

**OWOSSO CITY COUNCIL**

**APRIL 4, 2011**

**7:30 P.M.**

- PRESIDING OFFICER:** MAYOR BENJAMIN R. FREDERICK
- OPENING PRAYER:** MAJOR HENRY TEMPEL  
SALVATION ARMY
- PLEDGE OF ALLEGIANCE:** DANNY MILLER  
OWOSSO CHARTER TOWNSHIP SUPERVISOR
- PRESENT:** Mayor Benjamin R. Frederick, Councilpersons Michael J. Erfourth, Christopher T. Eveleth, Joni M. Forster, and Gary W. Martenis.
- ABSENT:** Mayor Pro-Tem Cindy S. Popovitch and Councilperson Thomas B. Cook.

**APPROVE AGENDA**

Motion by Councilperson Eveleth to approve the agenda with the following changes: moving Consent Items 1. First Reading and Set Public Hearing – Ordinance Amendment, 2. Mid-Michigan Custom Car Show Permission, & 3. Hi-Temp Heating & Cooling Car Show Permission to Items of Business 5, 3, & 4 respectively.

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

**APPROVAL OF THE MINUTES OF REGULAR MEETING OF MARCH 21, 2011**

Motion by Councilperson Martenis to approve the Minutes of the Regular Meeting of March 21, 2011 as presented.

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

**PROCLAMATIONS**

**ARBOR DAY**

Mayor Frederick read aloud the following proclamation of the Mayor’s Office declaring April 30, 2011 as Arbor Day in the City of Owosso:

**A PROCLAMATION  
OF THE MAYOR’S OFFICE OF THE CITY OF OWOSSO, MICHIGAN  
DESIGNATING APRIL 30, 2011 AS  
ARBOR DAY IN THE CITY OF OWOSSO**

- Whereas,* In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and
- Whereas,* this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and
- Whereas,* Arbor Day is now observed throughout the nation and the world, and
- Whereas,* trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and
- Whereas,* trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and
- Whereas,* trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and
- Whereas,* trees, wherever they are planted, are a source of joy and spiritual renewal.
- Now, Therefore,* I, Benjamin R. Frederick, Mayor of the City of Owosso, do hereby proclaim April 30, 2011 as Arbor Day in the City of Owosso, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and
- Further,* I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Proclaimed this 4<sup>th</sup> day of April, 2011.

**PUBLIC HEARINGS**

None.

**STUDENT REPRESENTATIVE REPORT**

None.

**CITIZEN COMMENTS AND QUESTIONS**

Steven Rosencrans, 419 Clinton Street, commented in opposition to the proposed ordinance amendment regarding the regulation of medical marijuana related establishments. He asked Council to remove Section 2 as patients and caregivers are already regulated by State law.

Sherri Chavora, Parks & Recreation Commissioner, asked for support for parks & recreation as Council considers the budget. She also asked that they follow the goals that were developed earlier in the year.

Thomas Dwyer, Chairman of the St. Paul Catholic Church finance council, asked Council to look out for the interests of the children as they consider the proposed medical marijuana ordinance.

Lisa Stechschulte, 725 River Street, expressed her concern over what might happen between now and the date the ordinance goes into effect. She asked Council to consider a moratorium on the establishment of new facilities.

Eddie Urban, 601 Glenwood Avenue, talked about recent marriages in the community and an upcoming basketball game.

Andy Kenney, 1470 West King Street, asked for a moratorium on the establishment of new medical marijuana related facilities within the City. He also acknowledged the medical marijuana establishment across the street from the church had closed.

Mayor Frederick thanked everyone for their well wishes on the birth of his daughter two weeks ago. He also asked that it be noted for the record that he would have voted yes on all items before the Council during the meeting he was absent.

**CITY MANAGER REPORT**

The 2011-2012 City of Owosso Proposed Budget was distributed to Council. The City Manager gave a brief overview of the budget saying we will have to continue to cut costs as revenue sharing and property taxes will both see reductions in the coming year. He went on to note that the budget would be available on the City's website later in the week. He went on to detail the Status Report for the month.

