

**OWOSSO CITY COUNCIL  
REGULAR MEETING**

**MARCH 2, 2015**

**7:30 P.M.**

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

**OPENING PRAYER:** PASTOR DEBRA GRAZIER  
OWOSSO FIRST CONGREGATIONAL CHURCH

**PLEDGE OF ALLEGIANCE:** CASEY LAMBERT

**PRESENT:** Mayor Benjamin R. Frederick, Mayor Pro-Tem Christopher T. Eveleth, Councilpersons Loreen F. Bailey, David B. Bandkau, Burton D. Fox, Elaine M. Greenway, and Robert J. Teich, Jr.

**ABSENT:** None.

**APPROVE AGENDA**

Motion by Mayor Pro-Tem Eveleth to approve the agenda as presented.

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

**APPROVAL OF THE MINUTES OF REGULAR MEETING OF FEBRUARY 17, 2015**

Motion by Councilperson Bailey to approve the Minutes of the Regular Meeting of February 17, 2015 as presented.

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

**PROCLAMATIONS / SPECIAL PRESENTATIONS**

None.

**PUBLIC HEARINGS**

None.

**CITIZEN COMMENTS AND QUESTIONS**

Mike Espich, Parks & Recreation Commission Chairman, detailed the great success of last Saturday's Polar Plunge event saying the Commission had a goal to raise \$6,000 and proceeds from the event totaled almost \$12,000. He also thanked the City for their on-going assistance with the event.

Tom Manke, business owner at 118 South Washington Street, said he felt the changes proposed for the water billing procedures would pacify a select group of residents while neglecting everyone else.

Eddie Urban, 601 Glenwood Avenue, joked that he had recently secured a job with the Oakley Police Department.

Mayor Frederick applauded everyone that participated in the Polar Plunge saying he really enjoyed the fact that the event had become regional in nature with jumpers and contributors from surrounding communities. He also highlighted the weekend's Walk for Warmth event noting they raised over \$6,000 which will be matched by Consumers Energy. Lastly he announced the Mayor's Chili Cook Off Saturday March 7<sup>th</sup> to raise funds for the Corunna parks program. Councilperson Bailey noted the next stray cat spay/neuter event will be held March 25<sup>th</sup>. She has traps, carriers, and advice for anyone looking to participate. She also noted the City has placed a link on its website to facilitate donations to the spay/neuter effort. Councilperson Greenway inquired whether cat beds were still needed, it was noted that beds, towels, and blankets would be welcome.

Councilperson Fox noted that he had the same concerns as Mr. Manke in regard to the proposed changes to water billing procedures.

**CITY MANAGER REPORT**

City Manager Crawford distributed and detailed the latest Project Status Report.

Mayor Frederick inquired about the future of façade grants in the City given the fact that parts of the City no longer qualified as low income. Mr. Crawford indicated that staff is working with the State to develop an alternative program that would target the areas that still qualify as low income. He hoped to see the program ready for implementation in approximately 3 months.

Mayor Frederick also inquired about the prudence of not contracting for stump removal services. City Manager Crawford noted it may not be the least expensive alternative but the City owns the proper equipment and the work could be performed as a fill between larger projects. There was discussion regarding the DPW having too much work to reasonably accomplish, the City's recent inability to secure a response to a bid for stump removal, and potential citizen dissatisfaction with delays in the removal of the stumps.

Councilperson Fox inquired when the North Street culvert and Gould Street project would take place. He also inquired about whether the water main on Chestnut Street would be replaced this year, saying he hoped it would if the project would not require street reconstruction. Mr. Crawford noted that he hoped the North Street and Gould Street projects would be accomplished this summer or fall depending on when the City received the necessary funding.

Mayor Frederick thanked staff for working with Habitat for Humanity recently to allow the reclaiming of items from a local home that was scheduled for demolition. He also noted his desire to move forward with an effort to plant trees provided by the City on private property. He wondered how to get the word out on the opportunity.

