

**OSSEO CITY COUNCIL
REGULAR MEETING MINUTES
October 9, 2017**

1. CALL TO ORDER

Acting Mayor Mark Schulz called the regular meeting of the Osseo City Council to order at 7:00 p.m. on Monday, October 9, 2017.

2. ROLL CALL

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

Members absent: Mayor Duane Poppe.

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

Others present: Juliana Hultstrom, Terry McNeil, Neil Lynch, and Mark & Becky Weidenbach.

3. PLEDGE OF ALLEGIANCE

Schulz led the Pledge of Allegiance.

4. APPROVAL OF AGENDA [Additions - Deletions]

Schulz asked for additions or deletions to the Agenda.

A motion was made by Stelmach, seconded by Zelenak, to accept the Agenda as presented. The motion carried 4-0.

5. CONSENT AGENDA

- A. Approve September 25 Council Minutes
- B. Receive September Building Report
- C. Set Council Work Session for October 23 at 6:00 p.m.
- D. Receive August Gambling Report from Northwest Area Jaycees
- E. Accept Resignation of Part-Time Police Officer Mark Ringgenberg
- F. Hire New Firefighters Joseph Morqczewski, Jim Hultgren, Luke Churchill & Chris Anderson

A motion was made by Johnson, seconded by Stelmach, to approve the Consent Agenda. The motion carried 4-0.

6. MATTERS FROM THE FLOOR

Terry McNeil, 124 5th Avenue NE, explained he had a rental property at 233 Broadway Street East in Osseo. He encouraged the Council to review the City's rental license requirements. He understood the ordinance was derived from Brooklyn Park's regulations and he believed Osseo could do better.

7. SPECIAL BUSINESS

A. ACCEPT DONATIONS (Resolution)

City Administrator Riley Grams stated the City has received the following donations:

<u>Donor</u>	<u>Amount/Item</u>	<u>Designated Fund</u>
Holiday Stationstores, Inc.	\$150 Holiday Gift Cards (total value \$418.50)	Police Fund
Fruit Tree Planting Foundation	21 trees, 10 shrubs & irrigation system	Park Fund
Harold E. & Gayle Johnson (<i>in memory of Harriet Lazaroff & Thomas Treptau</i>)	\$200	Beautification/ Flower Fund

Staff recommends the Council accept these donations.

A motion was made by Schulz, seconded by Zelenak, to adopt Resolution No. 2017-62 accepting donations from Holiday Stationstores, the Fruit Tree Planting Foundation, and Harold E. & Gayle Johnson. The motion carried 4-0.

8. PUBLIC HEARINGS – None.

9. OLD BUSINESS – None.

10. NEW BUSINESS

A. CONFIRM EDA ACTIONS OF OCTOBER 9, 2017

Grams discussed the actions of the EDA. He noted the EDA approved accounts payable, approved a past payment of personal property taxes for 26 2nd Street NW, and considered a plan for redevelopment in the Central Business District.

A motion was made by Stelmach, seconded by Johnson, to confirm the EDA Actions of October 9, 2017. The motion carried 4-0.

B. APPROVE AMENDED GATEWAY SIGN POLICY

Grams stated staff has received a few requests from local groups to waive fees associated with placing ads on the gateway sign. Currently, the Gateway Sign Policy makes no mention of approving requests to waive fees. The Community Center policy, however, does allow for groups to submit a request to waive fees for the use of the Center. These fee waiver requests are considered on the Consent Agenda at the Council meeting. Staff recommends including additional text in the policy which would allow for such requests, similar to how the Community Center policy allows.

Stelmach suggested all waiver requests be addressed under Matters of the Floor at City Council meetings. He stated he was not comfortable with otherwise waiving fees.

Schulz explained he would be holding a meeting with Zelenak and EDA President Todd Woods to discuss the Gateway Sign Policy. He stated a fee waiver option was excluded when the policy was originally approved and he did not support a change at this time. He recommended this policy not be changed until after his meeting with President Woods and Zelenak and local stakeholders.

Zelenak agreed it was premature to amend the policy until further discussion could be held. However, she did support the City advertising City sponsored events. She recommended the definition of "City sponsored events" be better clarified.

Schulz supported the City making a definitive recommendation for the policy and suggested an amendment not be made at this time. He stated he did not want to set a precedent for sign advertisements.

Zelenak commented on the procedure in place for the use of the Community Center and noted waivers are allowed for the use of this space. She believed that a precedent would not be set if the Council were to waive the fee for the upcoming Lions Club event being requested for the gateway sign.

Johnson agreed with Zelenak and understood the upcoming Lions Club event was allowable and should be exempt from any charge because it was open to the public.

