

OWOSSO CITY COUNCIL

MAY 2, 2011

7:30 P.M.

PRESIDING OFFICER: MAYOR BENJAMIN R. FREDERICK

OPENING PRAYER: PASTOR DAVID WOODY
REDEEMER LUTHERAN CHURCH

PLEDGE OF ALLEGIANCE: JUSTIN MCNAMARA
LINCOLN HIGH SCHOOL STUDENT REPRESENTATIVE

PRESENT: Mayor Benjamin R. Frederick, Mayor Pro-Tem Cindy S. Popovitch,
Councilpersons Thomas B. Cook, Christopher T. Eveleth, Joni M.
Forster, and Gary W. Martenis.

ABSENT: Councilperson Michael J. Erfourth.

APPROVE AGENDA

Motion by Councilperson Eveleth to approve the agenda as presented.

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

APPROVAL OF THE MINUTES OF SPECIAL MEETING OF APRIL 13, 2011

Motion by Councilperson Forster to approve the Minutes of the Special Meeting of April 13, 2011 as presented.

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

APPROVAL OF THE MINUTES OF SPECIAL MEETING OF APRIL 14, 2011

Motion by Councilperson Cook to approve the Minutes of the Special Meeting of April 14, 2011 as presented.

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

APPROVAL OF THE MINUTES OF REGULAR MEETING OF APRIL 18, 2011

Motion by Councilperson Forster to approve the Minutes of the Regular Meeting of April 18, 2011 as presented.

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

APPROVAL OF THE MINUTES OF SPECIAL MEETING OF APRIL 21, 2011

Motion by Councilperson Cook to approve the Minutes of the Special Meeting of April 21, 2011 as presented.

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

SPECIAL PRESENTATIONS

SHIAWASSEE COMMUNITY FOUNDATION DONATION

Carol Soule of the Shiawassee Community Foundation presented Mayor Frederick with a \$2,265 donation for the Bentley Park Rehabilitation Project.

FARMER'S MARKET UPDATE

Market Master Charlie Keenan gave a report on the status of the Farmer's Market. He noted that 44 seasonal lots have been sold to date, with the market opening this coming Saturday. He went on to note the changes to the market for this year including the addition of a larger venue, the involvement of non-profit organizations, and the potential for accepting WIC and Project Fresh coupons.

PUBLIC HEARINGS

2011-2012 CITY BUDGET

City Manager Donald D. Crawford gave a description of the budget and named the basic issues for the year saying we need to continue to cut costs in the current fiscal year to make the proposed budget for 2011-2012 work. He noted that despite the poor economy Owosso has positioned itself well to withstand the long economic downturn through diligence in both the past and present.

The Public Hearing was conducted pursuant to Chapter 8 of the City Charter to receive citizen comment regarding proposed 2011-2012 City Budget.

There were no citizen comments.

Mayor Frederick indicated there had been tremendous work by Councils and Staff past and present that has put the City on solid financial footing and he vowed to maintain that legacy. He went on to say that he hoped the State would recognize that work when considering revenue sharing.

Councilperson Forster noted she had spoken to a couple of people that were concerned with the proposed cuts to snow plowing for the coming year.

The budget will be considered for adoption at the May 16, 2011 meeting.

STUDENT REPRESENTATIVE REPORT

Justin McNamara, Lincoln High School Student Representative, gave an overview of recent and upcoming events at Lincoln High. He said he is excited for the future, both for himself and the City, and he spoke of his plans to return to the community after college.

Mayor Frederick wished him well and thanked him for his longstanding participation with City Council.

CITIZEN COMMENTS AND QUESTIONS

State Senator Joe Hune was on hand to comment on the progress of the State budget. He addressed the City's concern that past cooperative agreements would not be factored into revenue sharing decisions saying the Governor had personally indicated that past efforts would be considered. He went on to address his concerns with the proposed tax on pensions. He also indicated that Michigan will lose one representative in Congress due to population loss.

There was discussion with Senator Hune regarding brownfield and historic tax credits including Council's concern that small projects would get lost if they were required to go through the appropriations process.