### **CONSENT AGENDA**

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

**First Reading And Set Public Hearing – Zoning Ordinance Amendment.** Conduct First Reading and Set a Public Hearing for Monday, March 16, 2015 at 7:30 p.m. to receive citizen comment regarding the proposed amendment to Chapter 38, Zoning, Sections 38-5 and 38-217 to establish regulations governing the location of smoking lounges within the City as follows:

### **RESOLUTION NO. 19-2015**

#### **SETTING A PUBLIC HEARING REGARDING AN ORDINANCE TO AMEND SECTIONS 38-5 AND 38-217 OF CHAPTER 38, ZONING, TO ESTABLISH REGULATIONS GOVERNING THE LOCATION OF SMOKING LOUNGES**

WHEREAS, the city of Owosso has a zoning ordinance governing the use of buildings, structures, and land to ensure the most appropriate use of land and promote the general welfare of the public; and

WHEREAS, the city recognizes the need to amend the Zoning Ordinance to establish regulations governing the location of smoking lounges.

NOW THEREFORE BE IT RESOLVED THAT THE CITY OF OWOSSO ORDAINS that Chapter 38 Zoning, Sections 38-5 and 38-217 of the *Code of Ordinances of the City of Owosso, Michigan* be amended as follows:

SECTION 1. ADDITION. That Section 38-5, Definitions, shall be amended to add a definition for "Smoking Lounge" as follows:

#### **Section 38-5. – Definitions.**

*Smoking lounge* shall mean an establishment, which has a State issued smoking ban exemption certificate, and that allows smoking of tobacco products or non-tobacco products or substances on the premises. The term "smoking lounge" includes, but is not limited to, facilities commonly described as tobacco retail specialty stores, cigar bars and lounges, hookah cafes and lounges, tobacco bars and lounges, tobacco clubs or 0% nicotine establishments.

SECTION 2. ADDITION. That new Section 38-217(2)j, which reads as follows, shall be adopted:

#### **Sec. 38-217. - Principal uses permitted.**

In a B-2 district, no building or land shall be used and no building shall be erected except for one (1) or more of the following specified uses unless otherwise provided in this chapter:

- (1) Any retail business or service establishment permitted in B-1 districts as principal uses permitted;
- (2) All retail business, service establishments or processing uses as follows:
  - a. Any retail business whose principal activity is the sale of merchandise in an enclosed building;
  - b. Any service establishment of an office, showroom or workshop nature of a decorator, dressmaker, tailor, baker, painter, upholsterer or an establishment doing radio or home appliance repair, photographic reproduction, and similar service establishments that require a retail adjunct;
  - c. Private clubs, fraternal organizations and lodge halls;

- d. Restaurants or other places serving food or beverage, except those having the character of a drive-in;
- e. Theaters, assembly halls, concert halls or similar places of assembly when conducted completely within enclosed buildings;
- f. Business schools and colleges or private schools operated for profit;
- g. Medical marihuana dispensary or clinic provided that the medical marihuana dispensary or clinic is operated in full compliance with the Medical Marihuana Act, MCL 333.26421, and no medical marihuana dispensary or clinic shall be located within one thousand (1,000) feet of another dispensary, any park identified and so signed by the city, or any public or private school, college, or university property, nor shall any dispensary be located within five hundred (500) feet of the following uses, as defined and measured by the Michigan Liquor Control Act, MCL 436.15031:
  - 1. Any house of worship;
  - 2. Any parcel zoned and used for residential purposes;
  - 3. Any licensed day care facility;
  - 4. Any public library.
- h. Other uses similar to the above uses;
- i. Accessory structures and uses customarily incident to the above permitted uses.
- j. Smoking Lounges shall not be located within one thousand (1,000) feet of another smoking lounge, any park identified and so signed by the city, or any public or private school, college, or university property, nor shall any smoking lounge be located within five hundred (500) feet of the following uses, as defined and measured by the Michigan Liquor Control Act, MCL 436.15031:
  - 1. Any house of worship;
  - 2. Any parcel zoned and used for residential purposes;
  - 3. Any licensed day care facility;
  - 4. Any public library.

(3) Residential structures existing as of January 1, 2012.

SECTION 3. 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 4. INCONSISTENT ORDINANCES. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are repealed.

