

**OSSEO CITY COUNCIL
REGULAR MEETING MINUTES
August 14, 2017**

1. CALL TO ORDER

Mayor Duane Poppe called the regular meeting of the Osseo City Council to order at 7:06 p.m. on Monday, August 14, 2017.

2. ROLL CALL

Members present: Councilmembers Harold E. Johnson, Larry Stelmach, and Mayor Duane Poppe.

Members absent: Councilmembers Mark Schulz and Anne Zelenak.

Staff present: City Administrator Riley Grams, City Planner Nancy Abts, Public Services Director Rick Hass, and City Attorney Mary Tietjen.

Others present: Steve Erickson, Lee Gustafson-WSB, Juliana Hultstrom, Donna Coleman, and Jon Freitag.

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 Stelmach, seconded by Johnson, to accept the Agenda as presented. The motion carried 3-0.

5. CONSENT AGENDA

- A. Approve Council Minutes of July 24
- B. Receive July Building Report
- C. Approve Fee Waiver for American Red Cross in Community Center
- D. Approve Outdoor Event at Duffy's Bar & Grill on September 8-9
- E. Approve ICMA Conference Request for City Administrator Riley Grams
- F. Approve Tobacco License for Yayin Gadol, LLC, dba Premier Wine & Spirits
- G. Approve APA Conference Request for City Planner Nancy Abts

A motion was made by Johnson, seconded by Stelmach, to approve the Consent Agenda. The motion carried 3-0.

6. MATTERS FROM THE FLOOR – None.

7. SPECIAL BUSINESS

- A. ACCEPT DONATION TO CITY OF OSSEO (Resolution)

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

<u>Donor</u>	<u>Amount/Item</u>	<u>Designated Fund</u>
Steve Menth family (<i>in memory of Harvey & Phyllis Menth</i>)	Maple Tree	Park Fund
Harold E. & Gayle Johnson (<i>in memory of Melissa Benson, Jessica Johnson, Allen Killmer & David Weidenbach</i>)	\$400	Beautification/Flower Fund

Staff recommended the Council accept the donations.

A motion was made by Stelmach, seconded by Johnson, to adopt Resolution No. 2017-53 accepting donations from the Steve Menth Family and Harold E. & Gayle Johnson. The motion carried 3-0.

8. PUBLIC HEARINGS

A. OFF SALE LIQUOR LICENSE APPLICATION FOR YAYIN GADOL, LLC,
DBA PREMIER WINE & SPIRITS AT 316 COUNTY ROAD 81

Grams stated the owners of Yayin Gadol, LLC, have applied for an off sale liquor license at 316 County Road 81. The owners of Yayin Gadol, LLC, have submitted the required application forms, proof of liquor liability insurance, workers compensation insurance, and payment of \$100. The background checks of both owners have been conducted by the Police Department, and the applicants have passed the background checks. Approval of the off-sale liquor license is recommended.

Grams reported the City Council should open the public hearing to discuss the application for an off sale liquor license by the applicant, take public comments, and then close the public hearing to discuss the application. Staff recommended the Council approve an off sale liquor license for Yayin Gadol, LLC, dba Premier Wines & Spirits at 316 County Road 81

A motion was made by Stelmach, seconded by Johnson, to open the Public Hearing at 7:10 p.m. The motion carried 3-0.

No public input was offered.

A motion was made by Stelmach, seconded by Johnson, to close the Public Hearing at 7:11 p.m. The motion carried 3-0.

A motion was made by Johnson, seconded by Stelmach, to approve an off sale liquor license for Yayin Gadol, LLC, dba Premier Wines & Spirits at 316 County Road 81. The motion carried 3-0.

9. OLD BUSINESS – None.

10. NEW BUSINESS

A. CONFIRM EDA ACTIONS OF AUGUST 14, 2017

Grams discussed the actions of the EDA. He noted the EDA approved accounts payable, discussed North Central Redevelopment RFP, discussed the purchase of residential

property for land swap, and tabled action on the EDA reimbursement of the Beautification Fund.

A motion was made by Stelmach, seconded by Johnson, to confirm the EDA Actions of August 14, 2017. The motion carried 3-0.

B. CONSIDER MORATORIUM ON SMALL CELL RIGHT-OF-WAY PERMITS

City Attorney Mary Tietjen stated the Legislature amended the Minnesota Telecommunications Right-of-Way User statute to address small wireless facilities and established a permitting structure for cities to follow for the siting of small wireless facilities. The law was effective on May 31, 2017.

City Attorney Tietjen reported the law prohibits cities from adopting a moratorium with respect to filing, receiving, or processing applications for right-of-way or small wireless facility permits; or issuing or approving right-of-way or small wireless facility permits. However, for cities that did not have a right-of-way ordinance in place on or before May 18, 2017, the prohibition on moratoria does not take effect until January 1, 2018, giving those cities an opportunity to enact an ordinance regulating its public right-of-way.

City Attorney Tietjen commented because Osseo did not have a right-of-way ordinance in place on or before May 18, 2017, it has the ability to adopt a moratorium on receiving, processing, and issuing small wireless facility permits until the City has an opportunity to study the issue and adopt a permanent ordinance regulating its right-of-way. Minn. Stat. § 462.355, subd. 4 allows the city to adopt an interim (moratorium) ordinance for a period of up to one year after its effective date. This means that the city may work with staff and its consultants to study right-of-way and small wireless facility issues during this one-year period and is not required to accept or approve any requests for permits for small cell sites during that time. If the City adopts a permanent ordinance before the one-year period has expired, the Council may simply repeal the moratorium.

