence. The provision prohibiting chain link fence in front yards was removed by the Planning Commission after it was remanded by Council for further revision.

Commercial mechanical equipment – This portion applies to new installations on commercial structures or new commercial construction and provides rules for the location of certain equipment as well as screening requirements.

Commercial design – This section applies to new builds only and would require durable materials and architectural variety in new commercial structures. The intent being to create long lasting attractive structures and avoid the cheap steel buildings that deteriorate quickly with time. It was also noted that the Planning Commission would serve as a relief valve for this provision allowing the consideration of extenuating circumstances and potentially waiving or modifying the requirements based on individual situations.

Residential design – The intent of this section is to ensure that new construction, including in-fill housing, emulates the character of the neighborhood. It also establishes requirements for outdoor storage in an effort to prevent blight.

Assistant City Manager Zettel went on to say that all of the proposed changes are designed to allow for administrative approval of a majority of projects, simplifying the process. Those projects that do not meet the established requirements can be evaluated by the Planning Commission and the Commission has the authority to waive or alter the requirements on an individual basis. He further noted the Planning Commission has worked diligently to revamp the proposed ordinance and supports their approval.

A Public Hearing was conducted to hear citizen comment regarding the proposed amendment to Chapter 38, Zoning, to promote higher quality structures and higher standards for aesthetics in relation to fences, commercial development, and new residential development.

The following people commented regarding the proposed ordinance amendment:

Tom Manke, business owner at 118 South Washington Street, said that he has heard from numerous residents that are against the proposed regulations. He said he was under the impression that Council didn't want to regulate what people have in their yards and he felt the Planning Commission was trying to push its ideals on the residents of the City. He said he felt people were going to move to the townships because they didn't want to deal with the regulations in the City.

Mike Cline, 621 Wright Avenue, said that when people purchase a home they have visions of what they want in their yard and the new regulations would infringe on that. He asked how the new regulations would be enforced. He said the City should stop nickel and diming people on water and telling them how their yard should look.

Lynn Lewis, 202 North Dewey Street, said she is comfortable with the Council passing safety provisions but the height of the hedges in her back yard are not a safety concern and shouldn't be regulated by Council. She asked that Council use common sense and not put in place regulations that cannot be upheld. She said she loves the privacy the hedges in her back yard provide.

Dan Harrow, 432 East Mason Street, said that he had gone through the ordinance at the Planning Commission level and he continued to be concerned about the provision requiring a garage be attached to new houses. He said he didn't have a problem with the rest of the ordinance as long as current features would be grandfathered in. He encouraged Council not to overstep their bounds and regulate things they don't need to.

Mike Espich, 1124 Ada Street, said he has a very old home with pine trees in his front yard and a barberry hedge along both sides. He said the trees and hedges were there when he purchased his house in 1986 and he wanted clarification that he would not be required to take them down.

Dave Chrenka, 1997 North Ruess Road, owner of rental property in the city, wanted clarification on the requirements for roof air conditioning units. He also asked if he would be required to cut down the hedges in the front yard of his property here in town because they were not at least 19 feet from the right of way. Mr. Zettel indicated that the replacement of existing commercial air conditioning units would not trigger the screening requirement, it would only affect new commercial installations.

Prior to the meeting an anonymous phone message was received from a resident on Water Street saying he objected to the proposed regulations establishing the height of fences. He said

he put up a privacy fence to resolve an issue with a neighbor, he wants his privacy and does not want people to be able to see into his yard. He also pointed out the privacy of those with hot tubs may be compromised by requiring lower fences and hedges.

Mr. Zettel sought to clarify the intent of the proposed ordinance saying there were no requirements that people change what they already have other than to maintain clear vision areas. Enforcement would be based on a complaint basis and the proposed ordinance would become the measure for resolving those complaints.

Mayor Frederick pointed out that much of what the proposed ordinance entails mirrors what is already on the books. He said that as he saw things it all came back to safety and providing regulations that could be enforced if necessary. He did express his concern with the provision regarding in-fill housing saying he didn't like the square footage requirements. He also wasn't a fan of the language on home expansions that would require any expansion to fit the character of the neighborhood. He said he saw a need for some of the measures but not all of them.

Mr. Zettel again pointed out that the proposed ordinance seeks to create a two-tiered system. The first tier would allow administrators to approve site plans. If a site plan does not conform to the written requirements then it would proceed to the second tier, and the Planning Commission would make a determination based on the individual circumstances.