SECTION 5. EFFECTIVE DATE. This amendment shall become effective twenty days after passage.

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

SECTION 7. PUBLIC HEARING. A public hearing is set for Monday, March 16, 2015 at 7:30 p.m. for the purpose of hearing citizen comment regarding the proposed ordinance amendment.

Motion supported by Councilperson Bailey.

Roll Call Vote.

AYES: Councilpersons Teich, Bandkau, Bailey, Fox, Greenway, Mayor Pro-Tem Eveleth and Mayor Frederick.

NAYS: None.

**ITEMS OF BUSINESS**

**HOKKAH LOUNGE MORATORIUM EXTENSION**

Motion by Councilperson Bailey to extend the moratorium on the establishment of Hookah Lounges, created by Resolution No. 179-2014, for another 90 days to allow the City to work through the ordinance amendment process as follows:

**RESOLUTION NO. 20-2015**

**A RESOLUTION EXTENDING A TEMPORARY MORATORIUM ON THE PERMITTING OF NEW SMOKING SHOPS AND HOOKAH LOUNGES IN THE CITY OF OWOSSO ORIGINALLY AUTHORIZED BY RESOLUTION NO. 179-2014**

WHEREAS, at the meeting held on December 15, 2014 the city council for the city of Owosso authorized Resolution No. 179-2014 initiating a 90-day moratorium on the establishment of new smoking shops and hookah lounges; and

WHEREAS, the purpose of the moratorium was to allow time to study the need for regulation and develop consistent, cohesive and objective land use, development and regulatory standards for the operation of tobacco retail specialty shops, cigar bars, 0% nicotine establishments, hookah lounges and bars, and other smoking facilities by any other name; and

WHEREAS, the planning commission has undertaken these tasks and is now putting forward an ordinance amendment embodying their recommendations; and

WHEREAS, the ordinance amendment process is designed to allow ample time for input and participation, thereby necessitating an extension of the original moratorium period.

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

FIRST: The moratorium period established by Resolution No. 179-2014 is hereby extended for an additional 90-day period to allow ample time to complete the ordinance amendment process.

SECOND: All terms and restrictions specified in Resolution No. 179-2014 are hereby extended for an additional 90-day period.

Motion supported by Councilperson Greenway.

Roll Call Vote.

AYES: Councilpersons Bandkau, Bailey, Fox, Greenway, Teich and Mayor Frederick.

NAYS: Mayor Pro-Tem Eveleth.

**FEE SCHEDULE AMENDMENT – HISTORICAL PROPERTIES**

Historical Facilities Director Robert Doran explained that admission to the Castle and rental fees for the Castle and the Gould House are far below market value based on research of nearby attractions. He went on to say the Historical Commission desires an increase in all three items, with the caveat that the increase in fees to tour the Castle are considered simply a suggested donation with no visitor being turned away for a lack of funds.

Motion by Mayor Pro-Tem Eveleth to amend the Fee Schedule increasing the suggested donation for admission to Curwood Castle and the rental fees for the Gould House as recommended by the Historical Commission as follows:

**RESOLUTION NO. 21-2015**

**MODIFYING FEE SCHEDULE ESTABLISHING NEW ADMISSIONS AND RENTAL FEES FOR CURWOOD CASTLE AND GOULD HOUSE**

WHEREAS, the city of Owosso currently charges an entrance fee to Curwood Castle Museum of \$2 for adults and \$1 for children; and

WHEREAS, the city of Owosso currently charges for the rental of Curwood Castle \$150 for the first hour (\$50 refundable) and \$25 for each additional hour; and

WHEREAS, the city of Owosso currently charges for the rental of Gould House \$150 for the first hour (\$50 refundable) and \$25 for each additional hour; and

WHEREAS, after researching the entrance and rental fees of other city, county and statewide historical entities, it has been determined that an increase in these donations/fees is reasonable and prudent.

NOW THEREFORE BE IT RESOLVED, by the city of Owosso, county of Shiawassee, state of Michigan that:

FIRST: the suggested donation to Curwood Castle be raised to \$5 for adults and \$2 for children, with the stipulation that no one will ever be turned away for lack of funds.

