

**OSSEO CITY COUNCIL
REGULAR MEETING MINUTES
July 10, 2017**

1. CALL TO ORDER

Mayor Duane Poppe called the regular meeting of the Osseo City Council to order at 7:10 p.m. on Monday, July 10, 2017.

2. ROLL CALL

Members present: Councilmembers Harold E. Johnson, Mark Schulz, Larry Stelmach, Anne Zelenak, and Mayor Duane Poppe.

Staff present: City Administrator Riley Grams, City Planner Nancy Abts, Police Chief Shane Mikkelsen, and City Attorney Mary Tietjen.

Others present: Ken Peloquin, Diane Nokk, Dee Bonn, Juliana Hultstrom, Mike Bradley, Kassy Nystrom, and Laura Fredrick Wang.

3. PLEDGE OF ALLEGIANCE

Poppe led the Pledge of Allegiance.

4. APPROVAL OF AGENDA [Additions - Deletions]

Poppe asked for additions or deletions to the Agenda.

A motion was made by Schulz, seconded by Stelmach, to accept the Agenda as presented. The motion carried 5-0.

5. CONSENT AGENDA

- A. Approve Council Minutes of June 26
- B. Receive June Building Report
- C. Set Council Budget Work Session for Monday, August 28, 6 p.m.
- ~~D. Receive Heritage Preservation Commission Minutes of June 20~~
- E. Accept Resignation of Firefighter Aaron Anderson
- F. Accept Resignation of Firefighter Aaron Groven
- G. Accept Termination of Firefighter Paul Liebenow
- H. Accept Termination of Firefighter Adam Spillers
- I. Accept Termination of Firefighter Derek Wills
- J. Approve Temporary Liquor License for Osseo Lions Club/Lions Roar
- K. Approve Knights of Columbus Lawful Gambling Exempt Permit for Lions Roar

Johnson requested Item 5D (Receive Heritage Preservation Commission Minutes of June 20) be discussed under Old Business as Item 9A.

A motion was made by Zelenak, seconded by Johnson, to approve the Consent Agenda as amended. The motion carried 5-0.

6. MATTERS FROM THE FLOOR – None.

7. SPECIAL BUSINESS

A. PRESENTATION ON SMALL CELL LEGISLATION – Michael Bradley, Bradley Berkland Hagen & Herbst, LLC

Michael Bradley, Bradley Berkland Hagen & Herbst, thanked the Council for its time and then provided an overview on the small cell tower legislation. He explained that throughout the 2017 legislative session the wireless and cable industries lobbied for new legislation addressing the placement of wireless antenna on property that is located in the public rights-of-way. Following extensive lobbying and discussions with key stakeholders, including the League of Minnesota Cities, the legislature passed legislation contained in the larger omnibus jobs bill (SF 1456). The bill passed the House of Representatives and the Senate on May 22. Governor Mark Dayton signed the bill into law on May 30. Mr. Bradley reported Article 9 amends Minnesota Statutes Sections 237.162 and 237.163, which addresses telecommunications right-of-way users.

Mr. Bradley stated the purpose of the legislation was to give wireless companies a quick and cheap access to facilities located in the public right-of-way. He anticipated cell companies will be installing nine times more small cell antennas in order to provide more services to customers. He reviewed several photographs of what the new small cell towers would look like. He encouraged the City Council to review its City Code to see if it was in compliance with the new regulations. He provided further comment on how the new legislation will impact the City of Osseo and asked for questions or comments.

Stelmach asked how many small cell towers would be installed in Osseo. Mr. Bradley estimated Osseo would have a small cell tower every five or six light poles for one carrier and noted there were four main carriers.

Stelmach questioned if the size of the power supply containers could be reduced by the City. Mr. Bradley stated this requirement was out of the City's hands.

Schulz believed that the legislature had done great work on this issue and had not given the four main carriers everything they wanted. He understood that there was a big push on this issue due to the upcoming Super Bowl which will be held in Minneapolis.

Johnson asked who owned the utility poles in the City. Grams stated the pole ownership varied between the City and Xcel Energy.

Johnson questioned if the utility poles could bear the weight of the proposed power boxes or if the weight would prematurely break the poles. Mr. Bradley stated this was a very good point and anticipated the City should address this issue within its model agreement. Further discussion ensued regarding who would be responsible for the expense for the new towers.