Schulz recommended the Council address this matter by further reviewing the policy.

Stelmach stated he appreciated the discussion and explained he would be comfortable tabling action on this item until it could be further addressed by Schulz, Zelenak, and EDA President Woods.

A motion was made by Stelmach, seconded by Schulz, to table action on the Gateway Sign Policy. The motion failed 2-2 (Johnson and Zelenak opposed).

Zelenak stated if the item were to be tabled, a message could not be placed on the gateway sign. Grams indicated a message could be placed on the sign, but the fee would not be waived. He provided further comments on the differences between City-sponsored events (Minidazzle) and events that occur in the City (Lions Roar, Antique Car Show, etc.).

Schulz questioned why staff was proposing to amend the Gateway Sign Policy at this time. Grams explained the City had received two requests to waive gateway sign fees. One of the events would be held on Halloween and staff believed the item should be reviewed prior to the October 23 Council meeting.

Stelmach asked if staff could approach the Lions to discuss the potential of the City co-sponsoring their event. Grams stated he would be more than happy to speak with the Lions but he feared that if this action was taken, then other events would be approaching the City to request the same co-sponsorship in order to receive "free" access to the gateway sign.

Zelenak understood the Lions event would be held at the Community Center and that a fee waiver request had already been received from the City.

Johnson stated the gateway sign was to be used to draw people into the community. He encouraged the committee members that are meeting with EDA President Woods to

consider a policy amendment that would waive fees for all events that draw people into the City.

Grams explained the Council could table action on this item in order to allow for further discussion and could approve a one-time fee waiver for the Lions Halloween event.

A motion was made by Zelenak, seconded by Stelmach, to table action on the Gateway Sign Policy until after the subcommittee has met with EDA President Woods. The motion carried 4-0.

C. CONSIDER WAIVER OF GATEWAY SIGN FEE

Grams stated staff received a request from the Osseo Lions Club to waive fees for the Gateway Sign for its upcoming Halloween event. The Council discussed amending the current Gateway Sign Policy to allow for fee waiver requests to come before the Council for approval or denial. Typically, a request like this would be on the Consent Agenda, and would come far enough in advance of the event to allow for the Council to act on the request and for staff to create the sign and begin posting it. But because the Policy hasn't been amended yet, a fee waiver was sought by the Lions Club at this time.

A motion was made by Johnson, seconded by Zelenak, to approve the Lions Club gateway sign fee waiver request.

Stelmach stated the letter from the Lions did not request a waiver of fees. Mark Weidenbach, Lions Club member, explained the Lions Halloween event was a community event that would have over 500 people in attendance. He believed this event was a great way to promote the City of Osseo and promotion of this event should be done on the City's gateway sign.

Schulz understood the gateway sign fee was \$100 per week and the Lions Club did not have it in its budget to cover this fee. He asked if the event would be prepared to handle another 100 people. Mr. Weidenbach explained he was hoping to avoid paying the gateway sign fee as he would like to see this money going directly into the event.

Johnson understood the City was involved in this event as it was held at the Community Center and the Fire Department assists. For this reason, he believed the event should be viewed as a City sponsored event.

The motion failed 2-2 (Schulz and Stelmach opposed).

D. APPROVE NAMING OSSEO POLICE DEPARTMENT ADDITION TO
'MARSHAL JAMES L. GARDNER MEMORIAL ADDITION' (Resolution)

Police Chief Shane Mikkelsen stated on November 1, 1916, the Osseo Police Department's Marshal James L. Gardner was killed in the line of duty. He stated staff would like to dedicate the Police building addition in his name. He would like to purchase a plaque and hang it near the interior entrance to the Police Department. He proposed holding a dedication ceremony at the Police Department on November 1, 2017. People who were instrumental in allowing the building to be built and working for the City in 2014 will be invited to the dedication event. The City has a long tradition of remembering its history, and this would be a great idea to remember the only active Osseo Police Department member who was killed in the line of duty. It was noted the local media would be invited to help cover the event.

Johnson stated he had a problem with the fact this request was not presented to the Public Safety Advisory Committee.

Stelmach explained he was a fan of naming the addition after Marshal Gardner. However, he suggested the request be reviewed by the Public Safety Advisory Committee prior to the item being considered by the City Council.

Schulz stated the Council could refer the item to the Public Safety Advisory Committee. Chief Mikkelson explained he had not considered bringing this matter before the Public Safety Advisory Committee because this was not a matter of policy or procedure change. He reported if the item was referred to the Public Safety Advisory Committee the dedication of the addition would be delayed by a year as he would like to hold the ceremony on November 1, 2017.