Justin Horvath, president of the SEDP, commented on the severe reduction to tax credits proposed by the Governor. He went on to commend the Governor for his concentration on economic gardening and the development of businesses that are already located in Michigan.

Michael Tillotson, 1299 South Shiawassee Street, indicated he was especially proud of the Navy SEALS for their work in killing Osama bin Laden.

County Commissioner Ronald Elder, District #2, complimented the City of the development of the budget. He also gave a brief recap of things going on at the County level.

Eddie Urban, 601 Glenwood Avenue, also commended the Navy SEALS for a job well done. He also invited everyone to participate in the Veteran's event held in Gaines coming up this month.

Mayor Frederick thanked all the volunteers that participated in Green Up Clean Up this past weekend. He also invited everyone to the Vietnam marker dedication ceremony immediately preceding the Memorial Day parade.

Councilperson Martenis indicated the pool committee had determined it would be best for the City to tear down the pool and fill it with sand. He also announced a closing ceremony for the pool to be held May 19th at 7:00 p.m.

Councilperson Cook noted that he is the chairman of the Great Start Collaborative and encouraged everyone to donate to the preschool scholarship fund which will be matched up to \$100,000 by a federal government grant.

Mayor Pro-Tem Popovitch asked that the City work more closely with the organizations that are trying to improve the river banks and she asked that the press remind citizens of the days and times for burning.

Mayor Frederick commented on the flag raising ceremony celebrating the 90th anniversary of Memorial Healthcare.

CITY MANAGER REPORT

City Manager Crawford gave a brief overview of the monthly status report.

Councilperson Forster announced the Westown clean-up will be held May 11 at 6:00 p.m.

CONSENT AGENDA

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

Industrial Development District Amendment. Set public hearing for May 16, 2011 to receive citizen comment on an amendment to the Industrial Development District along South Chestnut Street to include the entire parcel located at 401 South Chestnut Street as follows:

RESOLUTION NO. 63-2011

**SETTING PUBLIC HEARING TO CONSIDER AMENDING
OWOSSO INDUSTRIAL DEVELOPMENT DISTRICT NO. 1
ON SOUTH CHESTNUT STREET**

WHEREAS, request was received April 20, 2011 for a Industrial Facilities Tax Exemption Certificate from Machine Tool & Gear, Inc.; and

WHEREAS, an Industrial Development District was established April 18, 1977 and described as:

COMMENCING AT INTERSECTION OF EAST LINE CHESTNUT ST & SOUTHERLY RIGHT OF WAY LINE OF GRAND TRUNK RAILROAD; TH S 1*52' 365', TH SOUTHEASTERLY PARALLEL WITH RAILROAD RIGHT OF WAY 1303.34' TO EAST 1/8 LINE OF SECTION 23, THEN S 2*10'W 364.75', NORTHWESTERLY 1301.91' PARALLEL TO SAID RAILROAD RIGHT OF WAY, THEN N1*52'E 365' TO POB. A PART OF THE WEST ½ OF NORTHEAST ¼, SECTION 23, T7N-R2E, CITY OF OWOSSO, SHIAWASSEE COUNTY, MICHIGAN.

ALSO COMMENCING AT THE INTERSECTION OF EAST RIGHT OF WAY LINE OF CHESTNUT STREET AND THE SOUTHEASTERLY LINE OF GRAND TRUNK RAILROAD RIGHT OF WAY, THEN S 1*52'W 431.51', THEN SOUTHEASTERLY PARALLEL WITH SAID RAILROAD RIGHT OF WAY LINE 751.59' TO POINT OF BEGINNING. THEN S9*W 425', THEN SOUTHEASTERLY PARALLEL TO SAID RAILROAD RIGHT OF WAY 594' TO EAST 1/8 LINE SECTION 23, TH N2*10'E 428.04', THEN NORTHWESTERLY PARALLEL TO SAID RAILROAD RIGHT OF WAY 550.1' TO POINT OF BEGINNING. A PART OF WEST ½ OF NORTHEAST ¼ SECTION 23, T7N-R2E, CITY OF OWOSSO, SHIAWASSEE COUNTY, MICHIGAN; and