Councilperson Cook inquired whether manufactured housing would be prohibited under the proposed ordinance. Staff indicated it would not. He asked if it would limit the height of fences and hedges in rear yards. Staff indicated that no limit would apply unless the hedges presented a safety concern.

Councilperson Cook went on to say that prior to moving back to Owosso he had the opportunity to serve on a national commission examining housing development regulations around the country and based on that experience as well as his experience on the Planning Commission and City Council he said he felt the City of Owosso had much less regulation than most and he was confident that the City would be able to balance the public and private issues at hand.

Motion by Councilperson Cook to approve the ordinance amendment as proposed.

Motion supported by Councilperson Bailey.

Councilperson Fox sought clarification on a couple of issues. He was concerned that some small lots would not have enough room for a garage.

Councilperson Bailey called the question.

Motion by Councilperson Bailey fails for lack of support.

Councilperson Erfourth spoke of the things he would like to see changed in the ordinance including increasing the height of hedges in rear and side yards to 8 feet, allowing fences to cross property lines if the adjoining property owners agree to allow it, removing many of the specific terms from the list of acceptable commercial building materials to make it more permissive, striking the requirement that in-fill housing be similar in nature to those around it to allow for the possibility of completely unique structures, and he felt the language on building materials should be changed to require that materials "meet or exceed" the quality of that listed.

Councilperson Cook said that while he appreciated their concerns that he felt there was a lot of "what if" thinking going into their objections. He said that he hasn't seen a lot of people stymied when making improvements, especially if the City errs on the side of being more permissive.

Mayor Pro-Tem Popovitch noted the Planning Commission had worked very hard on the proposed ordinances and that the basis for the amendments were the results of the city-wide survey that was conducted a few years ago. She said that time and time again the survey indicated that people wanted to see an improvement in the housing stock in town. She went on to say that many, many residents had their hand in this ordinance in the idea that the city-wide survey inspired the Master Plan, which in itself was a collaborative effort, and the Master Plan in turn inspired the ordinance amendment before Council now. She said the intent was simply to set some minimum standards.

Councilperson Fox indicated he had served on the Planning Commission as well and that it was not easy to develop the perfect ordinance. He said he would feel better if some of Councilperson Erfourth's changes were incorporated into the language or the amendment was sent back to the Planning Commission. Mayor Frederick indicated he wanted to act on the ordinance tonight, even if it meant pulling some sections for further work. Councilperson Cook said things could always be improved, but suggested they put it into practice and have the Planning Commission revisit it in a year to determine if anything needed to be changed. He urged the group to move forward and not keep the amendment in limbo forever.

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

ORDINANCE NO. 745

CITY OF OWOSSO
AMENDMENT TO CHAPTER 38, ZONING
OF THE CODE OF ORDINANCES
TO PROMOTE HIGHER QUALITY STRUCTURES AND HIGHER STANDARDS FOR
AESTHETICS IN RELATION TO FENCES, COMMERCIAL DEVELOPMENT, AND NEW
RESIDENTIAL DEVELOPMENT

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 included 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, BE IT RESOLVED, THE CITY OF OWOSSO ORDAINS that Chapter 38, Zoning, of the City of Owosso city code be amended as follows:

SECTION 1. REPEAL. That the Code of Ordinances of the City of Owosso, Michigan, is hereby amended by deleting a section, numbered 38-393, Fences, walls, or screens:

~~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. NAME. The amended Ordinance shall be known and cited under the existing section of "General Provisions."

SECTION 3. REPLACE. That the new Section 38-393, which reads as follows, shall replace the previously repealed section:

Section 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 (excluding hedges as defined below).
- (b) A hedge is defined as any bush, shrub or any living green screen 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 fences or hedges must 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) Fences and hedges in front yards that function as exterior side yards must follow front yard restrictions unless the fence or hedge is installed or planted at least 19 feet back from the right-of-way line or follows the building line of the nearest legal structure. All such fences and hedges must meet clear vision requirements for streets, driveways, and sidewalks.
 - (4) No fence or hedge shall extend across property lines;
 - (5) The finished side of any fence shall face away from the property on which the fence is located;
 - (6) 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;
 - (7) 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.
 - (8) Fences shall not be constructed, in whole or in part, with any of the following materials:
 - a. 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.
 - (9) No hedge shall be constructed with noxious weeds or grasses, as defined by PA 359 of 1941, being MCL 247.62.
 - (10) 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 and non-coated or decorative chain link 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 except for those located on McMillan Ave, Industrial Drive, South Street, and Aiken Road.
 - (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 4. ADDITIONS. That Sections 38-396 through 38-398 which read as follows, shall be added:

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 at a height equal to or greater than equipment being screened or otherwise be demonstrated to not be visible from all properties located within a distance of 300 feet.