Grams commented he and Chief Mikkelson had been discussing this matter for several weeks and it did not cross his mind to have the proposed naming of the addition reviewed by the Public Safety Advisory Committee. He explained this was not a policy consideration and indicated he would like to see the event remain on November 1, 2017. He stated staff was trying to create a positive policing story that would honor Osseo's only officer lost in the line of duty.

Johnson questioned if another plaque would be installed if another officer was killed in the line of duty. He asked if the plaque would be in place until the end of time. Chief Mikkelson stated this would be up to the Council and explained if another chief were to be hired the name of the addition could be reconsidered.

A motion was made by Johnson, seconded by Stelmach, to adopt a resolution approving the dedication event plans for November 1, 2017, and approving the plaque wording.

Zelenak stated she believed the naming of the addition should be considered by the Public Safety Advisory Committee and, because this had not been done, she would be opposing the request.

Schulz explained he had not heard anything this evening that was encouraging him to support the proposed naming. His primary objection was that staff had made an assumption and now the Council's back was against the wall. For this reason, he would not be supporting this event.

Stelmach stated he would not be able to support the request this evening either.

The motion failed 1-3 (Schulz, Stelmach, and Zelenak opposed).

E. APPROVE PURCHASE OF POLICY TRAINING LAPTOP COMPUTER

Police Chief Mikkelson stated the computer currently being used by the Police Department for trainings, travel for training elsewhere, and for groups to borrow when they use the community center was eight years old. He discussed the three bids he received for the new computer and requested the Council approve the purchase of a policy training laptop computer off the state bid.

Stelmach thanked Chief Mikkelson for requesting three bids for this computer and stated he would be supporting the Chief's request.

Zelenak questioned if there would be any additional fees or costs. Chief Mikkelson explained the City would have to purchase a Microsoft package which would cost an additional \$200.

Schulz thanked staff and Chief Mikkelson for seeking several bids for the training computer and supported the Lenova computer purchase.

A motion was made by Schulz, seconded by Stelmach, to approve the purchase of the Lenova computer for \$915 from the State Contract, noting additional funds were needed for the purchase of Microsoft Office. The motion carried 4-0.

F. DECLARE POLICE EQUIPMENT AS SURPLUS PROPERTY (Resolution)

Police Chief Mikkelson stated the department had four old Panasonic Toughbooks that were used in squad cars that can be sold. He explained the department no longer has any use for these units as they have been replaced. He noted the department also has one Pro Laser 3 LIDAR that has been replaced. Every year Accurate Radar does calibration tests on the radar/LIDAR equipment. The owner of Accurate Radar has agreed to trade his time for the old LIDAR, which would be a \$135 savings for the department.

Stelmach asked if one of the Toughbooks should be saved for training purposes. Chief Mikkelson explained the recently requested training laptop would serve in this capacity.

A motion was made by Stelmach, seconded by Zelenak, to adopt Resolution No. 2017-63 declaring the Panasonic Toughbooks and Pro Laser 3 LIDAR as surplus property. The motion carried 4-0.

G. APPROVE EXTENDED BAR HOURS DURING 2018 SUPER BOWL (Resolution)

Grams stated the 2017 Legislative First Special Session (Chapter 1, Article 11, Section 19) omnibus tax bill granted extended bar hours during the Super Bowl 2018, to be held in Minneapolis. Licensing jurisdictions that issue on-sale intoxicating liquor licenses under Minnesota State Statute Chapter 340A may, at their discretion, issue special permits for service of alcohol through extended hours lasting until 4 a.m. each day subject to the following conditions:

- Only holders of an existing on-sale intoxicating liquor license or a 3.2 malt liquor license are eligible for later closing hours;
- Later closing hours apply only during the period from 12 p.m. on Feb. 2, 2018, through 4 a.m. on Feb. 5, 2018;
- Local licensing jurisdictions issuing special permits to operate with extended hours during the days listed in the previous clause may charge a fee up to, but not to exceed, \$250 for a permit. In the process of issuing a permit, the licensing jurisdiction may limit approval to specified geographic, zoning, or license classifications within its jurisdiction; and
- This session law expires at 4:01 a.m. on Feb. 5, 2018.

Grams explained the Council should consider the option of issuing these special permits and setting the special permit fee, not to exceed \$250. It was noted several cities have

already approved the special permits and fees for extended liquor sales hours during Super Bowl. Fees vary: Bloomington \$200; Brooklyn Center \$250; Crystal \$250; Maple Grove \$100; Richfield \$250. The resolution notes a proposed deadline of 2:00 p.m. on January 17, 2018, for applications. A special permit application form will be created. Staff will place the acceptance of any special permit requests on the January 22, 2018, Consent Agenda.