WHEREAS, this current district does not cover the entire property described to be covered in this exemption and must be amended to be described as:

COMMENCING AT INTERSECTION OF EAST LINE CHESTNUT ST & SOUTHERLY RIGHT OF WAY LINE OF GRAND TRUNK RAILROAD; TH S 80*38'50" E 1317.01' TH S 02* 2'25" W 858.19' TH N 80*38'50" W 598.20' TH N 07*18'07" E 424.29' TH N 80*38'50" W 751.92' TH N 01*14'05" E 431.51' TO POB PART OF NE 1/4 SEC 23 T7N R2E 18.83 A M/L; and

WHEREAS, it must be determined that amending this district would be beneficial to the city of Owosso, as well as local and regional economy;

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

FIRST: the Owosso City Council sets a public hearing for May 16, 2011 on or about 7:30 p.m. in the council chambers for the purpose of hearing comments from those within the proposed district, and any other resident or taxpayer, of the city of Owosso.

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

Set Public Hearing – Personal Property Exemption. Set public hearing for May 16, 2011 to receive public comments on New Personal Property Exemption for Machine Tool & Gear, Inc, 401 South Chestnut Street as follows:

RESOLUTION NO. 64-2011

**SETTING PUBLIC HEARING TO CONSIDER APPLICATION FOR
EXEMPTION FOR NEW PERSONAL PROPERTY
MACHINE TOOL & GEAR, INC., DIVISION OF NEWCOR MACHINED PRODUCTS
GROUP
401 S. CHESTNUT STREET**

WHEREAS, application for Industrial Facilities Tax Exemption for New Personal Property was received April 20, 2011 from Machine Tool & Gear Incorporated, a Division of Newcor Machined Products Group, and Application for Tax Abatement per the City of Owosso Tax Abatement Policy of June 7, 2010, was received April 21, 2011 for property at 401 S. Shiawassee Street described as:

COMMENCING AT INTERSECTION OF EAST LINE CHESTNUT ST & SOUTHERLY RIGHT OF WAY LINE OF GRAND TRUNK RAILROAD; TH S 80*38'50" E 1317.01' TH S 02* 2'25" W 858.19' TH N 80*38'50" W 598.20' TH N 07*18'07" E 424.29' TH N 80*38'50" W 751.92' TH N 01*14'05" E 431.51' TO POB PART OF NE 1/4 SEC 23 T7N R2E 18.83 A M/L; and

WHEREAS, the applicants property is part of an Industrial Development District established April 18, 1977 and requested to be amended May 16, 2011 and described as:

COMMENCING AT INTERSECTION OF EAST LINE CHESTNUT ST & SOUTHERLY RIGHT OF WAY LINE OF GRAND TRUNK RAILROAD; TH S 80°38'50" E 1317.01' TH S 02° 2'25" W 858.19' TH N 80°38'50" W 598.20' TH N 07°18'07" E 424.29' TH N 80°38'50" W 751.92' TH N 01°14'05" E 431.51' TO POB PART OF NE 1/4 SEC 23 T7N R2E 18.83 A M/L; and

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

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

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

WHEREAS, notification was sent to all taxing jurisdictions per the City of Owosso Tax Abatement Policy of June 7, 2010; and

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

FIRST: the Owosso City Council sets public hearing for May 16, 2011 on or about 7:30 p.m. in the council chambers for the purpose hearing comments for those within the proposed district, governmental taxing jurisdictions and any other resident or taxpayer, of the city of Owosso.

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

Mortgage Discharges. Authorize mortgage discharges for lien with Tanglewood Development Co., LLC for property located at 300 East Main Street.

RESOLUTION NO. 65-2011

RESOLUTION FOR THE DISCHARGE OF MORTGAGES FOR TANGLEWOOD DEVELOPMENT, LLC 300 WEST MAIN STREET

WHEREAS, the city of Owosso, Michigan entered into loan agreements, mortgages and notes with the Tanglewood Development, a Michigan Limited Liability Company on September 10, 1997 in the principal amounts of \$110,000.00 and \$83,000 in conjunction with the Comstock Inn project with a current balance of \$28,637.21; and

WHEREAS, Tanglewood Development, a Michigan Limited Liability Company, has secured alternate financing and has paid to the City the balance on these notes; and

WHEREAS, the City has maintained a lien position on the collateral that secured the loans and these liens now need to be released.

