

OWOSSO CITY COUNCIL

OCTOBER 17, 2011

7:30 P.M.

PRESIDING OFFICER: MAYOR BENJAMIN R. FREDERICK
OPENING PRAYER: SHELVA CEBULSKI
PLEDGE OF ALLEGIANCE: EDDIE URBAN
PRESENT: Mayor Benjamin R. Frederick, Mayor Pro-Tem Cindy S. Popovitch, Councilpersons Thomas B. Cook, Michael J. Erfourth, Christopher T. Eveleth, Joni M. Forster, and Gary W. Martenis.
ABSENT: None.

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 REGULAR MEETING OF OCTOBER 3, 2011

Motion by Councilperson Forster to approve the Minutes of the Regular Meeting of October 3, 2011 as presented.

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

SPECIAL PRESENTATION

OWOSSO DAMS STUDY PRESENTATION

Presentation by Gary Burk, president of the Friends of the Shiawassee River, and Shawn Middleton, PE, Spicer Engineering, regarding a recent study examining the potential modification of the 3 dams located on the river within the City limits.

Further citizen comment will be gathered and a final report with recommendation will be issued in December.

PUBLIC HEARINGS

OBSELETE PROPERTY REHABILITATION EXEMPTION – JOHN HANKERD

A Public Hearing was conducted to receive citizen comments regarding application from John Hankerd for an Obsolete Property Rehabilitation Exemption Certificate for the property at 116 West Exchange Street.

The following people addressed the Council regarding the proposed exemption:

John Hankerd, property owner, updated the Council on the progress of the project to this point and asked for their support.

Justin Horvath, president/CEO of the SEDP, pointed out Mr. Hankerd's business brings in a majority of its dollars from outside the community and the OPRA is a great tool to support businesses like his that are adapting and reusing existing facilities.

Motion by Mayor Pro-Tem Popovitch to the following resolution authorizing an Obsolete Property Rehabilitation Exemption for John Hankerd for a period of 8 years for the property located at 116 West Exchange Street:

RESOLUTION NO. 162-2011

**A RESOLUTION TO APPROVE
THE APPLICATION FOR AN
OBSELETE PROPERTY REHABILITATION EXEMPTION CERTIFICATE
FROM JOHN HANKERD OF HANKERD SPORTSWEAR
FOR PROPERTY LOCATED AT
116 WEST EXCHANGE STREET**

WHEREAS, the City of Owosso is a Qualified Local Government Unit within the State of Michigan and is empowered to provide tax exemptions for increased value of rehabilitated facilities within the City; and

WHEREAS, after public notice and a public hearing on September 20, 2010, the City Council of the City of Owosso approved an Obsolete Property Rehabilitation District at 116 West Exchange Street in Owosso, Michigan. As provided by section 4(2) of Public Act 146 of 2000, said property more particularly described as:

W 1/3 OF LOT 7, BLOCK 15 (EX N 12') ORIGINAL PLAT OF CITY OF OWOSSO

WHEREAS, the City Clerk received an application on September 20, 2011 from John Hankerd, the owner of the property occupied by Hankerd Sportswear, for an Obsolete Property Rehabilitation Exemption Certificate; and

WHEREAS, notice of a public hearing concerning the application for an exemption certificate was provided to the Assessor of the City and the legislative body of each taxing unit that levies ad valorem property taxes in the City; and

WHEREAS, the City finds that the property meets the definition of an obsolete property as defined in section 2(h) of Public Act 146 of 2000 and the application for the exemption certificate is complete; and

WHEREAS, the City finds that the property relates to a rehabilitation program that when completed constitutes a "rehabilitated facility" within the meaning of P.A. 146 of 2000, and said property is located within an Obsolete Property Rehabilitation District established in a Qualified Local Governmental Unit eligible under Public Act 146 of 2000 to establish such a district; and

WHEREAS, the rehabilitation includes improvements aggregating 10% or more of the true cash value of the property at commencement of the rehabilitation as provided by section 2(l) of PA 146 of 2000; and

WHEREAS, it has been found that the rehabilitation of the obsolete property is calculated to, and will at the time of the issuance of the certificate, have the reasonable likelihood to increase commercial activity, retain and create employment, and revitalize the downtown; and

WHEREAS, the taxable value of the property proposed to be exempt plus the aggregate taxable value of the property already exempt under PA 146 of 2000 and under PA 198 of 1974 does not exceed 5% of the total taxable value of the unit; and

WHEREAS, the applicant is not delinquent in any taxes related to the facility; and

WHEREAS, the rehabilitation work described in the application had not commenced prior to the establishment of the District.