Section 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 good or necessary cause 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 corrugated steel panels should only be used as accents and not dominate the building exterior of the structure.

(c) *Building colors.*

- (1) 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.
- (2) Mechanical and service features such as gutters, ductwork, service doors, etc. that cannot be screened must be of a color that blends in or compliments 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 building official or Planning Commission, depending upon the reviewing entity.

(e) *Customer entrances.*

- (1) Each large retail establishment (12,500 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 building official or Planning Commission, depending upon the reviewing entity..
- (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. 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.* When feasible and not in direct conflict with site needs, 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.

Section 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 and character 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 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 greater than either twenty-five percent (25%) or 500 square feet, whichever is greater, shall comply with subsections 38.398.D.8, 38.398.D.9, and 38.398.D.10, 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 applicable building codes.
- (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's adopted building code.

OR

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 city's building code relative to grade separation and fire restrictive requirements.

- (5) 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.
- (6) 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.
- (7) 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.
- (8) 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 seventy-five percent (75%) 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. The planning commission may approve any proposals that are not able to meet this standard if the commission makes findings that the apparent deviations are not contrary to 38-398.A.1-5.
- (9) 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 seventy-five percent (75%) 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. The planning commission may approve any proposals that are not able to meet this standard if the commission makes findings that the apparent deviations are not contrary to 38-398.A.1-5.
- (10) 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:

- i. 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.
- ii. 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 Official. In considering similarity and compatibility with the surrounding area the following features must be considered in order to meet this requirement:

- a. Exterior building material used on the proposed dwelling should match or be similar to that used on a preponderance of homes in the surrounding area.
- b. Roof style
- c. The design and position of windows (total area, size, number etc.)
- d. Front entry design (presence of porches, front door location, etc.)
- e. Garage style and design

If the Building Official cannot reach a determination on architectural compatibility or the petitioner disputes the findings, the application shall be forwarded to the Planning Commission for review and final action.

- (e) *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 5. 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 6. INCONSISTENT ORDINANCES. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are repealed.

SECTION 7. EFFECTIVE DATE. This amendment shall become effective September 8, 2013.

SECTION 8. 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.

Motion supported by Councilperson Bailey.

Roll Call Vote.

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

NAYS: Councilpersons Fox, Erfourth, and Mayor Frederick.

The Council briefly recessed from 9:17 p.m. until 9:27 p.m.

Upon their return the Council picked up the earlier tabled item regarding Special Assessment District No. 2013-04 for Krust Drive from Dewey Street to North Street.

SPECIAL ASSESSMENT DISTRICT NO. 2013-04 – KRUST DRIVE FROM DEWEY TO NORTH
continued...

Public Works Director Mark Sedlak indicated he had spoken at length with the Keelers and when they left the meeting they agreed the assessment had been calculated properly and no longer maintained their objection to the amount.

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

RESOLUTION NO. 91-2013

DISTRICT NO. 2013-04
KRUST DRIVE FROM DEWEY STREET TO NORTH STREET
SPECIAL ASSESSMENT RESOLUTION NO. 5

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

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

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Said special assessment roll as prepared by the City Assessor in the amount of \$98,621.37 is hereby confirmed and shall be known as Special Assessment Roll No. 2013-04.
2. Said special assessment roll shall be divided into twelve (12) equal annual installments, the first of which shall be due and payable on September 1, 2013, and the subsequent installments shall be due on September 1st of each and every year thereafter. Payment of the amount of the special assessment may be made in full without interest or penalty by December 1, 2013.
3. The installments of the special assessment rolls shall bear interest at the rate of 6% per annum; provided, however, if the bonds are issued in anticipation of said special assessments, then such unpaid special assessment shall bear interest at a rate of interest equal to 1% above the average rate of interest borne by said bonds. Such interest shall commence on September 1, 2013 and shall be paid annually on each installment due date.
4. Said special assessment roll shall be placed on file in the office of the City Clerk who shall attach his warrant to a certified copy thereof within ten (10) days commanding the Assessor to spread the various sums shown thereon as directed by the City Council.

Roll call vote.

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

NAYS: None.