NOW, THEREFORE, be it resolved by the city council of the city of Owosso, Shiawassee County, Michigan, as follows:

FIRST: The city council hereby approves the Release of Mortgages attached as Exhibit A & B to this resolution.

SECOND: The City Manager is hereby authorized to sign the releases and to take all other action necessary to release said mortgages.

RELEASE #1 - Mortgage by Tanglewood Development Co., A Michigan L.L.C.

This is to certify that the City of Owosso, a Michigan Municipal Corporation duly organized and existing under and by virtue of the laws of the State of Michigan, for good and valuable consideration, the receipt whereof is hereby confessed, does hereby remise, release and discharge the premises hereinafter particularly described from the lien of a certain mortgage executed by Tanglewood Development Co., A Michigan L.L.C. to the City of Owosso dated September 10, 1997 and recorded May 29, 1998 in the office of the Register of Deeds for Shiawassee County, Michigan, in Liber 938, Page 590

Said above mentioned premises is situated in the City of Owosso, County of Shiawassee, and State of Michigan and more fully described in Exhibit A.

RELEASE #2 - Mortgage by Tanglewood Development Co., A Michigan L.L.C.

This is to certify that the City of Owosso, a Michigan Municipal Corporation duly organized and existing under and by virtue of the laws of the State of Michigan, for good and valuable

consideration, the receipt whereof is hereby confessed, does hereby remise, release and discharge the premises hereinafter particularly described from the lien of a certain mortgage executed by Tanglewood Development Co., A Michigan L.L.C. to the City of Owosso dated September 10, 1997 and recorded July 5, 2007 in the office of the Register of Deeds for Shiawassee County, Michigan, in Liber 1112, Page 578
 Said above mentioned premises is situated in the City of Owosso, County of Shiawassee, and State of Michigan and more fully described in Exhibit A.

**EXHIBIT A
 PROPERTY DESCRIPTION**

Lots 1 through 7 and Lots 22 through 28, except the East 9 feet of Lots 1 and 28, Block 27 of Map of Owosso, According to the plat thereof recorded in Liber B of Deeds, Page 411 of Shiawassee County Records. More particularly described as beginning at a point that is South 00 degrees 29 minutes 45 seconds West 38.95 feet and North 89 degrees 07 minutes 08 seconds West 10.00 feet from the Northeast corner of Section 24, Town 7 North, Range 2 East; thence South 00 degrees 29 minutes 45 seconds West on the West line of Hickory Street a distance of 264.00 feet; thence North 89 degrees 07 minutes 08 seconds West on the South line of said Block 27 a distance of 413.78 feet; thence North 00 degrees 52 minutes 52 seconds East on the West line of Lots 22 and 7 a distance of 264.00 feet; thence South 89 degrees 07 minutes 08 seconds East on the North line of Block 27 a distance of 412.00 feet to the point of beginning, except for a utility easement granted to the City of Owosso along the East 10 feet of the parcel and the South 3 feet of the parcel and except a sign easement granted to the City of Owosso for the East 20 feet of the North 30 feet of the above described parcel.

COMMONLY KNOWN AS: 300 E. MAIN ST. OWOSSO MI 48867
 Tax Parcel Identification: 050-470-027-001-00

Boards and Commissions Appointment. Approve the appointment of Jeff Selbig to the Parks & Recreation Commission to fill the unexpired term of Carol Lawrence ending June 30, 2012.

Traffic Control Order Amendment. Approve amendment to Traffic Control Order No. 1249 to allow the use of a portion of the southeast part of the Comstock Parking lot measuring 250' x 200' during the Curwood Festival.