NOW, THEREFORE, BE IT RESOLVED that, based on the findings above made at public hearing, the City Council of the City of Owosso authorizes the application for an Obsolete Property Rehabilitation Exemption Certificate at 116 West Exchange Street for a period of 8 years, a period determined per the Abatement Schedule of the City of Owosso Tax Abatement Policy of 2010; and

ALSO, BE IT RESOLVED that the rehabilitation shall be completed within eighteen (18) months from the date of approval of said application, and

FURTHERMORE, BE IT RESOLVED that the application and resolution are authorized for submittal to the State Tax Commission for final review and authorization.

Motion supported by Councilperson Eveleth.

Roll Call Vote.

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

NAYS: None.

INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE – RUESS WINCHESTER, INC.

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

City Assessor Larry D. Cook noted a calculation error in the documentation presented to Council, changing the noted total for personal property from \$305,828.00 to \$388,800.00.

The following people addressed the Council regarding the proposed exemption:

Lisa Cantu, RWI representative, said this was an exciting time for the business, they look forward to the expansion and hope for Council's support of their project.

Justin Horvath, president/CEO of the SEDP, indicated RWI is a home-grown business that has grown continuously over the years. Construction of their new building represents the first new building in the industrial park in a number of years.

Motion by Councilperson Eveleth to authorize the following resolution approving a 12-year Industrial Facilities Exemption Certificate for Ruess Winchester, Inc. for the property located at 705 McMillan Avenue:

RESOLUTION NO. 163-2011

**APPROVING INDUSTRIAL FACILITIES EXEMPTION CERTIFICATES FOR REAL AND PERSONAL PROPERTY FOR RUESS WINCHESTER, INCORPORATED
705 MCMILLAN AVENUE**

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

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

WHEREAS, before acting on said application, the City of Owosso held a hearing on October 17, 2011, in City Hall, at 301 W. Main Street, Owosso, MI, 48867, at 7:30 p.m. at which hearing the applicant, the Assessor and a representative of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application; and

WHEREAS, construction of and/or acquisition of the real and personal property had not begun earlier than six (6) months before September 30, 2011, the date application received for the Industrial Facilities Exemption Certificates; and

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

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

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

1. The City Council finds and determines that the granting of the Industrial Facilities Exemption Certificates considered together with the aggregate amount of certificates previously granted and currently in force under PA 198 of 1974, as amended and PA 225 of 1978, as amended shall not have the effect of substantially impeding the operation of the City of Owosso, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City of Owosso.
2. The application from Ruess Winchester, Incorporated for the Industrial Facilities Exemption Certificates, with respect to Real and Personal Property on the following described parcel of real property situated within the Industrial Development District, to wit:

Real Parcel

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

District

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

is hereby approved.

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

Motion supported by Councilperson Cook.

Roll Call Vote.

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

NAYS: None.

CITIZEN COMMENTS AND QUESTIONS

Tom Manke, owner of 118 South Washington Street, said the downtown and Westtown have never looked better. He also commented on research he has performed on the dams along the river. He said since ownership of the dams could not be clearly established the issue of removal of the dams should go before voters.

Eddie Urban, 601 Glenwood Avenue, asked questions about the effects of the removal of the dams and stated his concerns about potential effects on fishing and canoeing.

Sarah Warren-Riley, City employee, asked that the Council keep City employees in mind when discussing what to do to comply with PA152 limiting the amount the City will pay for health care for employees.

Councilperson Erfourth congratulated the police department for their rapid recovery of an elderly gentleman that was lost the night before.

Mayor Pro-Tem Popovitch inquired about repair of North Oak Street near Emerson School, if there were any plans for RWI's current location on Exchange Street, and the cost/benefit of the proposed foreclosed property ordinance.

Councilperson Eveleth asked that a police officer be posted near the hospital to monitor speeding.

Councilperson Cook indicated he was interested in public sentiment on the proposed foreclosed property ordinance. He also asked if there were tools available to assist citizens in refurbishing such properties.

Mayor Frederick announced a drug take back event scheduled for October 29th from 10:00 am until 2:00 p.m. at the Public Safety Building.

Mayor Pro-Tem Popovitch noted there were speeding problems on her street as well.

