

**OSSEO CITY COUNCIL
REGULAR MEETING MINUTES
November 13, 2023**

1. CALL TO ORDER

Mayor Duane Poppe called the regular meeting of the Osseo City Council to order at 7:00 p.m. on Monday, November 13, 2023.

2. ROLL CALL

Members present: Councilmembers Juliana Hultstrom, Ashlee Mueller, Mark Schulz, Alicia Vickerman and Mayor Duane Poppe.

Staff present: City Administrator Riley Grams, Police Chief Shane Mikkelson, Firefighter Joshua Baird, Rebecca Haug, WSB & Associates; and City Attorney Mary Tietjen.

Others present: Connie Aho, Business Owner; Teresa Aho, Business Owner; Grant Christensen, City Resident.

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 Hultstrom, seconded by Mueller, to accept the Agenda as presented. The motion carried 5-0.

5. CONSENT AGENDA

- A. Approve October 23 Work Session Minutes
- B. Approve October 23 Council Minutes
- C. Approve Hire of Firefighter Joshua Baird
- D. Receive October American Legion Gambling Report

A motion was made by Vickerman, seconded by Schulz, to approve the Consent Agenda. The motion carried 5-0.

6. MATTERS FROM THE FLOOR – None

7. SPECIAL BUSINESS

A. ACCEPT DONATIONS

Grams stated the City has received the following donations:

Donor	Amount/Item	Designated Fund
Osseo Fire Department Relief Association	\$3,000	Fire Equipment

Staff recommended the Council accept the donations.

A motion was made by Hultstrom, seconded by Mueller, to adopt Resolution No. 2023-51, accepting a donation from the Osseo Fire Department Relief Association. The motion carried 5-0.

8. PUBLIC HEARINGS

A. STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

Rebecca Haug, WSB & Associates, stated the Minnesota Pollution Control Agency (MPCA) has designated the City of Osseo (City) as a Municipal Separate Storm Sewer System (MS4) community because the City owns and operates a storm sewer system, is located in an urbanized area, and has a population of 1,000 or more people. Each MS4 community is required to develop a Stormwater Pollution Prevention Plan (SWPPP) to address six program areas of the MS4 permit. To meet the Public Participation requirement of the MS4 permit, the City is required to hold at least one opportunity annually for the public to provide input on the City’s SWPPP. Ms. Haug commented further on the past year’s accomplishments related to stormwater activities and asked for questions or comments from the community and the Council regarding the City’s SWPPP.

There being no comments from the Council or public, Mayor Poppe thanked Ms. Haug for her presentation.

9. OLD BUSINESS

A. APPROVE SECOND READING AND ADOPTION OF ORDINANCE REGARDING OVERWEIGHT VEHICLE PARKING AND REMOVING CENTRAL AVENUE AS A DESIGNATED TRUCK ROUTE

Police Chief Mikkelson stated the police department has received several complaints about semitrucks using Central Avenue as a throughway and the parking of semitrucks on residential streets. With these new ordinance changes, police can respond better to these complaints. Signage will need to be added to include the prohibited overweight parking ordinance. Staff will also have to place signs at the entrances of Central Avenue that say local delivery only, and police will be able to enforce the new ordinance. It was noted the Council approved the first reading at the Council meeting on October 23, 2023.

Vickerman asked if there would be issues with trucks rerouting down residential roads in Osseo. Police Chief Mikkelson stated trucks were not allowed on residential streets in Osseo. He anticipated the new signage would assist with directing trucks appropriately, while also helping the police department with enforcing the new ordinance.

Mueller explained she was not able to attend the October 23 City Council meeting. She thanked the Council and staff for all of their efforts on this matter.

A motion was made by Hultstrom, seconded by Schulz, to adopt the Second Reading and adoption of an Ordinance regarding overweight vehicle parking and removing Central Avenue as a designated truck route. The motion carried 5-0.

