

**OSSEO ECONOMIC DEVELOPMENT AUTHORITY
REGULAR MEETING MINUTES
September 8, 2009**

1. ROLL CALL

President Kevin Rebman called the regular meeting of the Osseo Economic Development Authority to order at 7:00 p.m., Monday, September 8, 2009.

Members present: Will Lienemann, Steve Menth, Kevin Rebman, Dan Sadler, Ken Schreiber, and Bruce Wiley.

Members absent: Dan Spanier.

Staff present: Executive Director Greg Withers, City Attorney Loren Magsam, City Planner Jeffrey Dahl, and Deputy Clerk LeAnn Larson.

Others present: John Cochran, Mark Murray, Tom Bullington, Paul Kralovec, April & Jeff Tatur, Mark Schulz, Bruce Knops, Ron Barger, and Paul Kiefer.

2. APPROVAL OF AGENDA

A motion was made by Menth, seconded by Lienemann, to approve the Agenda as presented. The motion carried 6-0.

3. APPROVAL OF MINUTES – None.

4. MATTERS FROM THE FLOOR – None.

5. ACCOUNTS PAYABLE

A motion was made by Lienemann, seconded by Menth, to approve the Accounts Payable (Listing 090809EDA, run 9/2/09 2:26 PM, in the amount of \$4,686.50) and Addendum of \$450. The motion carried 6-0.

6. OLD BUSINESS

A. DISCUSS WI-FI SYSTEM WITH UNPLUGGED CITIES

Executive Director Withers presented a summary report for myOsseo wireless internet. Construction and operating expenses for Unplugged Cities and the City of Osseo are noted from November 1, 2007, through June 30, 2009. However, this report does not reflect the City revenues of about \$4,500 for the second quarter. Withers noted expenses and revenues are about the same each month for operations of the wireless network.

Paul Kralovec, Unplugged Cities, was present to answer several questions regarding the Wi-Fi system in Osseo. He stated it would take probably 210-215 subscribers for the City to break even. Currently, there are about 140 subscribers.

Sadler asked about free internet offered by competitors. Kralovec said other providers may provide temporary free service or reduced rate service to entice new customers, but then require long term agreements at much higher monthly costs for service.

Schreiber said his house is only 50 feet from a wireless pole; however, he does not get a good wireless signal.

Kralovec said stucco and steel siding can affect a signal, along with energy efficient windows and trees in the line of the signal. He said some homes may need an exterior antenna to receive a strong wireless signal. Laptop computers may have more difficulty receiving wireless signal, also. Kralovec added that the wireless access points are on Xcel Energy poles but cannot be used on all Xcel poles. In addition, computers should not expect to receive the wireless signal if located in a basement. He said people interested in wireless but having trouble with signal strength may want to invest in a \$250 exterior antenna for a good wireless signal. Kralovec also said the upload speed for this wireless network is not high enough for higher end computers or for large downloads of information. High speed users will not be satisfied with this wireless network.

Wiley asked if the number of subscribers have increased in 2009. Kralovec said the number of Osseo subscribers has grown in 2009.

Kralovec added overall costs to both Unplugged Cities and the City of Osseo were higher than projected. He said he thought the penetration level in Osseo—at 12 percent—would have been higher at this point.

Lienemann noted at this rate the City would not be able to recoup the cost of investment in the wireless internet.

Lienemann asked if Kralovec would estimate the number of subscribers who have been “lost” due to poor reception of the wireless signal. Kralovec said he estimated about 60 subscribers have discontinued service.

Withers asked the EDA if there was interest in possibly installing more antennas to increase the level of service available.

Sadler stated it appears the EDA would not recoup its investment with the present level of service.

Schreiber asked about extension of service to the nearby Maple Grove area. Kralovec said the range of internet service from poles is 700 feet.

Kralovec said service for business users could be supplemented at a cost. Then, area businesses in Maple Grove and Brooklyn Park might be subscribers.

Rebman suggested a small group meet to brainstorm ideas of increasing the number of subscribers and exploring future marketing efforts.

Wiley said he wants to close the gap on expenses over revenues by gaining additional subscribers.

Rebman reminded everyone that a free trial period is available for anyone to try out the Wi-Fi service.

A motion was made by Wiley, seconded by Lienemann, for a small group to discuss marketing plans and service issues and bring back to the EDA within 120 days. The motion carried 5-1 (Sadler-nay).

B. CONSIDER SENDING NOTICE OF DEFAULT TO WALOCK, TIF DISTRICT 2-4

City Attorney Loren Magsam noted in 2001 the EDA entered into a Development Agreement with Todd & Ann Walock for the redevelopment of property at 116 Co Rd 81. The redevelopment was completed and financed in part by tax increment financing with a TIF Note in the amount of \$420,000. Payments on the Note began in 2003 and are scheduled to continue through 2/1/2018. The Developer (Walock's) made a bankruptcy filing on 6/23/2009, which is an event of default pursuant to the Development Agreement.