SECOND: the rental fee for Curwood Castle shall be raised to \$250 for the first hour (\$50 refundable) and \$55 for each additional hour.

THIRD: the rental fee for the Gould House shall be raised to \$250 for the first hour (\$50 refundable) and \$55 for each additional hour.

FOURTH: the City Clerk is authorized to make said changes to the official Fee Schedule of the City of Owosso.

Motion supported by Councilperson Bailey.

Roll Call Vote.

AYES: Councilpersons Bandkau, Greenway, Teich, Bailey, Mayor Pro-Tem Eveleth, Councilperson Fox and Mayor Frederick.

NAYS: None.

### **WATER BILLING PROCEDURE AMENDMENT**

City Manager Crawford outlined his proposal to provide a late-fee waiver to those residents that receive their Social Security stipends on the 2<sup>nd</sup> or 3<sup>rd</sup> of the month. He said adjusting the actual due date becomes difficult because such an adjustment would have a direct effect on a wide variety of residents. His proposal would keep the same due date but allow a few extra days for those receiving their payment on the 2<sup>nd</sup> or 3<sup>rd</sup>, which he estimated at approximately 150 residents.

There was significant discussion regarding the advantages and disadvantages of quarterly billing, the desire for an auto-read meter system to eliminate the costs associated with manual reading of meters, encouraging residents to pay a little each month as opposed to waiting until the bill arrives, and recognizing that changing the due date to appease one group may make it difficult for another group of residents.

Motion by Councilperson Fox to adjust the deadline for payment of utility bills to the 5<sup>th</sup> day of the month after the bills are distributed unless the due date falls on a weekend or legal holiday, in which case the due date would be the next business day.

Motion supported by Mayor Pro-Tem Eveleth.

There was further discussion regarding allowing residents to choose quarterly billing or monthly billing, setting up utility payments similar to the way Consumers Energy administers their "budget" program, how long it would take to have auto-read meters put in place, and discussing such a purchase during upcoming budget discussions.

Councilperson Bandkau asked for a friendly amendment to the motion at hand to include adding a 14-month timeline for the deployment of auto-read meters. Councilperson Fox and Mayor Pro-Tem Eveleth were amenable to the proposed friendly amendment.

Councilperson Fox called the motion.

Motion by Councilperson Fox to authorize amendment to the Standard Procedures for Issuance and Collection of Utility Bills as follows:

### **RESOLUTION NO. 22-2015**

#### **ESTABLISHING PROCEDURES FOR ISSUANCE AND COLLECTION OF UTILITY BILLS**

WHEREAS, the city of Owosso operates public utilities which provide water and sewer services; and

WHEREAS, the city of Owosso must bill and collect charges for providing water and sewer services; and

WHEREAS, the city of Owosso at the regular city council meeting of December 21, 2009 adopted a resolution establishing standard procedures for the issuance and collection of utility bills; and

WHEREAS, it is now advisable and in the public interest to revise those procedures.

THEREFORE BE IT RESOLVED by the council of the city of Owosso that:

FIRST: The resolution establishing standard procedures for the issuance and collection of utility bills adopted at the regular city council meeting of December 21, 2009 is hereby repealed and replaced.

SECOND: The standard procedures for issuance and collection of utility bills adopted this date will be as follows:

**STANDARD PROCEDURES  
FOR ISSUANCE AND COLLECTION OF UTILITY BILLS**

**Billings:**

Water and sewer bills will be based upon quarterly meter readings and billed quarterly.

**Reading and billing dates:**

Meters will normally be read during the first three weeks of March, June, September and December but may vary due to weather and other factors.

Bills will normally be mailed on or about the second day of January, April, July and October.

**Bill due date:**

Due date will normally be the 5<sup>th</sup> day of February, May, August and November, with the due date printed on the bill; unless the 5<sup>th</sup> falls on a weekend or legal holiday in which case the due date will be the next business day.

**Late penalty assessment:**

Late penalty assessments of 10% of the outstanding balance will be applied when good payment is not received by 9:00 a.m. the following business day by mail, drop box in the city hall parking lot, online, or other means.