Bid Award. Approve the low bid of One-Way Asphalt Paving & Excavating, Inc for the 2011 Street Patch Program in the amount of \$33,048.50, and further approve payment up to the contract amount as follows:

RESOLUTION NO. 66-2011

**AUTHORIZING THE EXECUTION OF A CONTRACT FOR
 THE 2011 STREET PATCHING PROJECT
 WITH ONE-WAY ASPHALT PAVING & EXCAVATING, INC.**

WHEREAS, the city of Owosso, Shiawassee County, Michigan, has determined that the street patches in many of the streets in the City need to be permanently patched with a hot mixed asphalt to prevent water from getting into the sub base of the street which accelerates the deterioration of the street pavement and that this pavement maintenance is advisable, necessary and in the public interest; and

WHEREAS, the City of Owosso sought bids to permanently patch these streets; a bid was received from One-Way Asphalt Paving & Excavating, Inc.; and it is hereby determined that One-Way Asphalt Paving & Excavating, Inc. 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 One-Way Asphalt Paving & Excavating, Inc. for pavement patching as part of the 2011 Street Patching Project.
- 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 One-Way Asphalt Paving & Excavating, Inc., with a \$33,048.50 bid.
- THIRD: The above expenses shall be paid from the 2011-2012 Major and Local Street Maintenance Fund.

Warrant No. 422. Accept Warrant No. 422 as follows:

Vendor	Description	Fund	Amount
Bodman, PLC	Professional Services	General	\$8,057.01

Motion supported by Councilperson Martenis.

Roll Call Vote.

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

NAYS: None.

ABSENT: Councilperson Erfourth.

ITEMS OF BUSINESS

RESOLUTION OF SUPPORT – BROWNFIELD REDEVELOPMENT

There was discussion regarding the fact a bill addressing brownfields had already passed the House. Councilperson Cook suggested amending the resolution to include language reflecting any potential compromise that could be proposed.

Councilperson Eveleth indicated that while he was appreciative of the beneficial impact brownfield tax credits have had on the area he believes the elimination of these credits is a step toward tax reform and would help the community share the burden of that reform.

Motion by Councilperson Cook to authorize the following resolution expressing support for the continued use of Brownfield Redevelopment tax credits in the State of Michigan:

RESOLUTION NO. 67-2011

SUPPORTING MICHIGAN'S BROWNFIELD TAX CREDITS

Whereas, economic revitalization is one of Owosso Michigan's major goals requiring redevelopment of land that is contaminated, blighted, and/or occupied with obsolete buildings;

Whereas, Owosso has redeveloped approximately 20 acres containing more than ten projects which have created over 100 jobs which are commonly known by the following names:

1000 Bradley	1000 Bradley
Alliance HNI	525 S. Gould
Capitol Bowl	219 S. Washington
Hudson Dealership	222 Water St.
Lebowsky Center	122 E. Main
Owosso Inn	102 S. Washington St.
Owosso Cinemas	214 E. Comstock
Robbins Loft	1231 W. Main
South Side Shell	145 Corunna Ave.
Sugar Beet	1500 W. Oliver
TiAL Products	615 Cass St.
Wesener Building	104-108 N. Washington
Woodard Station	317 S. Elm St

Whereas, Owosso has approximately 100 acres of contaminated land occupied by or previously occupied by blighted, and/or obsolete buildings;

Whereas, plans are being developed by private investors, businesses and manufacturers to utilize portions of this land, which will qualify for Brownfield Tax Credits under the program which has been in effect;

Whereas, Governor Rick Snyder has proposed to the Michigan legislature the elimination of this successful program designed to encourage private investors to redevelop this land into projects which will attract new businesses and manufacturers and allow the expansion of existing Michigan employers which will create jobs and housing for workers;

NOW THEREFORE CITY COUNCIL OF THE CITY OF OWOSSO REQUESTS THAT THIS RESOLUTION BE SENT TO:

1. Governor Snyder urging that the recent freeze put in place on pending applications be lifted.
2. Senator Hune urging that he vote to maintain Michigan's Brownfield Tax Credits, and/or allocate funds to support the rehabilitation of older and contaminated properties in communities like Owosso, and that he seek the support of fellow senators;
3. Representative Glardon urging that he vote to maintain Michigan's Brownfield Tax Credits and that he seek the support of fellow representatives;

Motion supported by Mayor Pro-Tem Popovitch.