CITIZEN COMMENTS AND QUESTIONS

Dave Acton, Main Street Chairman, gave an update on the construction of the splash pad saying it was 90% complete and volunteers continue to work on the project. He reminded folks that all of the work and much of the material was being provided at no charge by local volunteers and companies, as a result the project had taken much longer than originally anticipated but at great savings to the community. He encouraged further patience while the project was being finished. He also provided an update on the wayfinding signs saying a fabricating process had been developed for the custom signs and there were approximately 12 signs that would be installed in the downtown area in the coming weeks. He also noted that since the fabrication process had been developed it would be easy for additional signs to be made for other locations in town. Councilperson Cook said he was excited that the new signs could be utilized along the newly developed bike route to point out local attractions to cyclists.

Bill Pearsall, 2500 Lyons Road, said he was back again to complain about bikes on the sidewalks in the downtown. He had reported the problem to Council last year and said the problem continues to exist. He noted several instances in which he was a party to or a witness to collisions or near collisions with bicycles on the sidewalk. He said he was extremely frustrated with the lack of enforcement and would be picketing downtown to draw attention to the problem. There was staff and council discussion regarding additional efforts to combat bikes on downtown sidewalks, including stencils on the sidewalks and stepped up foot patrols.

Randy Woodworth, owner of several commercial buildings in town, relayed a letter he had received from a former building tenant saying their business was moving out of the downtown because of a lack of longer term parking. He said that as a business owner he felt a pay to park scheme could work well and asked Council to look at making parking changes that would positively serve businesses.

Eddie Urban, 601 Glenwood Avenue, said he shared Mr. Pearsall's concern with bikes on the sidewalk though he felt that Mr. Pearsall may be singling himself out for harassment if he picketed downtown. He also asked for information on the City's listening assist system so he could give it to the County so they could buy something similar.

Michael Tillotson, 1299 South Shiawasse Street, said there are many signs in the downtown that note the prohibition on bikes on the sidewalk. He said he felt someone will get hurt if enforcement isn't stepped up.

Henry Tempel thanked the Council for all of the work they do. He said he recognized that all of them had the best interest of the City at heart despite the fact they may have different approaches. He went on to say that he too was concerned about bikes on the sidewalks downtown.

Michael Espich, 1124 Ada Street, applauded Council for all they do. He went on to announce a community build project for the disc golf course this Sunday, August 25th beginning at 8:00 a.m. He said the project had been years in the making and was on the cusp of coming to fruition if folks would come out to help.

David Chrenka, 1997 North Ruess Road, said he is a local township trustee and could appreciate the stresses of Council's job. He went on to say that he had a problem with the rental inspection program. While he agreed there was a need to inspect rental units and to charge a fee to help cover the inspection he objected to the idea of paying an annual fee in years his units were not inspected. Councilperson Cook noted that it makes sense to periodically review such programs and now may be the time to look at that as well as revisiting fees and the training of inspectors to make sure and efficient and effective program is being conducted.

Mayor Frederick indicated he would like to see another staff report on the inspection program.

Councilperson Fox wanted to know what percentage of rental units had been inspected to date.

Councilperson Erfourth said he recalled there used to be stencils on the sidewalks in the downtown noting the prohibition of biking on the sidewalk. He also said he recalled that your bike could be confiscated if you were found riding on the sidewalk when he was a child.

Dave Acton, Main Street Chairman, spoke of the group's efforts to maintain adequate parking saying they had gone to many conferences in which parking was a high priority topic. Many cities are going with a pay to park scheme and Main Street will be looking into the issue shortly.

Mayor Pro-Tem Popovitch encouraged an educational campaign for bikers and motorists alike saying she knows how to conduct herself when riding a bike on the street but isn't sure motorists know how to share the road with cyclists. She also inquired about the status of the fire behind Woodard Station and noted that she thought the rental inspection program was originally intended to provide renters with a list of reputable landlords.

Councilperson Fox said he would like an update on the cross training of employees and what is being done from a legacy planning standpoint in regard to key employee positions.

Councilperson Bailey said she had had the opportunity to participate in police officer interviews and found the experience eye opening. She said she was also participating in the Main Street transition meetings to coordinate the transition between Heather Rivard and the new Main Street Director, Josh Adams. She also thanked the DPW crew for their quick work fixing the water main break last week.

CITY MANAGER REPORT

City Manager Crawford said it was extremely difficult to cross train employees when you lack the funds to hire people before their predecessor retires. He also noted the difficulty the City has been experiencing in attracting qualified individuals for the utilities operations, also due in part to a lack of resources.

He went on to say that he will come back with a review of the rental inspection program and would like to move toward an annual inspection program.