CITY MANAGER REPORT

City Manager Crawford detailed the problems associated with foreclosed properties and the need for a foreclosed property ordinance. He also indicated the City needs to consider changing the process for placing liens on such properties as they tend to change hands quickly and quietly which could potentially leave the City with unpaid invoices related to the properties.

The Council took a brief recess from 9:02 p.m. until 9:11 p.m.

City Manager Crawford continued his report by detailing the Project Status Report.

Council inquired about the progress of the BMX track. Staff noted it seems the group that spearheaded the project had broken up and the project was at a standstill. City Engineer Baker agreed to call Rick Morris at House of Wheels to see about getting work started again.

Councilperson Cook noted the Friends of the Shiawassee River were planning a work session to clean the river banks and plant trees on October 22nd.

Mayor Pro-Tem Popovitch asked that someone look into cleaning up the dirt left on East King Street and Huntington Drive from the recent sump collector installation project.

CONSENT AGENDA

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

First Reading and Set Public Hearing – Ordinance Amendment. Conduct First Reading and set a public hearing for November 7, 2011 to receive citizen comment regarding proposed ordinance amendment to add Chapter 8, Buildings and Building Regulations, Article VIII, *Registering Abandoned and Foreclosed Homes*, Sections 8-160 through 8-176 to the Code of Ordinances of the City of Owosso, Michigan and rename current Articles VIII and IX as Articles IX and X respectively as follows:

AN ORDINANCE TO REQUIRE ABANDONED OR FORECLOSED PROPERTY REGISTRATION AND MAINTENANCE

AN ORDINANCE to amend Sections 08-160 through 08-176, naming a new Article VIII, *Registering Abandoned and Foreclosed Homes*, Chapter 8, Buildings and Building Regulations,

to insure the health, safety and welfare of the residents of the city of Owosso, by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and ensuring safe and sanitary maintenance of structures, and repealing all ordinances and/or resolutions in conflict therewith.

WHEREAS, the City of Owosso has been hit particularly hard by the recent recession; and

WHEREAS, the recession has lead to a large increase in foreclosed and abandoned homes in the City; and

WHEREAS, foreclosed and abandoned homes are many times subject to neglect bringing down property values and presenting a health and safety risk to the neighborhoods they are a part of; and

WHEREAS, the City needs a mechanism to track foreclosed and abandoned homes to prevent them from becoming nuisances.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Owosso, Michigan that all foreclosed and abandoned homes in the City of Owosso be registered in accordance with Article VIII, *Registering Abandoned and Foreclosed Homes*, of Chapter 8, Buildings and Building Regulations, as follows:

THE CITY OF OWOSSO ORDAINS:

SECTION 1. Short Title.

This Ordinance shall be known and cited as the *City of Owosso Abandoned or Foreclosed Property Registration and Maintenance Ordinance*.

SECTION 2. Secs 8-160 through 8-176 shall read as follows:

Sec. 8-160. Purpose.

It is the purpose and intent of the city of Owosso, through the adoption of this article, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

Sec. 8-161. Definitions.

For the purpose of this article, certain words and phrases are defined as follows:

Abandoned means a property that is vacant and is under a current complaint for foreclosure or notice of foreclosure and/or notice of trustee's sale, pending tax sale, and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

Accessible property means a property that is accessible through a compromised/breached gate, fence, wall, etc.

Accessible structure means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

Agreement means any agreement or written instrument which provides that title to residential property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer, or exchange.

Assignment of rents means an instrument that transfers the beneficial interest under a mortgage from one lender/entity to another.

Beneficiary means a lender under a note secured by a mortgage.

Buyer means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this section.

Dangerous building means any building/structure that is in violation of any condition referenced in chapter 8 of this Code.

Days means consecutive calendar days.

Deed in lieu of foreclosure/sale means a recorded document that transfers ownership of a property from the trustor to the holder or a mortgage upon consent of the beneficiary of the mortgage.

Default means the failure to fulfill a contractual obligation, monetary, or conditional.

Distressed means a property that is under a current notice of default and/or notice of trustee's sale and/or pending tax assessor's lien sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

Evidence of vacancy means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

Foreclosure means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) defaults.

Local means within forty (40) road/driving miles distance of the subject property.

Mortgage means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan.

Neighborhood standard means those conditions that are present on a simple majority of properties within a three-hundred-foot radius of an individual property. A property that is the subject of a neighborhood standard comparison, and any other abandoned property within the three-hundred-foot radius, shall not be counted toward the simple majority.