Stelmach believed the Super Bowl event would be a great time but was uncertain as to how many people would be drawn to Osseo. He explained he did not support a special license fee of any kind.

Schulz questioned if extra vehicles were typically on the streets for the Super Bowl. Police Chief Mikkelson stated this was the case. He indicated he has spoken to the local bar owners and nothing special has been planned.

Johnson asked if the City had to charge a fee. City Attorney Tietjen explained the City could charge a nominal fee or could elect to not charge a fee.

Johnson inquired how many Osseo establishments could be open until 4:00 a.m. Police Chief Mikkelson indicated he spoke with three liquor license holders (Legion, Dick's, and Duffy's) in the City and reported these owners had no special plans. He commented that these owners could change their minds but believed the larger parties would be concentrated downtown Minneapolis.

Johnson commented on the decision that was made by Maple Grove to allow their bars to stay open until 4:00 a.m.

A motion was made by Stelmach, seconded by Johnson, to adopt Resolution No. 2017-64 authorizing the issuance of special permits for extended bar sales for the Super Bowl and to set the special permit fee at \$0. The motion carried 4-0.

H. APPROVE ORDINANCE AMENDMENT FOR PRO-RATED TOBACCO LICENSE FEES

Grams stated liquor and tobacco licenses are called business licenses (as is pawn licensing). Both liquor licenses and tobacco licenses follow the July 1 to July 1 annual cycle. Our City Code allows for the pro-rating of liquor license fees based on a license for only a portion of a normal year. However, there is no current language allowing the same for a tobacco license (\$250 for annual license) fee.

Grams commented on an example of what our current code dictates: if a new business makes application in April for liquor and tobacco licenses, this business would pay a pro-rated fee (only 3 months, Apr/May/Jun) for the liquor license but would have to pay all 12 months for the tobacco license since tobacco pro-rating is not currently allowed. Then, this business would have to pay \$250 again in only a short time for tobacco annual renewal (and the liquor annual renewal) for the July-July licensing year.

Grams explained staff would like to level the field for these two business licenses by treating them similarly. Staff suggests the City Council consider this proposed action as being business friendly and pro-rate fees for new applications when the situation applies.

Schulz questioned how many different types of business licenses the City had. Grams commented the City has tobacco, secondhand goods, pawn, massage, and liquor licenses.

Schulz asked if all of the City's business licenses should be amended to allow them to be pro-rated. Grams indicated the Council could proceed in this manner.

Schulz inquired if the City had received a request for a pro-rated tobacco license. Grams stated the City had not received a request. He noted that Holiday Stationstores may be changing ownership and staff was expecting to receive a tobacco license request.

Stelmach suggested the Council address all business licenses in an upcoming work session in order to keep this item clean and consistent.

A motion was made by Stelmach, seconded by Johnson, to table action on this item to a future City Council work session. The motion carried 4-0.

I. APPROVE LEASE WITH SPRINT COMMUNICATIONS FOR SOUTH WATER TOWER CELL ANTENNA

City Attorney Mary Tietjen stated in 1997 the City of Osseo leased space on and adjacent to its water tower to Sprint. The lease permitted Sprint to attach antennas to the tower and install other equipment on the ground in order to provide wireless telecommunications services. City staff concluded that the lease granted a maximum of four (4) terms of five (5) years each; i.e. 20 years, expiring in September, 2017. In June 2017, Sprint was notified that the City wished to re-negotiate the lease. The form of lease was commonly used by many cities around the metro area but was in need of updating.

City Attorney Tietjen reported Sprint initially argued that there was an additional five-year renewal term available that would allow the company to extend the lease through 2022. Ultimately, she was able to convince Sprint that the lease was in its final renewal term and was expiring. The City's legal counsel drafted a modified lease which was presented to Sprint. Sprint has agreed to the proposed lease with a few minor modifications.

City Attorney Tietjen commented the proposed lease increases the rent to \$35,000 annually for the remainder of 2017. This rent rate is consistent with current wireless leases in the metro area. The proposed lease also retains the annual inflator from the prior lease---5% or CPI, whichever is greater---which is higher than typical. Many wireless providers are now seeking to limit annual increases to a flat 3%. Accordingly, the renewed lease establishes beneficial financial terms for the City.

City Attorney Tietjen explained the proposed lease also modifies a number of provisions to reflect changes cities have been seeking in recent years. An example, the prior lease granted Sprint an "easement" over the City's property for utility purposes, while the proposed lease simply grants Sprint a right (but not an easement) permitting it to connect its equipment to utilities. The proposed lease also no longer provides for arbitration of disputes. Cities have found that arbitration is just as costly as litigation, but less advantageous in terms of results.