**CONSENT AGENDA**

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

Payment Authorization. Authorize Progress Payment No. 5 to the Michigan Department of Transportation for the City's share of work completed on the Washington Street Streetscape in the amount of \$29,725.38 as follows:

**RESOLUTION NO. 50-2011**

**AUTHORIZING PAYMENT TO  
THE MICHIGAN DEPARTMENT OF TRANSPORTATION  
FOR WORK COMPLETED ON  
THE WASHINGTON STREET STREETSCAPE PROJECT**

WHEREAS, the city of Owosso, Shiawassee County, Michigan, has received a Michigan Department of Transportation Enhancement Grant and Federal stimulus money; and

WHEREAS, using these funds in concert with monies from the Main Street Bond Fund the City undertaken a project to refurbish the downtown landscape, replacing deteriorated infrastructure and creating a pedestrian friendly and welcoming atmosphere for the downtown; and

WHEREAS, a portion of the work on this project has been completed and is now eligible for payment; and

WHEREAS, the Michigan Department of Transportation has requested reimbursement for the City's share of the work completed to date.

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 reimburse the Michigan Department of Transportation for eligible funds spent in the course of reconstructing the downtown landscape.

SECOND: The accounts payable department is authorized to submit payment to the Michigan Department of Transportation in the amount of \$29725.38 as detailed on the attached Payment Request #5 as authorized by Council on April 4, 2011.

THIRD: The above expenses shall be paid from the Main Street Bond Fund.

Motion supported by Councilperson Erfourth.

Roll Call Vote.

AYES: Councilpersons Forster, Erfourth, Martenis, Eveleth, and Mayor Frederick.

NAYS: None.

ABSENT: Councilperson Cook and Mayor Pro-Tem Popovitch.

### **ITEMS OF BUSINESS**

#### **UNPAID UTILITY CHARGES**

Motion by Councilperson Eveleth to authorize the Annual Notice for the collection of unpaid utility charges and the intent to lien therefore in compliance with Chapter 15, Section 15.4(c) of the Owosso City Charter.

Motion supported by Councilperson Martenis.

Roll Call Vote.

AYES: Councilpersons Martenis, Erfourth, Forster, Eveleth, and Mayor Frederick.

NAYS: None.

ABSENT: Councilperson Cook and Mayor Pro-Tem Popovitch.

#### **BUDGET WORK SESSIONS**

Motion by Councilperson Erfourth to authorize holding budget work sessions April 13, 14 & 21 at 7:00 p.m.

Motion supported by Councilperson Eveleth.

Roll Call Vote.

AYES: Councilpersons Erfourth, Martenis, Forster, Eveleth, and Mayor Frederick.

NAYS: None.

ABSENT: Councilperson Cook and Mayor Pro-Tem Popovitch.

#### **MID-MICHIGAN CUSTOM CAR SHOW PERMISSION**

Councilperson Martenis indicated he had pulled the item because he was unsure which statement was accurate as to insurance.

Motion by Councilperson Martenis to approve the application of Andy Genovese on behalf of the Mid-Michigan Custom Car Show for use of Washington Street from Main Street to Mason Street and Exchange Street from Water Street to Park Street from 7:00am to 6:00pm on Sunday, June 12, 2011 for the Mid-Michigan Custom Car Show and authorize Traffic Control Order No. 1250 formalizing the request.

Motion supported by Councilperson Forster.

Roll Call Vote.

AYES: Councilpersons Forster, Martenis, Erfourth, Eveleth, and Mayor Frederick.

NAYS: None.

ABSENT: Councilperson Cook and Mayor Pro-Tem Popovitch.

**HI-TEMP HEATING & COOLING CAR SHOW PERMISSION**

Councilperson Martenis inquired why no rules were included with the application. It was noted the event was open to anyone that wished to participate.

Motion by Councilperson Martenis to approve the application of Cheryl Keefover on behalf of the Hi-Temp Heating & Cooling for use of the City owned lot at the corner of Gould Street and Corunna Avenue from noon to 4:00pm on Sunday, May 8, 2011 for their annual car show and authorize Traffic Control Order No. 1251 formalizing the request.