Out-of-area means in excess of forty (40) road/driving miles distance of the subject property.

Owner means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property excluding governmental agencies.

Owner of record means the person having recorded title to the property.

Property means any unimproved or improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the property regardless of condition.

Residential building means any improved real property, or portion thereof, situated in the city, designed, or permitted to be used for dwelling purposes, and shall include the buildings or structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as residential whether or not it is legally permitted and/or zoned for such use.

Secure or secured means such measures as may be directed by the city of Owosso building official or his or her designee that render the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, and the repair or boarding of doors, broken windows and/or other openings. In the case of broken windows, securing means the reglazing or boarding of the window. Boarding shall be completed or required. In addition, secure or secured means closing and locking windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a person to access the interior of a property and/or structure(s).

Trustee means the person, firm, or corporation holding a mortgage on a property.

Trustor means a borrower under a mortgage, who deeds property to a trustee as security for the payment of a debt.

Vacant means a building/structure that is not legally occupied.

Sec. 8-162. Registration.

Any beneficiary/trustee, who holds a mortgage on a property located within the city, shall perform an inspection, to the extent permitted by law or under the mortgage, of the property that is the security for the mortgage, upon default by the trustor, within five (5) days after either filing a complaint for foreclosure (if foreclosure is by judicial action) or publishing a notice of foreclosure (if foreclosure is by advertisement). If the property is found to be vacant or shows evidence of vacancy, it is, by this article, deemed abandoned and the beneficiary/trustee shall, within ten (10) days of the inspection, register the property with the city of Owosso building official or his or her designee on forms provided by the city.

If the property is occupied but remains in default, it shall be inspected, to the extent permitted by law and the mortgage, by the beneficiary/trustee, or his designee, monthly until (1) the trustor or other party remedies the default or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee shall, within ten (10) days of that inspection, register the property with the city of Owosso building official or his or her designee on forms provided by the city.

In either case the registration shall contain the name of the beneficiary/trustee (corporation or individual), the direct street/office mailing address of the beneficiary/trustee (no P.O. boxes), a direct contact name and phone number for the beneficiary/trustee and, in the case of a corporation or out-of-area beneficiary/trustee, the local property management company responsible for the security, maintenance, and marketing of the property. Registration fees will not be prorated.

An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1 of each year and must be received no later than January 31 of the year due.

This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale. Such properties shall be registered with the city in accordance with the terms of this section upon transfer even if occupied at the time of transfer.

Properties subject to this article shall remain under the annual registration requirement, security, and maintenance standards of this section as long as they remain vacant. A person, firm, or corporation that has registered a property under this article must report any change of information contained in the registration to the city of Owosso building official within ten (10) days of the change.

Sec. 8-163. Maintenance requirements.

Vacant and abandoned properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, dry bush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circular, flyers, notices, except those required by federal, state, or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

The property shall be maintained free of graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required. Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation. Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.

Maintenance includes but is not limited to regular watering, irrigation, cutting, pruning, and moving of required landscape and removal of all trimmings.

Pools and spas shall be either kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry or drained and covered. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the state of Michigan.

Adherence to this section does not relieve the beneficiary/trustee or property owner of any obligations set forth in any covenants, conditions, and restrictions and/or homeowners' association rules and regulations which may apply to the property.

Sec. 8-164. Security requirements.

Properties subject to this section shall be secured so as not to be accessible to unauthorized persons.

If the property is owned by a corporation and/or out-of-area beneficiary/trustee/owner, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.

The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this article.

Sec. 8-165. Additional authority.

In addition to the enforcement remedies established in this article or other chapters of the *Code of Ordinances*, the city of Owosso building official or his or her designee shall have the authority to require the beneficiary/trustee/owner and/or owner of record of any property affected by this section to implement additional maintenance and/or security measures including but not limited to securing any/all door, window, or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

Sec. 8-166. Fees.

The fee for registering an abandoned residential property shall be set by resolution of the city of Owosso.

Sec. 8-167. Failure to secure and maintain.

If a property has not been maintained or secured, the city and/or its contracted agent, may maintain and/or secure the property and assess costs to the owner, beneficiary or trustee.

Sec. 8-168. Re-occupancy.

A registered property may not be occupied until all outstanding costs, assessments and/or liens owed to the city have been paid in full.

Sec. 8-169. Violation/abatement.