10. NEW BUSINESS

A. DISCUSS THE GR8 VAPE LLC VIOLATIONS

Police Chief Mikkelson stated on October 28, 2023, officers from the Osseo Police Department conducted an inspection of a business called The Gr8 Vape located at 229 1st Ave NE. We were responding to information that the business violated the Cannabis Business Moratorium. When the plainclothes officer went into the building, the first violation they observed was a package of what was called "Cosmic Candy", an edible that had a self-made label describing the candy as containing 1000MG of THC for sale on the shelf. The business then later tried to sell marijuana flower to the officer. After the violations were noted, a full inspection of the business was done. We found 91 grams of marijuana flower, and 35 high-potency cannabis oil vapes.

Police Chief Mikkelson reported the business owner and employee were given administrative citations on November 9, 2023, for violating City Ordinance 118.06 (A) (1), the edible ordinance for the THC candy. We also believe that the business violated City Ordinance 112.06 (A) (5), the tobacco sales ordinance for selling vapes that contained high-potency cannabis oil. We also believe the business violated the Cannabis Business Moratorium the Council adopted.

Police Chief Mikkelson explained since we have several violations in one inspection, the Council has a right to set a hearing to possibly take action against The Gr8 Vape's Tobacco and Edible Cannabinoid Licenses. According to City Ordinance 110.06: The Council may either suspend, not to exceed 60 days, or revoke any license issued pursuant to this title for good cause, including a finding that the licensee has failed to comply with any applicable statute, regulation, code provision, or ordinance relating to the operation of the licensee. He believed that the multiple violations are reason for the Council to consider taking action against the licenses of The Gr8 Vape.

City Attorney Tietjen commented further on the options available to the Council under the tobacco license code noting the Council could revoke or suspend the license at this meeting.

Mueller stated when the Council reviewed the low-potency licensing process earlier this year, it was done in order to support local businesses. She expressed great disappointment in the fact this business had taken advantage of the process and was selling illegal items in the City of Osseo.

Vickerman explained she shared the same sentiments. She explained the Council spent a great deal of time trying to find a safe way forward and this business has not followed the regulations or guidelines that were put in place. She believed this business was in clear violation of the policy that was put in place.

Hultstrom agreed with Councilmembers Vickerman and Mueller. She believed the Council had to set a strong precedent with the action they take against this business. Her recommendation would be to revoke both licenses (tobacco and low potency) for this business.

Schulz stated this was a challenging matter for the Council to address as the Council would be setting a precedent with the action they take. He understood that some of the products that were being sold by Gr8 Vape are legal to possess, but it was not legal to sell them in the City of Osseo, nor has any direction been given by the Office of Cannabis Management. He reported the leaf product could not be sold. He indicated he was struggling with the options available to the City, but he supported the Council taking serious action in order to discourage future sales of these products in Osseo. He understood the revocation of a license was a huge deal, but in this case, liberties were being taken by the license holder.

Hultstrom indicated she viewed the actions of the license holder as illegal drug trafficking under a legal business in the community. She explained she feels violated. She expressed frustration with the situation given the amount of time the Council spent working through regulations for low potency products that would benefit local business owners.

A motion was made by Hultstrom, seconded by Mueller, to take action against the license for The Gr8 Vape's License revoking both the tobacco and THC licenses and directing staff to issue additional citations giving notice to the business owner.

Vickerman asked how conversations with the clerk and business owner went. Police Chief Mikkelson reported the conversations with the clerk went very well. He indicated the conversations with the business owner did not go as well, as he seemed confused. The business owner claimed the marijuana was to be given away as gifts. He appreciated the fact the clerk was very honest and the business owner had removed the illegal items from the business.

Schulz asked if the THC (low potency) Ordinance was provided to applicants when they applied for a license. Grams reported this would have occurred.

Schulz stated if this license were revoked, what staff member could serve as an impartial hearing member. Grams explained it would be his recommendation that the City hire an outside individual to serve in this capacity.

Schulz supported this recommendation. City Attorney Tietjen advised under the Ordinance if the revocation is upheld by the hearing officer, the business would be required to pay for the costs associated with the hearing, up to \$1,000.