Roll Call Vote.

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

NAYS: Councilpersons Martenis and Eveleth.

ABSENT: Councilperson Erfourth.

RESOLUTION OF SUPPORT – HISTORIC DISTRICTS

Assistant City Manager Adam H. Zettel gave a brief description of how brownfield and historic district tax credits work indicating they do no harm to the local jurisdiction as they continue to receive tax income from designated properties, simply at the value established prior to renovation.

There was discussion regarding the City's lack of developable space, the need for tax credits to encourage renovation of existing properties, the visible benefits of these credits here in town, and sharing sacrifice through the reduction in revenue sharing.

Motion by Councilperson Cook to authorize the following resolution expressing support for the continued use of Historic District tax credits in the State of Michigan:

RESOLUTION NO. 68-2011

SUPPORTING MICHIGAN'S HISTORIC PRESERVATION TAX CREDITS

Whereas, historic preservation is one of Owosso Michigan's most successful economic revitalization goals for the preservation of older buildings in the downtown area;

Whereas, Governor Rick Snyder has proposed to the Michigan legislature the elimination of this successful program designed to preserve the historic fabric that makes Michigan an attractive place to work, live and visit;

Whereas, this credit functions to level the playing field for buildings and other structures that serve a public purpose through their renovation and preservation;

Whereas, without this program Owosso's historic landmarks like the Lebowsky Center would have been lost;

Whereas, owners of other properties within the downtown area designated as a Michigan historical district have started the process to utilize historic tax credits to renovate other historical buildings, which now are in danger of failing causing the owners to lose already invested money and causing the city to lose redevelopment projects in an area where both Owosso and the state of Michigan have already invested money for public infrastructure;

NOW THEREFORE CITY COUNCIL OF THE CITY OF OWOSSO REQUESTS THAT THIS RESOLUTION BE SENT TO:

1. Governor Snyder urging that the recent freeze put in place on pending applications be lifted.
2. Senator Hune urging that he vote to maintain Michigan's Historic Preservation Tax Credits, and/or allocate funds to support the rehabilitation of historic properties in communities like Owosso, and that he seek the support of fellow senators;
3. Representative Glardon urging that he vote to maintain Michigan's Historic Preservation Tax Credits and that he seek the support of fellow representatives;

Motion supported by Mayor Pro-Tem Popovitch.

Roll Call Vote.

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

NAYS: Councilpersons Martenis and Eveleth.

ABSENT: Councilperson Erfourth.

DDA/OMS EMPLOYEE LEASE AGREEMENT

City Attorney William C. Brown pointed out the document does not specify amount of the rent. He suggested Council approve the agreement with the addition of a paragraph that says the DDA/OMS will pay lease/rent to the City in the amount of the employee or employees' salary plus benefits.

Assistant City Manager Zettel noted he would bring the proposed change before the DDA for approval later this week.

Motion by Councilperson Eveleth to approve the agreement with the amendment noted as follows:

RESOLUTION NO. 69-2011

DDA/OMS LEASED EMPLOYEE AGREEMENT RESOLUTION

WHEREAS, the City of Owosso is authorized by the provision of Act 197, Public Acts of Michigan, 1975, as amended, to create a Downtown Development Authority (DDA); and

WHEREAS, the DDA also functions as the city's Main Street authority (OMS); and

WHEREAS, the DDA/OMS authority is a public body corporate which can employ personnel; and

WHEREAS, the City of Owosso and the DDA/OMS authority desire to enter into an arrangement whereby the city will directly employ and supervise the DDA/OMS manager, leasing this and other potential employees to the DDA/OMS, so that these employees will have access to employment fringes, benefits, and other city resources; and

WHEREAS, the Owosso DDA/OMS approved the attached agreement at its regular board meeting on April 6, 2011.

NOW, THEREFORE, BE IT RESOLVED that the City of Owosso City Council hereby approves the agreement between the City of Owosso and the Owosso Downtown Development Authority for leased employees.