Violations of this article shall be treated as a strict liability offense regardless of intent. Violations of this article may be enforced as allowed in this chapter. Alternatively, at the sole discretion of the city, the city may issue to the beneficiary/trustee/owner and/or owner of record a notice to abate. The notice to abate shall include:

- (1) The nature and location of the violation;
- (2) The time within which the violation must be abated;
- (3) Notice that the city may act to abate the violation if it is not abated by the owner within a reasonable time stated in the notice, but which may not exceed fifteen (15) days;
- (4) Notice that the cost of such action by the city, plus an administrative fee, shall be a personal debt of the owner, which may be assessed as a lien against the property until paid; and
- (5) Notice that any refusal to allow the city to abate an uncorrected violation shall be a separate violation under this Code.

Sec. 8-170. Authorization for city abatement.

Upon failure of a beneficiary/trustee/owner and/or owner of record to abate a violation as ordered in a notice to abate, the city may abate the nuisance. This abatement may be performed by the city, by a contract vendor, or by other means determined by the city.

Sec. 8-171. Administrative fees.

The fees necessary for the administration of this article shall be established from time to time by resolution of the city council. Such administrative fees shall include the following:

- (1) Notice to abate;
- (2) Search warrant;
- (3) Contact request or warning of abatement action;
- (4) Warning letter;
- (5) Civil infraction preparation;
- (6) Additional inspections;
- (7) Vending;
- (8) Second and subsequent vending;
- (9) Vehicle removal;
- (10) Second and subsequent vehicle removal; and
- (11) Denied entry.

Sec. 8-172. Charge for costs.

When the city has abated a cited nuisance, the cost of abatement, plus any applicable administrative charges as established by city council resolution, shall be billed to the property owner or beneficiary/trustee. Such billing shall be a personal debt of the owner to the city, which may be assessed as a lien against the property, including interest thereon, until paid.

Sec. 8-173. Appeals.

Any person aggrieved by any of the requirements of this section may appeal to the Owosso Building Board of Appeals, provided that a written application for appeal is filed within twenty (20) days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, the requirements of this Code are adequately satisfied by other means, or the strict application of any requirement of this Code would cause an undue hardship.

Sec. 8-174. Owner, unoccupied premises.

If a property is not in foreclosure but is otherwise unoccupied, the owner shall comply with all of the following:

- (1) Maintain the property in accordance with section 8-163 herein and article VI of this chapter.
- (2) Register the property in accordance with section 8-162
- (3) Responsible for the fee identified pursuant to section 8-166 herein.
- (4) Keep the property secure in accordance with sections 8-164 and 8-165 herein.
- (5) Not permit re-occupancy until all outstanding costs, assessments and/or liens owed to the city are paid in full.
- (6) If the owner leases or lets the property, the owner shall comply with article VII of this chapter in addition to the requirements herein.

Sec. 8-175. Exempt properties.

Properties currently registered with the City as a rental dwelling unit in accordance with Section VII of this Chapter are exempt from the *City of Owosso Abandoned or Foreclosed Property Registration and Maintenance Ordinance*.

Sec. 8-176. Penalty.

Violation of this article is a civil infraction wherein a fine of up to five hundred dollars (\$500.00) may be assessed for each violation.

Section 3: Renumbering of Articles VIII, IX & X.

The current Article VIII, *Numbering of Buildings*, will become Article IX, *Numbering of Buildings*, with Sections 8-161 and 8-162 becoming Sections 8-190 and 8-191 respectively, the text to remain as written.

The current Article IX, *Historic Districts*, will become Article X, *Historic Districts*.

Section 4: Severability.

If any section, subsection, sentence, clause or phrase of this article is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this article. The city hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 5: Effective Date.

This ordinance shall take effect 20 days after passage.

Section 6: 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.