Johnson inquired when the new legislation would take effect. Mr. Bradley reported the small cell tower legislation had already taken effect.

Stelmach asked if the City had the ability to influence where antennas will be placed. Mr. Bradley stated this would be the carriers call, but noted the sharing of facilities could be encouraged by the City.

Poppe thanked Mr. Bradley for his thorough presentation on small cell towers.

B. ACCEPT THE 2017 STEP TO IT CHALLENGE MOST ENGAGED COMMUNITY AWARD – Anne Nelson, Hennepin County Public Health

Anne Nelson, Hennepin County Public Health, presented the City Council with the 2017 Step To It Challenge Most Engaged Community Award. She reported this contest took place in May and was pleased to report three percent of Osseo's population participated in this event. A round of applause was offered by all in attendance.

C. PRESENTATION ON ACTIVE LIVING HENNEPIN COUNTY – Laura Frederick-Wang and Kassy Nystrom

Laura Frederick-Wang, Hennepin County Public Works, provided the Council with a presentation on Active Living Hennepin County. She commented on the background of this program and stated she looked forward to working with the City of Osseo. She listed the individuals serving on the Community Leadership Team and thanked them for their service. She stated she looked forward to working with this group on how to continue to make Osseo a safe, age friendly, and walkable community.

Kassy Nystrom, Hennepin County Public Health, commented on the food and tobacco initiatives she was working on with the Community Leadership Team to promote Active Living. She understood fruit trees would be planted at the south end of the Osseo Public Works Facility, pending grant funding. She understood Osseo residents were interested in having and maintaining the grocery store. She hoped to see more ideas being implemented to address healthy food and age friendly initiatives in the near future. Lastly, she commented on the smoke free housing initiatives that were in the works.

Poppe thanked the representatives from Hennepin County for their work on behalf of the community and for their presentation on Active Living.

D. APPROVE LIONS ROAR CELEBRATION ON SEPTEMBER 8-9

Diane Nokk, Osseo Lions President, stated the Lions Club is hosting its 41st Annual Lions Roar in downtown Osseo on Friday & Saturday, September 8-9. The City Council was asked to consider the closing of several streets downtown for the two-day celebration, closing of various streets for the running races Saturday morning, and closing of various streets for the parade on Saturday. In the past, the Lions Club has requested the waiver of banner sign permit fees to advertise at the intersection of Co Rd 81/Jefferson Hwy.

City Administrator Riley Grams stated the Gateway Sign is now operational and the City would like to offer the waiver of Gateway Sign permit fees for the Lions Roar celebration. The Lions Club will be making contractual arrangements for police services for this event. Staff recommended the Council approve the 41st Annual Lions Roar celebration including the street closures and waiving the Gateway Sign permit fee.

Johnson thanked the Lions Club for all of its work on this event.

Stelmach thanked the Lions Club as well for all of its great work on behalf of the community.

A motion was made by Schulz, seconded by Johnson, to approve the 41st Annual Lions Roar celebration scheduled for Friday & Saturday, September 8-9 (including

the street closures and waiving the Gateway Sign permit fee). The motion carried 5-0.

E. ACCEPT DONATION TO CITY OF OSSEO (Resolution)

Grams indicated Harold E. & Gayle Johnson have donated \$200 to the City for the Beautification/Flower Fund in memory of Keith Gehrmann and Mary Lou Ingman. Staff recommends the Council accept the donation.

A motion was made by Stelmach, seconded by Zelenak, to adopt Resolution No. 2017-49 accepting a donation from Harold E. & Gayle Johnson in the amount of \$200. The motion carried 5-0.

8. PUBLIC HEARINGS – None.

9. OLD BUSINESS

A. RECEIVE HERITAGE PRESERVATION COMMISSION MINUTES OF JUNE 20

Johnson discussed the Heritage Preservation Commission minutes and requested further information on the gift discussion. Zelenak stated the Commission discussed providing gifts to individuals that had contributed large sums of money to the fundraising effort. She explained that she later learned that this was not possible.