Whenever an event of default occurs and is continuing, the EDA may take certain action after giving the Developer 30 days written notice of the event of default and the Developer fails to cure the default with that 30 day notice period. The actions the EDA is allowed to take are: 1) suspend making payments under the Development Agreement; 2) cancel and rescind the Development Agreement; or 3) take other action to force the Developer to perform its obligations under the Development Agreement.

Sadler asked whether property taxes were current on the property. Magsam said he did not know the answer to that question, but the City would receive any TIF increment only if the taxes were paid. Sadler suggested waiting to see what happens after the October due date for property taxes.

Withers said the filing of bankruptcy is an event of Default, and the EDA has the right to demand the Default be cured or payment of the increment could be withheld from the Walock's.

Magsam said sending the Notice of Default would be the first step. Deciding to rescind the Development Agreement comes after that time period.

Menth suggested waiting 30 days. Rebman said the matter was on the agenda last month and removed from the agenda then.

Withers stated the parties to any Development Agreement need to abide by the agreement, and the EDA should take some action.

A motion was made by Menth to postpone this matter until the next EDA meeting. For lack of a second, the motion failed.

A motion was made by Schreiber, seconded by Menth, to 1) find that the Walock bankruptcy filing on 6/23/2009 is an event of default per the Development Agreement made in 2001; 2) authorize staff to send a notice of default to the Developer stating the event of default; and 3) declare in the notice of default that if the default is not cured within 30 days of receipt of the notice of default that the Development Agreement will be cancelled and rescinded. The motion carried 6-0.

Sadler asked where the tax increment goes if not sent to the Developer. Withers said it stays in the TIF fund.

Lienemann asked if the bank that owns the mortgage recovers the TIF increment when the property is sold. Magsam said that would depend on if the EDA decides to assign the TIF Note.

7. NEW BUSINESS

- A. CONSIDER FILING NOTICE OF INTENTION TO REDEEM 2ND MORTGAGE AT 607 1ST AVENUE NW

Magsam stated the EDA holds a second mortgage on the property located at 607 1st Avenue NW. The second mortgage is in the amount of \$36,500. The owners have apparently defaulted on the first mortgage, a foreclosure has begun, and the sheriff's sale was held on May 28, 2009, the mount bid at the sheriff's sale was \$201,660.76.

The period of redemption will expire November 30, 2009. Because the EDA has an interest in the property, the EDA is allowed to file a notice of intention to redeem and if the owner fails to redeem by November 30, then the EDA would be allowed to redeem by paying the first mortgage (\$201,660.76 plus additional costs incurred after the sheriff's sale). The EDA would then own the home and could sell it in an effort to protect the \$36,500 second mortgage. If the property could be sold at a price in excess of what is paid to redeem, then the excess would compensate the EDA to some extent for the second mortgage.

Magsam recommended filing a notice to redeem (as the EDA did earlier regarding 513 1st Avenue NW). While it is unlikely that a buyer will be found to both redeem the first mortgage and pay the EDA second mortgage, the notice of intention to redeem does protect the EDA position of being second in line. This can be important if the owner is attempting to put together a "short sale." Magsam said he does not recommend the EDA redeem, however.

A motion was made by Sadler, seconded by Lienemann, to authorize a Notice of Intention to Redeem be filed with regard to the second mortgage on the property at 607 1st Avenue NW, Osseo. The motion carried 6-0.

B. CONSIDER MARKETING PLAN FROM PRIME ADVERTISING

Mark Murray, President/CEO of Prime Advertising & Design, presented a proposal from CityPrime, its marketing and public relations division. The City has already completed phase I—A Solid Foundation. Phase I included logo development, a redesigned website, and the new city newsletter.

Tom Bullington, Division Manager for CityPrime, said their recommended approach is designed to achieve Osseo's goals to carry the city into the future with a strong sense of identity and a positive regional reputation by promoting economic growth in Osseo. This proposal includes a 360 viewpoint, an analysis of the 2006 St. Thomas research, personal interviews with community stakeholders, and an online resident survey. A comprehensive communications strategy will be created, providing a system for organizing and ordering the attractions and attributes of the city. This "blueprint" plan will also include a number of concepts such as advertising strategies, public relations options, media strategies, and promotional item ideas. The estimate for Phase II—Development of Marketing Plan—is \$7,500-\$9,000.

Lienemann asked about the timeframe to complete Phase II. Bullington said Phase II should take about three months to complete.

Rebman asked if Phase II includes components to attract and retain businesses. Bullington said yes, the plan would include overall community and business marketing development.

Murray stated Prime has enjoyed a working relationship with Osseo for 14 years, so public relations with businesses have been ongoing for years. He said Prime will also be working closely with the Osseo Business Association on marketing efforts.

Bullington said CityPrime's objective is not to have Osseo as a "best kept secret," but to get the word out about everything Osseo has to offer.

Withers stated it is important to use the right words to attract businesses to Osseo and customers to all the businesses. Economic development is what the EDA is charged with doing. The completion of this marketing plan should follow closely on the heels of the newly constructed Central Avenue.