City Attorney Tietjen asked if citations were issued to the business for both tobacco and THC violations. Police Chief Mikkelson reported a citation was issued for THC violations.

City Attorney Tietjen questioned if the Police Chief had a recommendation regarding the tobacco license. Chief Mikkelson explained the undercover officer was not offered the illegal vape cartridges for sale, but he was of the opinion they were connected to both

the tobacco and THC license. He was of the opinion this business had egregious violations and action should be taken by the Council.

Schulz inquired if the undercover office was invited into the back room of this establishment. Police Chief Mikkelson reported this was the case and this was where the undercover officer was offered leaf marijuana for \$60. He commented further on the high potency vape cartridges that were in the back room of this establishment, noting these violated City Ordinance.

Vickerman commented on how the City had designed the low potency THC Ordinance to entrust tobacco license holders with the sales of these products, because they were used to carding individuals prior to making sales. She thanked Police Chief Mikkelson for the information he provided regarding the leaf marijuana and high potency vape cartridges that were onsite.

The motion carried 5-0.

B. APPROVE LETTER OF SUPPORT FOR HENNEPIN COUNTY APPLICATION TO 2024 REGIONAL SOLICITATION FOR RECONSTRUCTION OF CSAH 30 (93RD AVENUE)

Grams stated Hennepin County recently reached out to City Staff to meet regarding upcoming plans for reconstructing a large segment of CSAH 30 (93rd Avenue) which borders Osseo to the north. The current roadway design is limited and with higher traffic counts, along with some safety design issues, the County would like to move forward with a reconstruction of 93rd Avenue. In order to get adequate funding for the project, Hennepin County will be applying to the 2040 Regional Solicitation for roadway reconstruction funding. The application stands a much stronger chance of being approved if affected jurisdictions, such as the City of Osseo, are in support of the project. The cities of Maple Grove and Brooklyn Park will also be asked to submit letters of support. After meeting with Hennepin County staff, both Public Works Director Nick Waldbillig and the City Administrator were in agreement that the reconstruction of 93rd Avenue will be of benefit to the City of Osseo by increasing roadway design to handle the increase in traffic, and to provide safer pedestrian and vehicular enhancements. The draft letter is a response to Hennepin County and is approved, would show Osseo's support for the application for Hennepin County to receive adequate funding for the roadway reconstruction.

Schulz asked if the City would be committing funding to this project, by offering support at this time. Grams did not believe the City would be officially committed, but rather, the Council would be acknowledging the City would likely be required to cost participate. He anticipated the City's portion of cost participation would be limited.

Schulz commented on how difficult it was for vehicles to move safely through CSAH 30 near the school.

Vickerman recommended better pedestrian areas be considered along this roadway to improve safety for Osseo residents.

Schulz suggested the ditch along this roadway also be improved as part of this project.

A motion was made by Schulz, seconded by Vickerman, to approve a letter supporting Hennepin County's application to the Regional Solicitation for reconstruction of CSAH 30. The motion carried 5-0.

C. APPROVE PERSONNEL POLICY AND EARNED SAFE AND SICK TIME POLICY

City Attorney Tietjen stated effective January 1, 2024, employers must provide paid earned sick and safe time (ESST) to eligible employees. To be eligible, an employee must work at least 80 hours a year for an employer in Minnesota and not be an independent contractor. This includes paid on-call firefighters, seasonal, temporary, and part-time employees. The Minnesota Department of Labor recently clarified that elected officials are not considered employees under the ESST law. At a minimum, the City must provide each eligible employee with at least one hour of ESST for every 30 hours worked, up to 48 hours of accrued ESST a year. Employers may also choose to "front load" ESST hours to employees at the beginning of each year, using either a 48-hour or 80-hour front load option. The 48-hour front load option requires a payout of unused leave at the end of a year and the 80-hour option does not require a payout.