City Attorney Tietjen reported the prior lease required a signal interference study to confirm Sprint would not interfere with other wireless signals in the area, and an engineering study to confirm the water tower could support the antennas. Those are presumably no longer needed since Sprint is simply looking to renew an already-existing agreement. Other changes: the termination provision was changed slightly to limit Sprint's right to terminate for "technological reasons"; Sprint's obligation to remove its

facilities to allow maintenance of the water tower, and to pay any additional expenses the City incurs, has been clarified; and, the City's right to install new/additional buildings around the leased premises has been expanded. The lease language has been changed in a number of other ways that improve the lease from the City's perspective. She provided further comment on the proposed lease language with Sprint and recommended approval.

Stelmach asked if the language on the top of Page 8 within Section VI was correct regarding unleaseable space. City Attorney Tietjen stated this was the correct language.

Stelmach recalled this section having other terms. City Attorney Tietjen explained she would have to review the emails in order to confirm the language for this section. She reported it was her understanding this was the final version of the lease.

Schulz commented that the Risk Assessment Committee had discussed this portion of the agreement and wanted the language enhanced to ensure the tenant did not have an easy out. He discussed the language that was negotiated and explained the language within the final document did not reflect these negotiations.

Stelmach recommended staff review a September 11 email in order to include the proper language for this portion of the lease agreement.

Schulz read an email from Bob Vose and Eric Backson on September 11 in full for the record, and requested staff include this language in the lease agreement.

Johnson questioned how many antennas were on the South Water Tower. Grams commented the City had three antennas on this water tower.

A motion was made by Stelmach, seconded by Schulz, to recommend approval of the lease with Sprint Communications for South Water Tower Cell Antenna, amending Section VI.

Johnson noted another error within the lease document and asked if the Council had the final document. City Attorney Tietjen suggested the Council table action on the lease to allow staff to bring forward the proper document.

Stelmach and Schulz withdrew their motion.

A motion was made by Stelmach, seconded by Schulz, to table action on the lease with Sprint Communication for the South Water Tower Cell Antenna to the October 23 City Council meeting. The motion carried 4-0.

J. CERTIFY DELINQUENT UTILITIES (Resolution)

Grams stated City Code Section 51.37(C) allows delinquent accounts for City utilities to be assessed to property owners. It also states that the amount certified shall include late payment penalties and administrative charges, and the amount shall bear interest as determined by Council resolution. All property owners with amounts due as of August 31, 2017, were notified September 6, 2017, by letter of the pending assessment.

Grams explained these letters referenced for delinquent invoices for City water/sewer charges. In addition, Randy's Environmental Services invoices for garbage/recycling/yard waste services to residential properties in Osseo. As part of the current agreement with Randy's, the City assists in collection of delinquent garbage costs

by certifying delinquent garbage accounts as allowed by MS 443.015. Staff reviewed the outstanding charges, penalties, and administrative charges. If unpaid by November 17, 2017, these amounts would be certified to Hennepin County with interest.

A motion was made by Johnson, seconded by Stelmach, to adopt Resolution No. 2017-65 certifying delinquent utility and garbage charges against specified properties as presented in Exhibits A & B. The motion carried 4-0.

K. APPROVE ACCOUNTS PAYABLE

Grams reviewed the Accounts Payable with the Council.

A motion was made by Johnson, seconded by Zelenak, to approve the Accounts Payable as presented. The motion carried 4-0.

11. ADMINISTRATOR REPORT

Grams reported he would not be at the next City Council meeting as he would be attending the annual ICMA conference in San Antonio, Texas.

12. COUNCIL AND ATTORNEY REPORTS

City Planner Nancy Abts reported the City of Brooklyn Park would be holding a public hearing on Wednesday for a property nearby.

City Attorney Tietjen apologized to the City Council for the confusion on the lease agreement.

Johnson provided the Council with an update on future reconstruction of County Road 81.

Stelmach stated there was a frost advisory for overnight and encouraged residents to cover their plants and flowers.

Schulz reported the City was still taking registrations for the Creative Kids Art and Reading classes being held in October and November.

Schulz stated the Downtown Osseo Light Hanging would be held on Saturday, October 21, at 9 a.m.

Schulz indicated the Lions Halloween Event would be held at the Community Center on Saturday, October 28, at 11 a.m.

13. ADJOURNMENT

A motion was made by Zelenak, seconded by Stelmach, to adjourn the City Council meeting at 8:44 p.m. The motion carried 4-0.

Respectfully submitted,

Heidi Guenther
TimeSaver Off Site Secretarial, Inc.