Set Public Hearing –Industrial Facilities Exemption Certificate. Set a Public Hearing for November 7, 2011 to receive citizen comment regarding the application of Midwest Bus, Inc. for an Industrial Facilities Exemption Certificate for real property improvements at 1070 Aiken Street as follows:

RESOLUTION NO. 164-2011

**SETTING PUBLIC HEARING TO CONSIDER APPLICATION FOR AN INDUSTRIAL FACILITIES TAX EXEMPTION CERTIFICATE
MIDWEST BUS CORPORATION
1070 AIKEN ROAD**

WHEREAS, a tax abatement application was received May 19, 2011 from Midwest Bus Corporation per the City of Owosso Tax Abatement Policy of June 7, 2010; and

WHEREAS, application was also received October 13, 2011 from Midwest Bus Corporation for a Rehabilitation Industrial Facilities Tax Exemption Certificate; and

WHEREAS, an Industrial Development District was established June 20, 2011 for property described as:

LOT 8 OWOSSO SOUTHEAST INDUSTRIAL PARK; 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 will be 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 a public hearing for November 7, 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; and

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

Set Public Hearing – Parks Plan Update. Authorize setting a public hearing for Monday, November 21, 2011 to receive citizen comment on the proposed 2011 Parks and Recreation Plan Update as follows:

RESOLUTION NO. 165-2011

**SET PUBLIC HEARING
2011 OWOSSO PARKS AND RECREATION PLAN**

WHEREAS, the City of Owosso must review its parks and recreation plan every five years in accordance with parts 19, 703 and 716 of Act 451, P.A. 1994 of the State of Michigan, as amended; and

WHEREAS, the city council has appointed a parks and recreation commission to oversee the plan; and

WHEREAS, the parks and recreation commission reviewed the 2006 plan this summer by holding workshops and meetings on August 22nd, September 13th, and September 26th in order to get public participation and input for a potential update; and

WHEREAS, updates and amendments to the plan were made in accordance with public, commissioner, and staff input; and

WHEREAS, the plan was approved by the Owosso parks and recreation commission for distribution and review by the city council on September 26, 2011; and

WHEREAS, a public hearing is required by the Owosso city council to be held no less than 30 days after distribution in accordance with the above statute and DNR guidelines in order to validate the plan.

BE IT RESOLVED THAT City of Owosso City Council, County of Shiawassee, State of Michigan, hereby sets a public hearing for November 21, 2011 in the city council chambers within city hall, 301 West Main Street, Owosso, MI 48867 to hear all persons interested in the amended 2011 Owosso Parks and Recreation Plan.

BE IT FURTHER RESOLVED THAT the same council hereby directs staff to distribute the plan to the public library, city hall front desk, and the city website and to supply a public notice of its availability to a newspaper of general circulation within the city.

Change Order. Approve change to the purchase order with Sumbera Excavating for additional curb and gutter for the 2011 Curb and Gutter Program in the amount of \$6,006.83 as follows:

RESOLUTION NO. 166-2011

**AUTHORIZING CHANGE ORDER NO. 1
SUMBERA EXCAVATING CO.
FOR WORK RELATED TO
THE 2011 CURB AND GUTTER PROJECT**

WHEREAS, the city of Owosso, Shiawassee County, Michigan, entered into an agreement with Sumbera Excavating Co. for the 2011 Curb and Gutter Program; and

WHEREAS, work on this project has been completed and Change Order No.1 in the amount of \$6,006.83 for additional curb and gutter replacement and drive approaches has been done to take advantage of the low unit prices.

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 pay Sumbera Excavating Co. for the additional construction items as shown in Change Order No. 1.
- SECOND: The accounts payable department is authorized increase the purchase order for the 2011 Misc. Curb Gutter Project by the amount of \$6,006.83 as shown in change order no. 1.
- THIRD: The above expenses shall be paid from the Local and Major Street Funds.

Payment Authorization. Authorize Final Payment to Sumbera Excavating for work completed on the 2011 Curb and Gutter Program in the amount of \$119,968.25 as follows:

RESOLUTION NO. 167-2011
AUTHORIZING FINAL PAYMENT TO
SUMBERA EXCAVATING CO.
FOR WORK RELATED TO
THE 2011 CURB AND GUTTER PROJECT

WHEREAS, the city of Owosso, Shiawassee County, Michigan, entered into an agreement with Sumbera Excavating Co. for the 2011 Curb and Gutter Program; and

WHEREAS, the work on this project has been completed and the amount of work has been agreed upon and approved by the Engineer in the amount of \$219,085.13.

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 pay Sumbera Excavating Co. for the work completed and approved by the Engineer.
- SECOND: The accounts payable department is authorized to submit final payment to Sumbera Excavating Co. in the amount of \$119,968.25.
- THIRD: The above expenses shall be paid from the Local and Major Street Funds.