Johnson commented on the grants being sought by the Heritage Preservation Commission and stated he did not want to require Osseo residents or local businesses to cover the matching portion of these grants. He explained he supported the North Water Tower remaining in the City, but did not want to see the taxpayers burdened.

A motion was made by Schulz, seconded by Stelmach, to receive the Heritage Preservation Commission Minutes of June 20, 2017. The motion carried 5-0.

10. NEW BUSINESS

A. CONFIRM EDA ACTIONS OF JULY 10, 2017

Grams discussed the actions of the EDA. He noted the EDA approved accounts payable, approved payment for the Osseo Spring Opener event, and discussed the 2017 EDA year to date budget.

A motion was made by Stelmach, seconded by Schulz, to confirm the EDA Actions of July 10, 2017. The motion carried 5-0.

B. APPROVE COMPLETE STREETS STUDY PROPOSAL FROM WSB & ASSOCIATES

City Planner Nancy Abts stated safety and efficiency of our streets is a key concern in Osseo. Questions about streets, sidewalks, boulevards, and other components affect quality of life. Questions come up during Comprehensive Plan update outreach and Healthier Communities meetings. They also stem from parking complaints and the 2017 street and sidewalk projects. The proposal from WSB & Associates is not-to-exceed \$5,600.

Abts reported last year Osseo received a one-time “Creating Healthier Communities” grant. Funds are from Hennepin County and the Minnesota Department of Health Statewide Health Improvement Partnership (SHIP). With these funds, Osseo has taken steps to include public health in City operations. The Police Department created a Bicycle Patrol. Healthy components were integrated in the Comp Plan Update and Boerboom Park Master Plan processes. Information relating to tobacco exposure and healthy food access has also been gathered.

Abts explained the grant also provides resources to study the “Complete Streets” framework. This includes how the City’s thoroughfares can safely accommodate all users. City Engineer WSB is closely involved in the City’s long-range plans and street improvement projects. Their perspective will be helpful in considering these issues and creating a policy to address complete streets in Osseo.

Johnson questioned if the new sidewalks should be mapped within this proposal. Abts anticipated that there were other services that could be completed and noted staff could complete the sidewalk mapping.

A motion was made by Zelenak, seconded by Johnson, to approve the proposal from WSB & Associates for the Complete Streets Study. The motion carried 5-0.

**C. APPROVE JOINT POWERS AGREEMENT AND COURT SERVICES
AMENDMENT RENEWAL FOR POLICE DEPARTMENT (Resolution)**

Police Chief Shane Mikkelson stated periodically the Council adopts a resolution approving the State of Minnesota Joint Powers Agreement with the City of Osseo on behalf of its City Attorney and Police Department. He reported the proposed JPA gives the City of Osseo authority to utilize certain features of the criminal justice data communications network of the State of Minnesota, Department of Public Safety, and the Bureau of Criminal Apprehension. In 2012 all law enforcement agencies and prosecutors changed from paper citations and complaints to eCharging, a service which is now covered by the Court Data Services Subscriber Amendment Agreement. Staff recommends the City Council renew the State of Minnesota Joint Powers Agreement and Court Data Services Subscriber Amendment to CJDN Subscriber Agreement, and adopt a resolution authorizing such action.

A motion was made by Johnson, seconded by Stelmach, to adopt Resolution No 2017-50 approving the State of Minnesota Joint Powers Agreement with the City of Osseo on behalf of its City Attorney and Police Department. The motion carried 5-0.

D. DISCUSS TRANSIENT MERCHANT FEES ON PRIVATE PROPERTY

Grams stated Spark Music Studio recently approached City staff about hosting a grand opening event located on private property. Nick Tucker, Event Coordinator for Spark Music Studio, was unable to attend the July 10 meeting. Spark Music Studio plans on having a food truck at the event to provide food for guests. Currently, our City Code requires a transient merchant fee for that type of use, based on staff interpretation. Below is an excerpt from City Code on Transient Merchants and reads as follows:

CHAPTER 111: PEDDLERS AND SOLICITORS

§ 111.01 DEFINITIONS. TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

Grams explained that by this definition staff and the City Attorney feel that a food truck would require a transient merchant license. A transient merchant license costs \$15 for the license in addition to a \$15 cost for a background check (\$30 total).