City Attorney Tietjen explained ESST can be used for traditional sick leave purposes, such as the employee's own illness and preventative care, but employees may also use it for additional reasons, such as caring for a family member (as defined by the law), absences due to domestic abuse, sexual assault or stalking, and closure of the workplace or a family member's school or care facility due to weather or a public emergency. Employers that have an existing PTO policy that meets or exceeds the requirements of the ESST law are not required to provide additional paid leave. However, employers may choose to be more generous and provide additional leave.

City Attorney Tietjen reported the Council discussed its options for implementing this new law at its work session on October 24, 2023. The Council's direction was to develop a policy whereby the City will annually front load a bank of 80 hours of ESST to all City employees. This bank of leave will be available to employees for designated ESST purposes and will be separate from PTO. Regular full-time and part-time employees with work schedules that exceed 80 hours in a year will have immediate access to the banked ESST hours. Other employees, such as temporary and seasonal employees, and firefighters, may begin using the banked ESST hours after they have worked 80 hours in the year for the City. With this method, employees will not be able to carry over unused ESST hours into the next year and the City will not pay employees for unused ESST at the end of each year or upon separation.

Schulz requested further information regarding the school conference leave. City Attorney Tietjen reported this leave used to be available for any employees working 20 hours per week or more, but now it was available to all employees. She noted this was unpaid time for employees who wish to attend school conferences for their children.

Schulz suggested police department employees be exempted from possessing THC products because they may be in possession of these items while carrying out the duties of their job. City Attorney Tietjen reported because this would be part of their job duties, this would supersede the general policy.

Schulz stated he was pleased with how the Council worked through the earned sick and safe time for Osseo employees. He believed the City was being generous through the proposed policy.

A motion was made by Hultstrom, seconded by Mueller, to approve the Earned Sick and Safe Time policy, effective on January 1, 2024 and approving the updates to the Personnel Policy. The motion carried 5-0.

D. APPROVE PROPOSAL FOR ONE WHEEL MARKETING WEBSITE CONSULTING SERVICES

Grams stated the City has been working towards overhauling the City website, and recently held meetings with Staff and members of the Council Arts and Communications Committee (Councilmembers Mark Schulz and Alicia Vickerman). After meeting with prospective website vendors, the Committee decided to engage with a local firm who specializes in working with companies or entities for develop new websites and other marketings materials. One Wheel Consulting is a local firm who will assist the Committee with selecting an appropriate website vendor, and helping staff through the discovery process and initial front end development of a new City website. The cost of the consulting services is \$4,290 and will be payable out of the City's Cable Fund. The hope is for a new website to go live in early 2024.

City Attorney Tietjen recommended the indemnification language be amended because it was far to broad. She suggested the language be amended to make it more reasonable for the City. She also recommended the language regarding paying attorney's fees be omitted. In this instance, she believed it was fair for each party to pay their own attorneys fees.

Grams explained he discussed the proposed changes with One Wheel and they were supportive of the changes as recommended by the City Attorney.

Vickerman commented on the process that was followed by herself, Councilmember Schulz and Staff. She explained these individuals met with three different vendors and discussed how each vendor could benefit the City. She was of the opinion One Wheel Consulting was more familiar in working with cities.

Schulz agreed One Wheel offered unique expertise when it comes to working with municipalities. He commented on how they were willing to make recommendations to the City both on the website and going forward.

Hultstrom thanked Councilmember Schulz, Councilmember Vickerman and Staff for all of their efforts on this matter.

Schulz thanked Staff for all of the ideas they brought to the discussions regarding the City's website.

A motion was made by Hultstrom, seconded by Schulz, to approve the proposal with One Wheel Consulting for website consulting services as amended per the City Attorney. The motion carried 5-0.