Mayor Frederick indicated he was open to the idea of using reserve funds to bring on personnel if the intention was to train them for a legacy position. He said he felt that allowing for a mentorship period was just a different form of insurance for the City to protect its operations and investments.

There was general discussion regarding the fire behind the Woodard Station over the weekend including how it originated and why response times appeared to be delayed.

CONSENT AGENDA

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

Bid Award – 2013 Street Paving Program. Approve bid award to Michigan Paving and Materials, Inc. for the 2013 Street Paving Program in the amount of \$224,094.60 and further approve payment up to the bid amount as follows:

RESOLUTION NO. 92-2013

AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE 2013 STREET PAVING PROGRAM WITH MICHIGAN PAVING AND MATERIALS COMPANY

WHEREAS, the city of Owosso, Shiawassee County, Michigan, has determined that the surface of Krust Drive from Dewey Street to North Street has deteriorated and that replacement is advisable, necessary and in the public interest; and

WHEREAS, the City of Owosso sought bids for milling and asphalt resurfacing of the above mentioned location as part of the 2013 Street Paving Program; a bid was received from Michigan Paving and Materials Company, and it is hereby determined that Michigan Paving and Materials Company is qualified to provide such services and that it has submitted the lowest responsible and responsive bid; and

WHEREAS, a public hearing will be held on August 19, 2013 regarding the street that is part of the said bid; and

WHEREAS, it is acknowledged that adjustments may be made to the contract as a result of those hearings.

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

- FIRST: The City of Owosso has heretofore determined that it is advisable, necessary and in the public interest to employ Michigan Paving and Materials Company for milling and asphalt resurfacing services for Krust Drive within the City as part of the 2013 Street Paving Program.
- SECOND: The mayor and city clerk are instructed and authorized to sign the document substantially in the form attached as Exhibit A, Contract for Services Between the City of Owosso, Michigan and Michigan Paving and Materials Company in the amount of \$224,094.60, contingent upon approval of Krust Drive to be specially assessed.
- THIRD: The above expenses shall be paid from the proceeds of the 2010 General Obligation Unlimited Tax Bonds.

Purchase Authorization – Street Sweeper. Waive competitive bidding requirements, authorize the purchase of one Elgin Pelican Street Sweeper from Bell Equipment Company, holder of the State of Michigan contract for street sweepers, in the amount of \$170,525.80, and authorize payment up to that amount as follows:

RESOLUTION NO. 93-2013

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR PURCHASE OF ELGIN PELICAN STREET SWEEPER FROM BELL EQUIPMENT COMPANY

WHEREAS, the City of Owosso, Shiawassee County, Michigan, has a Department of Public Services requiring the use of street sweepers; and

WHEREAS, the State of Michigan has contracted with Bell Equipment Company for the provision of Elgin Street Sweepers; and City Ordinance allows for exceptions to competitive bidding requirements when the public interest is best served by joint purchase with, or purchase from, another unit of government; and

WHEREAS, it is hereby determined that the public interest is best served by executing a joint purchase through the State of Michigan contract with Bell Equipment Company.

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

- FIRST: The City of Owosso has theretofore determined that it is advisable, necessary and in the public interest to purchase a 2013 Elgin Pelican Street Sweeper from Bell Equipment Company in the amount of \$170,525.80.
- SECOND: The mayor and city clerk are instructed and authorized to sign the document substantially in the form attached, Contract for Services between the City of Owosso, Michigan and Bell Equipment Company, Inc. up to the amount of \$170,525.80.
- THIRD: The above expenses shall be paid from the Revolving Equipment Fund.

Warrant No. 468. Authorize Warrant No. 468 as follows:

Vendor	Description	Fund	Amount
Brown & Stewart, PC	Professional services July 9, 2013 – August 12, 2013	General	\$ 8,734.44
Michigan Municipal League Workers' Compensation Fund	Workers' compensation insurance- 2 nd installment FY 2013-2014	General/Sewer/ Streets/WTP/ WWTP/Fleet/ Housing	\$26,698.00

*Check Register – July 2013. Affirm check disbursements totaling \$765,773.89 for the month of July 2013.

Motion supported by Councilperson Erfourth.

Roll Call Vote.

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

NAYS: None.

*Due to its length, full text of the Check Register is not printed in the minutes. A copy of the register in its entirety is on file in the Clerk's Office.