Motion supported by Councilperson Erfourth.

Roll Call Vote.

AYES: Councilpersons Forster, Martenis, Eveleth, Erfourth, and Mayor Frederick.

NAYS: None.

ABSENT: Councilperson Cook and Mayor Pro-Tem Popovitch.

**FIRST READING AND SET PUBLIC HEARING – ORDINANCE AMENDMENT**

There was significant discussion regarding how the Planning Commission reached their minimum recommended distances, the number of establishments allowed within the City limits, what restrictions apply to patients, the conflicting advice on moratoriums, the fact the City cannot enforce Federal laws, and prohibiting grow houses.

Attorney Matthew Stuart gave Council the definition of a moratorium and indicated it was his opinion that enacting a moratorium now would be unlaful.

Motion by Councilperson Eveleth to conduct the First Reading and set a public hearing for April 18, 2011 to receive citizen comment regarding proposed ordinance amendment to amend Chapter 38, Zoning, Sections 38-5, 38-52, 38-217, and 38-292 of the Code of Ordinances of the City of Owosso, Michigan to regulate the establishment of medical marijuana related facilities as follows:

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE TO AMEND THE CITY OF OWOSSO ZONING CODE REGARDING MEDICAL MARIJUANA RELATED FACILITIES**

WHEREAS, voters in the State of Michigan approved a measure allowing the use of marijuana in certain medically necessary circumstances; and

WHEREAS, medical marijuana related organizations are now starting to establish businesses within the city limits; and

WHEREAS, the city of Owosso has zoning ordinances regulating the location of certain types of businesses to protect the public health, safety and general welfare of persons and property within the City of Owosso; and

WHEREAS, in keeping with the spirit of these ordinances the city wishes to amend the current zoning ordinances to regulate the location of medical marijuana related facilities with respect to the use, growing and dispensing of marijuana.

THE CITY OF OWOSSO ORDAINS: that the City of Owosso Zoning Ordinance at Section 38-1 et seq. shall be amended as follows:

Section 1: Section 38-5. Definitions shall be amended to add:

*Medical marihuana dispensary (or clinic)* means any retail store, store front, office building or other structure or any type of mobile unit or entity that dispenses, facilitates, sell, or provides, in any manner, marihuana or cannabis, any product containing marihuana or cannabis, or medical marihuana paraphernalia as described herein.

*Medical marihuana growing facility* means any building, or portion thereof, that allows cultivation, growing, processing or distribution of medical marihuana, excluding the cultivation, growing or processing allowed inside a qualifying patient's primary, legal residence.

Section 2: Section 38-52. Principal Uses Permitted dealing with R-1 One-Family Residential Districts, shall be amended to add:

- (9) The establishment and operation of no more than two primary caregivers as defined by the Michigan Medical Marihuana Act, MCL 333.26421, et seq., provided that the dwelling is the primary residence

of the caregivers and that the caregivers are in full compliance with said Act. "Primary residence" as used in this subsection means the one family dwelling in which the primary caregiver normally resides. The establishment and operation of more than two primary caregivers in the same dwelling is prohibited. The establishment of any primary care givers in R-2, R-T, RM-1 and RM-2 zoning districts is prohibited, Code sections 38-72(1), 38-122(1) and 38-147(1) notwithstanding.

Section 3: Sections 38-217(2) g & h dealing with B-2 Planned Shopping Center Districts, shall be moved to sections 38-217(2) h & i respectively.

Section 4: A new Section 38-217(2)g, Principal uses Permitted dealing with B-2 Planned Shopping Center Districts, shall be added to read:

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 1,000 feet of another dispensary, park & playground, or any public or private school, college, or university property, nor shall any dispensary be located within 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.

Section 5: Section 38-292(8), Principle Uses Permitted dealing with I-1 Light Industrial Districts, shall be amended to read:

(8) The operation of a medical marihuana growing facility provided that the medical marihuana growing facility is operated in full compliance with the Medical Marihuana Act, MCL 333-26421, and no medical marihuana growing facility shall be located within 1000 feet of any other medical marihuana growing facility, park & playground, or any public or private school, college, or university property, nor shall any medical marihuana growing facility be located within 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.