Grams stated Councilmembers Stelmach and Schulz asked that this item come before the Council as a discussion item at this meeting, with the possibility of waiving the license fees. One question that was raised was why this was being applied in this situation, but not during the Osseo Spring Opener Event (which was to include several food trucks). The direct answer to that question can be found in the Exceptions to Definitions section of the Peddlers and Solicitors Code:

§ 111.02 EXCEPTIONS TO DEFINITIONS.

(B) ... those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of PEDDLERS, SOLICITORS, and TRANSIENT MERCHANTS ...

Grams reported Transient Merchant licenses were not contemplated for the first Food Truck event because large multi-person “bazaars” are exempt from Transient Merchant requirements. While the Code is ambiguous, staff believes the Spring Opener event qualifies as an “organized multi-person bazaar” and was thus exempt from the license.

Grams stated the Council should consider these types of uses and direct staff accordingly. Assuming Spark Music Studio is available to attend the July 24 Council meeting to present the event and ask for Council approval, staff would like to know if the City Council will be charging the food truck operator for a transient merchant license. Staff recommends the City Council discuss the item and direct staff accordingly.

Stelmach thanked staff for bringing this item to the Council’s attention. He understood that staff was proposing to collect a \$15 fee for a transient merchant. He stated he liked the overall concept, but questioned how the City would enforce this fee for catered parties within a single-family home. City Attorney Mary Tietjen provided further comment on the differences between a family celebration versus a business that is selling its goods to the public. She noted that food trucks were required to be licensed by the State of Minnesota and for this reason she questioned if another license from the City was necessary.

Schulz stated he appreciated the City Attorney’s most recent analysis on this topic. He explained he spoke to the Mayor from Coon Rapids on this topic. He reported that transient merchants have been working in the City of Osseo for decades. He recommended that the Council address this issue at an upcoming worksession meeting prior to next year’s food truck event.

Johnson wanted to see the City have some sort of control regarding food trucks as he did not want to see food trucks parked in every parking lot in Osseo.

Grams discussed the history of this portion of City Code and noted food trucks were not invented when the Code was written. He stated he would place this item on an upcoming worksession agenda.

E. APPROVE ACCOUNTS PAYABLE

Grams reviewed the Accounts Payable with the Council.

A motion was made by Johnson, seconded by Schulz, to approve Accounts Payable as presented. The motion carried 5-0.

11. ADMINISTRATOR REPORT

Grams congratulated Councilmember Stelmach and his wife on the birth of their new baby girl.

12. COUNCIL AND ATTORNEY REPORTS

City Attorney Tietjen stated she would be working with a gentleman in her office on model right-of-way amendments pertaining to the new state legislation for small cell towers.

Abts provided the Council with an update on the recent sports programs and noted enrollment has been great.

Zelenak stated she appreciated the announcements that were being placed on the Gateway Sign.

Johnson agreed that the Gateway Sign was a great addition to the community. He then recognized Mr. Johnson for the sign he created for the City of Osseo.

Schulz thanked City Planner Nancy Abts and Administrative Assistant Karen Broden for their work on the Gateway Sign slides.

Schulz reported he recently attended the League of Minnesota Cities Conference in Rochester and commented on the sessions he attended during the event.

Schulz stated he would like to see the City consider holding a Night to Unite event, as this would encourage community engagement.

Poppe congratulated Stelmach on the birth of their new child.

Poppe stated the Farmers Market starts on Tuesday, July 11, and will be open from 3-7 p.m. He noted the Farmers Market will be held every Tuesday now through September.

Poppe reported the next Music in the Park event will be held on Tuesday, July 11, at 7 p.m., when The Skally Line Band will be playing.

Poppe noted Music in the Park on Tuesday, July 18, will feature the Dirty Shorts Brass Band.

Poppe explained there will be a Presentation in the Park on Wise with Waste on Tuesday, July 25, at 7 p.m.

Poppe stated there will be a Movie in the Park on Tuesday, July 25, where WALL-E will be screened at 8:30 p.m.

13. ADJOURNMENT

A motion was made by Schulz, seconded by Stelmach, to adjourn the City Council meeting at 8:46 p.m. The motion carried 4-1 (Schulz opposed).

Respectfully submitted,

Heidi Guenther
TimeSaver Off Site Secretarial, Inc.