**Past due/disconnect notice:**

Past due notices with late penalty assessment will normally be mailed by the tenth of the month following the due date, include the late penalty assessment and state that the water service will be disconnected on a specific date.

Disconnect notices will state that service will be shut off if not paid by a specified date and that no further notice will be given before shutoff.

Disconnects will take place throughout the week. Additional charges will apply for shutting off water service and for it turning back on. Payments will not be accepted by workers turning off service. Payments are accepted at city hall during normal business hours or by mail, drop box in the city hall parking lot, or online.

**Property owners responsible:**

Property owners are responsible for all bills and may arrange for a fee to have duplicate notices for a tenant mailed to them.

**Final reads:**

A customer may request a final read any time during a billing cycle, and a final bill will be prepared.

**Additional information:**

1. Utility bills will be based upon water meter size, metered usage charge, other charges for service, late payment charges, and miscellaneous water service charges/circumstances.
2. Bills and notices will be sent to the mailing address of recorded account as provided by the property owner.
3. Partial payments and prepayments will be accepted and posted to an account upon receipt, any time during the utility billing cycle. This allows weekly or monthly payments.
4. When wastewater samples are collected and tested because of illegal discharges, the removal or treatment of prohibited materials, or to clean or repair wastewater facilities because of the user's discharge, costs incurred by the city will be charged to the customer. Responsible parties may also be prosecuted.
5. The utility director or designees may adjust a utility bill when a determination is made that a high bill is not due to negligence or fault of the customer. These determinations are made according to established procedures, and all adjustments are documented for reference and audits.

THIRD: A 14-month timeline is hereby implemented for the deployment of automatic read water meters for the all City water customers.

Motion supported by Mayor Pro-Tem Eveleth.

Roll Call Vote.

AYES: Councilpersons Bailey, Bandkau, Fox, Teich, Mayor Pro-Tem Eveleth, Councilperson Greenway and Mayor Frederick.

NAYS: None.

**COMMUNICATIONS**

Parks & Recreation Commission. Minutes of January 26, 2015.  
Planning Commission. Minutes of January 26, 2015.  
Downtown Development Authority/Main Street. Minutes of February 4, 2015.  
Zoning Board of Appeals. Minutes of February 17, 2015.

**CITIZEN COMMENTS AND QUESTIONS**

Tom Manke, business owner at 118 South Washington Street, inquired whether there was a special meeting held to discuss an offer from a builder for the vacant Osburn Lakes lots. He indicated he had seen a notice for such a meeting but was unsure the meeting was actually held. Councilperson Bandkau noted that the Osburn Lakes Ad Hoc committee had recently held a meeting to discuss the possibility of a developer purchasing the lots. The meeting was intended to address the concerns of the parties that would be involved in such a transaction, not to consider an actual offer. He also noted that the committee did not have the authority to consider such an offer if one were made but would instead be addressed by Council in open session. He went on to say that the Ad Hoc Committee meetings were open to the public and apologized for any confusion the notice may have caused.

Eddie Urban, 601 Glenwood Avenue, asked for clarification of the purpose of 5<sup>th</sup> Monday meetings. It was noted the meetings were work sessions to discuss selected topics and were open to the public.

Jim Morel, 996 Marguerite Drive, expressed his concern with the cash flow of the water system due to the 90-day billing cycle, saying there were deficit balances in the months when there was no billing taking place.

Councilperson Fox wanted to know if City workers routinely inspect homes to find water leaks if a home owner requests assistance. It was noted that City workers would check for problems in such instances.

Councilperson Bandkau addressed Mr. Morel's concern saying it was his hope the issue would be moot in 14 months after auto-read meters are installed throughout the City.

**NEXT MEETING**

Monday, March 16, 2015 – Regular Meeting  
Monday, March 30, 2015 – 5<sup>th</sup> Monday Meeting

**BOARDS AND COMMISSIONS OPENINGS**

Parks & Recreation Commission, expires June 30, 2015

**ADJOURNMENT**

Motion by Mayor Pro-Tem Eveleth for adjournment at 8:43 p.m.

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

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Benjamin R. Frederick, Mayor

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Amy K. Kirkland, City Clerk