Menth asked if other companies might offer a marketing plan that would cost less. Rebman stated Prime has already established a good working relationship with the City over a number of years and completed Phase I already.

Lienemann agreed Prime is a good fit for Osseo as it is familiar with all the businesses.

Wiley stated his company recently hired Prime Advertising & Design to assist in a new logo and website which has already netted positive results.

Rebman asked if the OBA will be paying a portion of this cost since its members will derive direct benefit from this plan. Withers said he asked the OBA to pay \$1,000, but the organization has discussed the possibility of paying \$500 to the City.

Sadler said he was disappointed that the OBA would not contribute more to this plan since there is mutual benefit for the City and OBA.

A motion was made by Lienemann, seconded by Sadler, to approve the Phase II Development of a Marketing Plan with CityPrime at a cost not to exceed \$9,000. The motion carried 6-0.

C. CONSIDER PURCHASE OF 9 CENTRAL AVENUE FROM JEFF & APRIL TATUR

Withers stated prior to the beginning of the Central Avenue Project construction, the City Council authorized an appraisal of the property at 9 Central Avenue, owned by Jeff and April Tatur. The building was badly damaged by fire April 16, 2008, and has not been restored.

The approved preliminary plans for the reconstruction of Hennepin County Highway 81 show a need to add this property to the highway right-of-way. A proposed right turn lane is planned that begins taking property on the west side of Central Avenue almost at First Street North. The pie-shaped piece widens as it goes south and ends by taking almost one-half of the small, non-conforming lot.

The Central Avenue Project plans show a downtown monument constructed immediately adjacent to the building with no room to spare. The other three monuments to be constructed will be accompanied by fencing and plantings of shrubs and trees. Not only is there no room for this without the additional property, but relocation of the monument will be required if we cannot place it off of the future right-of-way at this time.

The appraisal completed for the City considered the property "as is" in its unfinished, unrestored state. Withers said this is exactly the condition he believes it should be in when the City purchases it. An appraisal must consider three approaches to the value of the property: Cost – which was not applicable in this case; Sales Comparison – which was \$75,000 to \$85,000; and Income Capitalization -- \$80,000. The appraiser's final value estimate is \$80,000. He reasonably expects this value for the next 12 months.

Withers recommended the EDA authorize the City Administrator to make an official offer to the Tatur's to purchase their property for \$80,000. The funds could be taken from the EDA "General Fund" because this property will be used first for right-of-way and eventually for a redevelopment project in the downtown.

Withers stated there should be no discussion tonight on any step-by-step process beyond making the offer.

Daniel Rosen, attorney for the Tatur's, said this appears to be the commencement of a possible condemnation of the property, the property is not for sale and the owners will not entertain any offer to purchase their property, and any proceeding toward possible eminent domain, in his opinion, would not be favorably upheld by the court due to the ultimate purpose for condemnation (a monument sign).

Rosen also suggested Commissioners Wiley and Lienemann recuse themselves from any discussion due to possible conflict of interest. Lienemann agreed to recuse himself from discussions, but Wiley did not recuse himself. Rosen said Wiley has a vested interest in this matter since he owns the property directly across the street to the east from the Tatur property.

Rebman said any discussion regarding public negotiations or possible condemnation should cease.

Sadler asked if the EDA could go into Executive Session to discuss this matter further. Magsam said no, an Executive Session could not be conducted tonight as it is not on the agenda for the meeting and no notice has been given to conduct an Executive Session. An Executive Session could be conducted at next month's EDA meeting with proper notice.

Wiley and Lienemann said they would abstain from any vote on this matter.

A motion was made by Sadler, seconded by Menth, to conduct an Executive Session at the next EDA meeting to discuss the purchase of 9 Central Avenue from Jeff and April Tatur. The motion carried 4-0 (Wiley & Lienemann abstained).

8. OTHER REPORTS: Executive Director, President, Members

Withers reminded everyone about upcoming Lions Roar festivities on September 11-12. The parade route has been changed for this year due to Central Avenue street reconstruction.

Rebman asked if craft vendors would be in the park and on the sidewalks already finished. Withers said yes.

Wiley said he was please with the Central Avenue project progress. He said the City has been working with the Tatur's for 1 ½ years trying to get their building at 9 Central Avenue remodeled or demolished because it is such an eyesore.

Lienemann said it appears the Central Avenue project is going well, and people should not be spreading rumors.

Sadler said Central Avenue is starting to look good. He asked if the ditch at Co Rd 81 could be mowed again due to tall grass and weeds. Sadler added there are tall weeds on City-owned property near the railroad tracks.

Schreiber said he thought the general contractor for the street project, Forest Lake Contracting, was doing a fine job and was willing to help everyone. He encouraged everyone to attend the Lions Roar festivities.

City Planner Jeffrey Dahl stated he was seeking additional grant funds for affordable housing opportunities.

No other reports were offered.

9. ADJOURNMENT

A motion was made by Menth, seconded by Sadler, to adjourn at 9:03 p.m. The motion carried 6-0.

Respectfully submitted,

LeAnn Larson
Deputy Clerk