Warrant No. 430. Accept Warrant No. 430 as follows:

Vendor	Description	Fund	Amount
Michigan Municipal Risk Management Authority	Building and Property Insurance	General	\$138,211.00
Caledonia Charter Township	Caledonia Utility Fund Payment- July – September 2011	Water	\$ 20,166.27
Shiawassee County Sheriff	Owosso Police Department share of New Sungard-OSSI Server	General	\$ 5,387.00
Netarx	Network Engineering- September 2011	General	\$ 8,806.00
Brown & Stewart, PC	Professional Services- September 8, 2011 – October 17, 2011	General	\$ 9,913.24
		TOTAL	\$182,483.51

*Check Register. Receive and approve the Check Register for September 2011.

*Revenue & Expenditure Report. Accept the September 2011 Revenue & Expenditure Report.

Motion supported by Councilperson Cook.

Roll Call Vote.

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

NAYS: None.

*Full text of the Check Register and Revenue & Expenditure Report are available in the Clerk's Office.

ITEMS OF BUSINESS

CITY MANAGER GOALS DISCUSSION

City Manager Crawford distributed his revised list of goals with measurables. There was some discussion as to whether all of the goals are achievable. There was consensus to review the document and bring it back for comment at a later meeting.

Councilperson Erfourth expressed his frustration with the process, saying Council was attempting to micro-manage the Manager. The comment led to a discussion on making clear expectations and providing measurable goals.

PUBLICLY FUNDED HEALTH INSURANCE CONTRIBUTION ACT

Mayor Frederick introduced the topic saying the limitation on health care spending was mandatory for State employers but was optional for local governments. He explained the three options the law provides as follows: the hard cap provides a limit for each of the three types of policies which cannot be exceeded on an annual basis, the 80/20 option requires employees to pay 20% of health care premiums, and the opt out allows municipalities to choose to opt out of the requirements with a 2/3's vote.

Human Resources Director Jessica Unangst noted employees currently have an average health care plan with some contributing towards premiums and others not, based in part of union contracts. Concern was expressed that requiring employees to contribute more toward their health care coverage could prove to be very burdensome for lower paid employees.

There were questions regarding how long the City could opt out of the requirements. Comments were made about gradually shifting toward an 80/20 policy, establishing a sliding scale for contributions based on wages, whether the City will lose employees to the new requirement, distributing the costs fairly between all bargaining units and non-union employees, and balancing employee concerns with what is best for the City.

Council asked to see "smoothed" numbers for the hard cap option, evenly distributing the burden between the three plan types.

COMMUNICATIONS

Gary Palmer, Building Official. September 2011 Building Department Report.

Gary Palmer, Building Official. September 2011 Code Violations Report.

Michael T. Compeau, Public Safety Director. September 2011 Police Department Report.

Michael T. Compeau, Public Safety Director. August/September 2011 Fire Department Report.

Owosso Planning Commission. Minutes of the Meeting of September 26, 2011.

Owosso Main Street/Downtown Development Authority. Minutes of Meeting of October 5, 2011.

CITIZEN COMMENTS AND QUESTIONS

Frances Kukulis, City employee, asked that Council members make an effort to read PA 152 themselves to make sure they understand its nuances before making a decision. She went on to note a number of items she felt were missing from the discussion and asked that Council consider them in their future discussions.

Eddie Urban, 601 Glenwood Avenue, said he noticed a lot of garbage bags at the dump site on Aiken Road. He also asked if the City would be spraying maple trees to treat the pest that causes brown spots on the leaves.

Shelva Cebulski, 1243 Marion Street, said she liked Nixle when the City had it and she misses the service. She went on to say she received a recorded call the night before from police dispatch asking her to be on the look out for an elderly man that was suspected lost in the area. She thought the call a prank at first and said the service should be more publicized so others take the calls seriously.

Sarah Warren-Riley, City employee, said she appreciated Council's efforts to look at the full health care picture.

Mayor Frederick said he appreciated City employees coming to the meeting and commenting on the health care issue. He said he felt their pain and wants to be fair in any decision they reach.

Mayor Pro-Tem Popovitch said she was happy it was pointed out some City employees are not represented by a union.

Director of Human Resources Unangst noted any health care decisions made by Council regarding PA 152 would not be negotiable by the unions.

NEXT MEETING

Monday, November 7, 2011

BOARDS AND COMMISSIONS OPENINGS

Historical Commission, term expires 12-31-2011

ADJOURNMENT

Motion by Councilperson Eveleth for adjournment at 10:211 p.m.

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

Benjamin R. Frederick, Mayor

Amy K. Kirkland, City Clerk