E. APPROVE WRITE-IN VOTES COUNTING PROCESS FOR LOCAL ELECTION OFFICES

Grams explained with the 2023 legislative changes, municipalities have the option to adopt a resolution on how write-ins will be handled for local elective offices. Municipalities have two options, either they can require write-in candidates to register prior to an election in order to have their write-in votes individually recorded, or that write-in votes for an individual candidate will only be individually recorded if the total number of write-in votes for that office is equal to or greater than the fewest number of non-write-in votes for a ballot candidate. It is likely that the number of write-in votes will be less than the number of non-write-in votes for a ballot candidate. In 2022, there were 33 write-ins for council members and six for mayor. The write-in tallying process requires the City Clerk and another staff member or election judge to view the individual write-in images provided by the County, tally them on a form, and then create a spreadsheet for the local canvass. This process is time consuming and does not result in a change in election results unless a single write-in candidate receives the most votes for an office. Staff recommends that the Council adopt a resolution that write-in votes for an individual candidate will only be individually recorded if the total number of write-in votes for that office is equal to or greater than the fewest number of non-write-in votes for a ballot candidate.

Hultstrom explained she supported Option 2 when it comes to counting write-in votes for local elections.

Schulz agreed stating this made sense to him.

Vickerman indicated she did not support either option. She stated she wanted to see all write ins accounted for within a spreadsheet for informational and transparency purposes. Grams commented on how the write in information was detailed to the Council as well as how the information was reported to the County.

Schulz stated the City and other municipalities have not put their write in information on the Secretary of State's website in the past. He discussed how the write in information was being collected currently and noted he did not want election results to be delayed if a new process were considered. Grams commented further on how election result information was submitted to the Secretary of State, noting if all of the write ins were not included, the process would be quicker.

Poppe commented further on the two options available to the Council. He stated the Council could leave things as is, or not upload the write ins when reporting election results.

A motion was made by Hultstrom, seconded by Schulz, to adopt Resolution No. 2023-52, for counting write-in votes for local elective offices only if the write in candidate exceeds the number of votes for a balloted candidate (Option 2).

Schulz asked Staff to review the options available to the Council. Grams reviewed the two options available to the Council in further detail.

The motion carried 3-2 (Mueller and Vickerman opposed).

F. CLOSED SESSION – DISCUSS PURCHASE AGREEMENT FOR 33 SECOND STREET NE

Grams explained the Council would be meeting in Closed Session, pursuant to Minnesota Statutes, Section 13D.05, subd. 3(c), to discuss offers for purchase of property located at 33 Second Street NE.

A motion was made by Vickerman, seconded by Mueller, to move to a Closed Session, pursuant to Minnesota Statutes, Section 13D.05, Subd. 3(c), to discuss offers for purchase of property located at 33 Second Street NE. The motion carried 5-0.

Poppe recessed the Council meeting to a Closed Session at 8:23 p.m.

A motion was made by Schulz, seconded by Hultstrom, to reconvene the City Council meeting at 9:17 p.m. The motion carried 5-0.

G. APPROVE ACCOUNTS PAYABLE

Grams reviewed the Accounts Payable with the Council.

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

11. ADMINISTRATOR REPORT

Grams passed along his condolences to former Police Chief Haller's family. He noted Chief Haller served as the Chief for a number of years and was responsible for hiring both Police Chief Mikkelson and Lieutenant Kintzi.

12. COUNCIL AND ATTORNEY REPORTS

Hultstrom reported last Thursday she attended a Fire Relief Association Trustee meeting.

Schulz explained Osseo's Small Business Saturday would be held on Saturday, November 25.

Schulz commented on the education the Council would have to receive regarding the sale of cannabis after the first of the year.

13. ANNOUNCEMENTS

Poppe encouraged residents to consider donating a coat to the Annual Winter Warm Up Coat Drive, which would run through Thursday, November 30.

Poppe reported City Hall would be closed on Thursday, November 23 and Friday, November 24 for the Thanksgiving Holiday.

Poppe invited residents to participate in the American Red Cross Blood Drive on Wednesday, November 29 at the Community Center from 1:00 p.m. to 7:00 p.m.

14. ADJOURNMENT

A motion was made by Schulz, seconded by Hultstrom, to adjourn the City Council meeting at 9:23 p.m. The motion carried 5-0.

Respectfully submitted,

Heidi Guenther
Minute Maker Secretarial