ITEMS OF BUSINESS

CDBG LOAN – PUBLIC HOUSE, 112 NORTH WASHINGTON STREET

The original item was to consider authorization of loan agreement with Jeff Saunders, owner of 112 North Washington Street, for the purpose of lending \$15,000 from the CDBG Revolving Loan Fund for a business development loan to assist with the cost of installing a fire suppression system. Assistant City Manager/Community Development Director Adam Zettel noted that the Downtown Loan Committee had closely examined the application and felt that a grant would be more appropriate in that a fire suppression system would be a necessity for any business utilizing the building, it would be a permanent improvement to a building used by the general public, and the cost of the required system represented a sizable obstacle in redevelopment of the building.

Councilperson Bailey indicated she is a part of the Downtown Loan Committee and that the Committee had discussed various ways to support this effort finally settling on a grant. She went on to say that the guidelines for the Committee are terribly outdated and in need of revision. She said the Committee has suggested a moratorium until such time as the guidelines could be updated.

Motion by Councilperson Fox to authorize a \$15,000 grant to Jeff Saunders for the installation of a fire suppression system at 112 North Washington Street and to further authorize the revision of the loan guidelines to reflect current market conditions and building owner needs as follows:

RESOLUTION NO. 94-2013

AUTHORIZING PAYMENT FROM THE CDBG REVOLVING LOAN FUND TO JEFF SAUNDERS FOR IMPROVEMENTS TO REAL PROPERTY LOCATED AT 112 N. WASHINGTON STREET

WHEREAS, the city of Owosso, Shiawassee County, Michigan, has determined that the addition of a fire suppression system to the oldest brick building in the downtown serves an economic and public benefit to the community by virtue of addressing a code-mandated investment and improving safety; and

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

WHEREAS, the loan review committee, under the general intent of the program, has recommended approval of a grant to ameliorate the obsolescence of a business and building development caused by the requirement of a fire suppression system; and

WHEREAS, the loan review committee finds the loan guidelines to be in need of updating to reflect current market conditions and building owner needs.

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 building improvements that add use value and exchange value to real properties in the downtown.
- SECOND: The accounts payable department, under the direction of the finance director, is authorized to release funds in the amount of \$15,000 immediately following the installation and proof of payment of the completed fire suppression system at 112 N. Washington.
- THIRD: The above expenses shall be paid from the Community Development Block Grant Fund.
- FOURTH: There shall be a moratorium placed on further allocations from the CDBG revolving loan fund in order to revise the program guidelines, said moratorium will expire after 180 days or upon city council approval of such guidelines, whichever occurs first.

Motion supported by Councilperson Erfourth.

Roll Call Vote.

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

NAYS: None.

STREET BOND PROPOSAL

City Manager Crawford distributed a copy of the presentation he had prepared for the evening but elected to provide a simple summary in light of the late hour. He said time had slipped away and the Council must make a decision as to whether to put a bond issue on the November ballot. He noted the proposed bond would also fund sidewalk improvements and trail construction as well as street repair.

Mayor Frederick pointed out the Council had discussed the condition of the City's street system before and inquired whether anyone had any questions.

Councilperson Eveleth said he had no problem with putting the issue in front of voters. Further noting there was plenty of time to undertake an educational effort.

City Manager Crawford and Councilperson Cook noted minor corrections and revisions they wanted to see in the question and the corresponding resolution.

Motion by Councilperson Eveleth to authorize the following resolution placing a street bond proposal on the November 5, 2013 ballot:

RESOLUTION NO. 95-2013

**CITY OF OWOSSO
COUNTY OF SHIAWASSEE, STATE OF MICHIGAN**

**RESOLUTION SUBMITTING BOND PROPOSAL
TO THE VOTERS OF THE CITY OF OWOSSO**

WHEREAS, the City Council of the City of Owosso, County of Shiawassee, State of Michigan (the "City") has determined that it is in the best interest of the residents and property owners of the City that the City acquire and construct local and major street improvements in the City consisting of paving, repaving, reconstructing and improving streets, sidewalks, parking areas, and trails for non-motorized transportation, including necessary rights-of-way, proper drainage facilities, including natural non-structural facilities, and all necessary appurtenances and attachments thereto (the "Project"); and

WHEREAS, the maximum estimated cost of the Project is \$10,000,000; and

WHEREAS, the City Council has determined that the City should borrow money in an amount not-to-exceed Ten Million Dollars (\$10,000,000) and issue general obligation bonds of the City in one or more series for the purpose of paying the cost of the Project; and

WHEREAS, the City Council wishes to place a proposal to issue bonds for the Project before the qualified electors of the City at the general election to be held in the City on Tuesday, November 5, 2013 (the "Election Date"); and

WHEREAS, in order for the bond proposal to be submitted to the City's electors on the Election Date, it is necessary for the City Council to certify the ballot wording of the proposal to the City Clerk and the County Clerk of the County of Shiawassee, Michigan, as required by Act 116, Public Acts of Michigan, 1954, as amended (the "Michigan Election Law").