**AGREEMENT BETWEEN THE CITY OF OWOSSO AND OWOSSO
DOWNTOWN DEVELOPMENT AUTHORITY FOR LEASED EMPLOYEES**

The parties to this agreement, the city of Owosso, Michigan ("city"), a municipal corporation organized under the laws of the state of Michigan and the Owosso Downtown Development Authority ("DDA") created by the city pursuant to Act No. 197 of the Public Acts of Michigan of 1975 (MCL 125.1651 et seq.,) who enter into this agreement for the leasing of certain employees to the DDA; and for other purposes. The city and DDA are each a "party" to this agreement and may be collectively referred to as "parties."

The parties to this agreement agree to the following terms:

Section 1. The city agrees to provide administrative services and to lease employees to DDA ("leased employees") to assist in the carrying out of DDA's duties and obligations. Leased employees provided by the city shall include the following:

- A. main street manager

The city and DDA may agree from time to time to provide additional positions as leased employees to DDA or to alter the number or titles of positions, provided any such changes shall be made as provided in Section 20 of this agreement.

In addition to the employees designated as leased employees under this agreement, DDA shall receive assistance from the city manager and the city's community development director at no charge to DDA. The city's community development director shall be charged with supervising all leased employees under this agreement, unless another person is designated by the city manager.

Section 2. The board of directors of DDA retains the right to accept or reject the services of any offered leased employees. Anytime that DDA is dissatisfied with the performance of a leased employee, it may provide notice to the city manager of the unsuitability of the employee and the city agrees, upon receipt of such notice, to remove such employee from DDA's facility and from work for DDA. The city reserves the right to terminate its employment of any leased employee at any time. No property rights in employment are created by this agreement for any leased employees and all leased employees remain subject to employment at will.

Section 3. For each position to be filled with a leased employee, DDA shall establish a written job description, including qualifications, education and experience requirements, representative duties, and necessary skills and knowledge. Such job descriptions are subject to review and revision by the city to correspond with city personnel practices.

Section 4. While assigned to DDA, leased employees shall conform to hours of work and attendance requirements as established by DDA's board. Leased employees shall continue to accrue personal leave, retirement, and other benefits in the same manner as other city employees.

Section 5. The board of directors of DDA shall establish compensation levels for available positions for leased employees and the city shall endeavor to fill those positions with leased employees at the compensation rates established by DDA. Provided that, if the city provides supplemental assistance in covering the salaries and benefits of leased employees, the city has the right to reject compensation levels for those leased employees which exceed a reasonable rate for the work to be performed.

Section 6. The DDA shall be a self-sustaining agency and shall cover and pay the costs of all leased employees to the city each month, including wages, benefits and fringes.

Section 7. DDA shall provide formal, written input to the city for all leased employees with respect to performance of those leased employees on at least an annual basis, coordinated with the timing of performing personnel evaluations for other city employees. Upon request, DDA shall provide to the city more frequent input with respect to the performance of any or all leased employees.

Section 8. While operating as leased employees, all leased employees shall be subject to the direct supervision of the city's community development director. DDA agrees to follow the personnel policies in effect in the city of Owosso. Should disciplinary action be necessary toward any leased employee, DDA shall refer the matter to the city's human resources director for appropriate action. Such referrals shall be made through the city manager.

Section 9. Leased employees shall be paid through the city's payroll service as other city employees. Time sheets for the leased employees, submitted and certified by the community development and neighborhood services director, shall be submitted to the city according to the city's payroll deadline.

Section 10. As leased employees, the city shall continue to provide workers' compensation coverage to leased employees in the same manner as other city employees. The city shall also provide health insurance and retirement plan participation to leased employees in the same manner as other city employees. The city shall also provide general liability insurance coverage to the leased employees in the same manner as other city employees. DDA assumes full responsibility for supervising the leased employees and DDA shall indemnify and hold harmless the city, its officers, and employees for any and all liability and costs, including attorneys' fees, and against any claims of whatever nature arising from the acts of the leased employees while assigned to DDA.

Section 11. City will provide DDA and leased employees support services at cost including, but not limited to use of vehicles, copy services, IT services, space rental (excluding meeting space for which there will be no charge), mapping and design services, and support services including payroll, accounting, purchasing, accounts payable and the annual audit.