Section 6: Severability.

If any clause, sentence, section, paragraph or part of this Ordinance, or the application thereof to any person, firm, corporation, legal entity or circumstances, shall be for any reason adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this Ordinance. It is hereby declared to the legislative intent of this body that the Ordinance is severable, and that the Ordinance would have been adopted had such invalid or unconstitutional provision not have been included in this Ordinance.

Section 7: Repeal Clause.

All Ordinance or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 8: Effective Date.

This ordinance shall take effect 20 days after adoption.

Section 9: Inspection.

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

Motion supported by Councilperson Forster.

Roll Call Vote.

AYES: Councilpersons Eveleth, Erfourth, Forster, Martenis and Mayor Frederick.

NAYS: None.

ABSENT: Councilperson Cook and Mayor Pro-Tem Popovitch.

## **COMMUNICATIONS**

Susan Treen, Main Street/DDA Member. Letter of resignation.  
Carol Lawrence, Parks & Recreation Commissioner. Letter of resignation.  
Gary M. Burk, Utilities Director. Annual Drinking Water Quality Report.  
Downtown Development Authority. Minutes of Meeting of March 2, 2011.  
Owosso Parks & Recreation Commission. Minutes of Meeting of March 8, 2011.

## **CITIZEN COMMENTS AND QUESTIONS**

Steven Rosencrans, 419 Clinton Street, expressed his feeling the proposed medical marijuana ordinance would prevent him from helping his wife unless he rented a place to grow her medicine.

Andy Kenney, 1470 West King Street, inquired whether current medical marijuana related facilities would be grandfathered in at their current locations once the ordinance is passed. Attorney Stuart indicated he felt they would not.

Lisa Stechschulte, 725 River Street, again expressed concern over what will happen between now and the time the ordinance takes effect.

Pat Whitebird, 6094 North M-52, inquired why Council did not pass a moratorium the first time it was posed to them. It was noted that at that time Council felt regulations could be put in place expeditiously and no moratorium would be needed.

Marsha Ladd, chairperson of the Parks & Recreation Commission, inquired about funding for the Bentley Park playscape. It was noted the money was included in the budget. She also asked permission to deliver a presentation on the proposed playscape to Council at their next meeting.

Doug Edwards, 189 Sylvia Drive, Corunna, expressed his feeling that an organization like MAGNET could serve as the bridge between the City and the Federal government so the federal 1000' rule could be enforced in the City.

Charlene Richardson, 5857 Cram Road, teacher at St. Paul School, indicated she felt the medical marijuana industry was too lightly monitored and kids would have easy access to the drug.

Eddie Urban, 601 Glenwood Avenue, spoke about a close call he had on the road recently. He also spoke about the party store across the street from Washington School.

Michael Tillotson, 1299 South Shiawassee Street, provided a moment of comic relief.

Robert Dillsworth, 1134 South Shiawassee Street, pointed out that many young people have overdosed on prescription medications but no one has overdosed on marijuana.

Mayor Frederick expressed an interest in amending the Charter to adjust the timeline for the budget so it would be less restrictive.

There was further discussion regarding whether or not Mr. Rosencrans could assist his wife under the terms of the proposed medical marijuana ordinance. Staff agreed to meet privately with Mr. Rosencrans to discuss his situation.

## **NEXT MEETING**

April 13, 2011 – Budget Workshop, 7:00 p.m.  
April 14, 2011 – Budget Workshop, 7:00 p.m.  
April 18, 2011 – Regular Meeting, 7:30 p.m.  
April 21, 2011 – Budget Workshop, 7:00 p.m.

## **BOARDS AND COMMISSIONS OPENINGS**

Cable Access Advisory Commission, term expires 06-30-2011  
Downtown Development Authority/Main Street, term expires 06-30-2013  
Parks & Recreation Commission, term expires 06-30-2012

## **ADJOURNMENT**

Motion by Councilperson Eveleth for adjournment at 9:10 p.m.

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

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Benjamin R. Frederick, Mayor

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Amy K. Kirkland, City Clerk