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The bond proposal attached hereto as Exhibit A is hereby certified to the City Clerk and the County Clerk for submission to the City's electors on the Election Date. The City Clerk is hereby authorized and directed to file this Resolution and/or complete any such forms, certificates or documents as may be required by the County Clerk to evidence the foregoing certification and/or submission by no later than Tuesday, August 27, 2013.
2. The City Clerk and the County Clerk are hereby directed to (a) post and publish notice of last day of registration and notice of election for the Election Date in the manner required by the Michigan Election Law; and (b) have prepared and printed, as provided by the Michigan Election Law, ballots for submitting the bond proposal on the Election Date, which ballots shall include the bond proposal shown in Exhibit A, or the bond proposal shall be stated as a proposal on the voting machines, which ballots may include other matters presented to the electorate on the same date.

3. The estimated first year millage and simple average annual millage rate set forth in the Bond Proposal are hereby found to be reasonable estimates of such millage rates.
4. The City makes the following declarations for the purpose of complying with the reimbursement rules of Treas. Reg. § 1.150-2 for tax-exempt bonds pursuant to the Internal Revenue Code of 1986, as amended:
 - (a) The City reasonably expects to reimburse itself with proceeds of the bonds for certain costs of the Project described in the bond proposal which will be paid from the general funds of the City.
 - (b) The maximum principal amount of debt expected to be issued for the Project, including issuance costs, is \$10,000,000.
 - (c) A reimbursement allocation of the capital expenditures on the Project with the proceeds of the bonds will occur not later than 18 months after the later of (i) the date on which the expenditure is paid, or (ii) the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid. A reimbursement allocation is an allocation in writing that evidences the City's use of the proceeds of the bonds to reimburse the City for a capital expenditure made pursuant to this resolution.
5. If the qualified electors of the City approve the bond proposal, then the City hereby appoints Miller, Canfield, Paddock and Stone, P.L.C. as bond counsel for the Bonds.
6. All resolutions and parts of resolutions, insofar as they conflict with the provisions of this resolution, are hereby repealed.

EXHIBIT A

**CITY OF OWOSSO
BOND PROPOSAL FOR STREET
SIDEWALK AND TRAIL IMPROVEMENTS**

Shall the City of Owosso, Shiawassee County, Michigan, borrow the principal sum of not to exceed Ten Million Dollars (\$10,000,000) and issue its general obligation unlimited tax bonds therefor in one or more series, payable in not to exceed twenty-five (25) years from the date of issue of each series, for the purpose of paying the city's costs of acquiring and constructing local and major street improvements in the city consisting of paving, repaving, reconstructing and improving streets, sidewalks, parking areas, and trails, and all necessary appurtenances and attachments thereto? The estimated millage to be levied in 2015 is 2.1959 mills (per \$1,000 of taxable value) and the estimated simple average annual millage rate required to retire the bonds is 2.4451 mills (per \$1,000 of taxable value).

YES

NO

Motion supported by Councilperson Erfourth.

Roll Call Vote.

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

NAYS: None.

LEASE AGREEMENT – WWTP SCREENING EQUIPMENT

Councilperson Fox indicated he pulled this item because he wanted to know who pays for the installation and removal of the equipment. It was noted the City would provide equipment and personnel for the installation as well as covering the fee for connecting the equipment to the electrical system. He also noted that leasing the equipment would give the City the opportunity to try out the equipment and ensure it worked with the current treatment process prior to considering a purchase.

City Attorney Brown indicated he felt the proposed contract was unfair, favoring the manufacturer.