Section 12. In addition to the leased employees identified under this agreement who are installed on properties owned and administered by DDA on an indefinite basis, the city may also, from time to time, loan temporary employees to DDA at no expense to DDA to perform certain functions required by DDA on a short-term basis. The discretion as to the availability of employees to lend on a temporary basis remains with the city manager, and the city has no obligation to provide employees if doing so would render it unable to perform its city functions. All requests for the loan of temporary employees under this paragraph shall be made by DDA to the city manager and shall include the scope of work to be performed and the estimated length of time for which an employee's services are needed. During the term of such loans, the loaned employees shall be subject to direction by DDA staff upon report to DDA following temporary assignment and continuing only while the temporary assignment continues. Direction by DDA ceases immediately of all loaned employees when the temporary assignment ceases, and during any periods the loaned employee must return to city service.

Section 13. No leased employees or other employees temporarily loaned to DDA by the city shall give direction, commands or orders to city employees on behalf of DDA. All communications between leased employees and other employees concerning DDA matters and employees of the city shall be through the city manager.

Section 14. City shall bill DDA monthly for costs covered in this agreement and DDA shall make payment to city within 30 days.

Section 15. The effective date of this agreement shall be _____, 2011. The initial term of this agreement shall be for 10 years unless earlier terminated by the parties as provided herein. This agreement shall be automatically renewable for successive one year terms unless either party provides written notice of its intention not to renew prior to 60 days of the expiration date.

Section 16. This Agreement may be terminated by either party by giving the other party 90 days written notice in advance of the date of termination.

Section 17. Neither DDA nor the city may assign, in whole or in part, its interest, rights, duties or obligations under this agreement without the prior written consent of the other party.

Section 18. Miscellaneous Legal Provisions.

- (a) The headings in this agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this agreement or any of the provisions of this agreement.
- (b) Every provision of this agreement is intended to be severable. If any term or provision hereof is determined to be invalid by a court of competent jurisdiction, it is the intent of

the parties hereto that such invalidation shall not affect the remaining portions of this agreement which shall remain of full force and effect.

- (c) The rights and remedies provided by this agreement are cumulative. The use of any one right or remedy by any party shall not preclude nor waive its rights to use any or all other remedies. Any rights provided to the parties under this agreement are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
- (d) If there is any action or proceeding brought by either party against another party under this agreement, the prevailing party shall be entitled to recover its attorney's fees and costs in such action or proceeding, including costs of appeal, if any, in such amount as the court may adjudge reasonable as attorneys' fees.
- (e) This agreement shall be governed and construed according to the laws of the state of Michigan.
- (f) No waiver of any breach by either party of the terms of this agreement shall be deemed a waiver of any subsequent breach of the agreement.
- (g) No presumption shall be made for or against either party based on the drafting of this agreement.

Section 19. The terms and conditions contained in this agreement constitute the entire agreement and understanding of the parties. This agreement supersedes and replaces any existing contracts or agreements for personnel services between the parties. Any changes, amendments, conditions or modifications to this agreement must be in writing and accepted by both parties.

Motion supported by Councilperson Martenis.

Roll Call Vote.

AYES: Councilpersons Cook, Forster, Martenis, Mayor Pro-Tem Popovitch, Councilperson Eveleth, and Mayor Frederick.

NAYS: None.

ABSENT: Councilperson Erfourth.

COMMUNICATIONS

Cable Access Advisory Commission. Minutes of the Meeting of February 14, 2011.

Owosso Historical Commission. Minutes of Meeting of February 15, 2011.

CITIZEN COMMENTS AND QUESTIONS

Eddie Urban, 601 Glenwood Avenue, announced the Gaines veteran's event will be May 20th - 22nd.

Mayor Frederick noted there are additional catalpa seedlings available for interested parties.

NEXT MEETING

March 21, 2011

BOARDS AND COMMISSIONS OPENINGS

Cable Access Advisory Commission, term expires 06-30-2011

ADJOURNMENT

Motion by Councilperson Eveleth for adjournment at 9:16 p.m.

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

Benjamin R. Frederick, Mayor

Amy K. Kirkland, City Clerk