Motion by Councilperson Fox to approve a 12-month lease with Duperon Corporation for wastewater screening equipment in the amount of \$2,605.00 per month, approve payment up to \$31,260.00, and authorize the City Attorney to negotiate changes to the contract as he feels appropriate as follows:

RESOLUTION NO. 96-2013

**AUTHORIZING 12 MONTH LEASE AGREEMENT WITH
DUPERON CORPORATION
FOR SCREENING EQUIPMENT FOR THE WASTEWATER PLANT
AT \$2,605 PER MONTH**

WHEREAS, Duperon Corporation has a full scale demonstration wastewater screening unit that fits our existing channel configuration and operating requirements, and

WHEREAS, Duperon will lease said equipment to the City for a 12 month trial period at a lease rate of \$2,605.00 per month, and

WHEREAS, actual full scale operation of this equipment will allow the City to develop bid specifications for new equipment while avoiding major overhaul expense on existing equipment to be replaced,

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 lease wastewater screening equipment from Duperon Corporation at \$2,605.00 per month for a 12 month lease term.
- SECOND: The contract shall be a Lease Agreement and the accounts payable department is authorized to submit the initial and subsequent monthly payments to Duperon Corporation pursuant to that agreement up to \$31,260.00.
- THIRD: The above expenses shall be paid from the Wastewater Plant Replacement Fund.
- FOURTH: The contract shall be amended and negotiated to the satisfaction of the City Attorney.

Motion supported by Councilperson Bailey.

Roll Call Vote.

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

NAYS: None.

BID AWARD – 2013 SLURRY SEAL & DOUBLE CHIP SEAL PROGRAM

Councilperson Fox indicated he pulled this item as he had questions as to which streets were covered by the contract. Staff clarified the situation saying they were the streets suggested by the pavement study as well as the streets that residents had asked to be returned to gravel earlier in the year.

Motion by Councilperson Fox to approve a bid award to Highway Maintenance & Construction Company for the 2013 Slurry Seal & Double Chip Seal Program in the amount of \$180,160.14 and further approve payment up to the bid amount as follows:

RESOLUTION NO. 97-2013

**AUTHORIZING THE EXECUTION OF A CONTRACT FOR
THE 2013 SLURRY SEAL & DOUBLE CHIP SEAL PROGRAM
WITH HIGHWAY MAINTENANCE & CONSTRUCTION COMPANY**

WHEREAS, the city of Owosso, Shiawassee County, Michigan, has determined that improvement to the surface quality of various streets is advisable, necessary and in the public interest; and

WHEREAS, the city of Owosso sought bids to improve the surface of various streets as part of the 2013 Slurry Seal & Double Chip Seal Program; a bid was received from Highway Maintenance & Construction Company; and it is hereby determined that Highway Maintenance & Construction Company is qualified to provide such services and that it has submitted the lowest responsible and responsive bid;

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

- FIRST: The City of Owosso has heretofore determined that it is advisable, necessary and in the public interest to employ Highway Maintenance & Construction Company for the surface improvement of various streets as part of the 2013 Slurry Seal & Double Chip Seal Program.

SECOND: The mayor and city clerk are instructed and authorized to sign the document substantially in the form attached as Exhibit A, Contract for Services Between the city of Owosso, Michigan and Highway Maintenance & Construction Company with a \$180,160.14 bid.

THIRD: The above expenses shall be paid from the Major and Local Street Maintenance Fund.

Motion supported by Councilperson Eveleth.

Roll Call Vote.

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

NAYS: None.

COMMUNICATIONS

Amy K. Kirkland, City Clerk. Notification of application for new liquor license.
Richard C. Williams, Finance Director. Cash and Investments Report – 2Q 2013
Charles P. Rau, Building Official. July 2013 Building Department Report.
Charles P. Rau, Building Official. July 2013 Code Violations Report.
Kevin D. Lenkart, Public Safety Director. July 2013 Police Report.
Kevin D. Lenkart, Public Safety Director. July 2013 Fire Report.
Downtown Development Authority/Main Street. Minutes of August 7, 2013.

CITIZEN COMMENTS AND QUESTIONS

Mike Tillotson, 1299 South Shiawassee Street, said he had recently toured the Fire Station with a youth group from his church. He said it was a great experience and the kids were thrilled.

Eddie Urban, 601 Glenwood Avenue, spoke of several issues including a splash pad gone wrong, fixing the podium, rusty water, and police activity in town.

Mayor Pro-Tem Popovitch noted that school would be starting soon and asked people to be mindful of the increased traffic around the schools.

Councilperson Fox asked that the cable franchise fee and ambulance fees be placed on the September 3rd agenda for discussion and possible action.

NEXT MEETING

Tuesday, September 03, 2013

BOARDS AND COMMISSIONS OPENINGS

Historical Commission – term expires 12-31-14

ADJOURNMENT

Motion by Councilperson Eveleth for adjournment at 11:08 p.m.

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

Benjamin R. Frederick, Mayor

Amy K. Kirkland, City Clerk