City Attorney Tietjen explained staff is recommending the Council approve the moratorium ordinance and authorize staff to commence studying the appropriate permitting and licensing standards and land use and development standards that should apply to wireless telecommunications facilities and antennas in the public right-of-way.

Johnson asked if the City had any applications pending for a small cell right-of-way permit. Grams reported the City had no applications pending.

Johnson questioned why the City was proposing the moratorium when the current regulations were quite thorough. City Attorney Tietjen advised the law does set out the authority the City had to regulate small cell right-of-way towers. She explained the moratorium was being proposed to allow the City to sit down with the City Engineer to discuss how the right-of-way Ordinance should look. She encouraged the Council to consider regulations that would protect the downtown area of Osseo.

Stelmach appreciated the Council having the opportunity to discuss this further and to provide the public with more information on small cell towers.

Johnson did not support the City pursuing a costly overview of this ordinance.

Lee Gustafson, WSB, stated he had a great deal of experience with right-of-way ordinances. He recommended the City have a right-of-way ordinance in place to assist in

regulating and permitting small cell towers. He reported the City of Minnetonka had a great right-of-way ordinance in place and encouraged staff to review this document.

City Attorney Tietjen explained that if the City were to finish the ordinance in the next four to six months, the moratorium could be lifted and would not have to be in place for the entire year.

A motion was made by Stelmach, seconded by Johnson, to adopt Ordinance No. 2017-2, establishing a moratorium on the consideration of wireless telecommunications facilities and antennas in the City and directing that a planning study be conducted. The motion carried 3-0.

C. APPROVE CHANGES TO 2017 SIDEWALK REPLACEMENT PROJECT COSTS

City Planner Nancy Abts reported when the sidewalk project was originally approved, the City Council approved a 50-50 split of the project costs between the City (drawing on CDBG grant funding) and residents (charged for the cost of the Nuisance Abatement at their properties). Because of new information, the project funding is brought to City Council for additional consideration.

Grant Funds Available:

When the sidewalk replacement project was first considered, the total cost was approximately \$123,000. Plans were to use ~\$60,000 of available Community Development Block Grant Funds to pay for the project. A small amount of City Pavement Management dollars would also be added, if needed. The rest of the project cost would have come from a 50 percent property owner match. The match funds were to be collected under the city's nuisance abatement process.

Abts explained actual costs for the 2017 project came in under initial estimates. The total for all sidewalk work is approximately \$77,443.47. This means CDBG grant can cover 83% of the entire cost of the project. However, if CDBG funds are not spent on this project, the funds must go back to Hennepin County.

Abts added the County prefers we spend all of the money allocated. It also prefers not requiring a property owner match. The CDBG program does not want to potentially burden low-income areas with assessments. Also, turning back funds could reduce future federal funding.

Additional Work Completed:

Moreover, as the project was carried out, additional panels needed to be added to the project. These additions usually came about because adjacent panels broke during the project. Some other panels received additional damage since they were originally reviewed by staff. Staff thought it was best to add these panels to the project since the contractor was here and willing to do the extra work and, more importantly, the City received good bid prices. This ensured our sidewalk system was truly upgraded and safe for our residents.

Panels were added in several locations. This included 31 properties not notified through the nuisance abatement procedures. The value of work at these locations is approximately \$15,000. For those 31 properties, there's no clear strategy to collect payment from the property owners. Meanwhile, the 126 properties that are part of nuisance abatement process that started in 2016 still expect to pay half the project cost.

Abts stated because of these evolving circumstances, staff proposes the City pay for the project entirely with CDBG and Pavement Management funds.

Johnson supported the City taking advantage of spending the CDBG funding and noted this would save money for taxpayers.

Stelmach agreed a portion of the grant funding should be used for the project. However, he supported giving the funding back to the County in order to keep things fair for future projects. Abts clarified that CDBG funds were federal dollars and not County dollars.

Stelmach asked if CDBG funds could be used to cover the expense of the additional 31 sidewalk panels. Abts recommended that the additional 31 panels be covered by Small Cities Assistance dollars and not CDBG funding.

A motion was made by Stelmach to retain payment of the Sidewalk Replacement Costs through 50% CDBG and 50% property owner funds, including the 31 sidewalks panels that were not previously included in the project with this expense covered by the Small Cities Assistance Program, directing the City to return the remainder of the CDBG funds. The motion failed for lack of a second.

A motion was made by Johnson, seconded by Poppe, to approve payment of the Sidewalk Replacement Costs through CDBG and Small Cities Assistance Program funds only. The motion carried 2-1 (Stelmach opposed).

D. APPROVE CHANGE ORDER FOR 2017 SIDEWALK REPLACEMENT PROJECT

Lee Gustafson, WSB, stated this project is essentially complete, and it involved replacing defective sidewalk panels throughout Osseo. The improvements included removal of defective sidewalk panels, site preparation, and replacing the panels in essentially the same dimensions as the existing panels.

Mr. Gustafson explained that as the project was progressing, staff had to replace additional sidewalk panels for a variety of reasons. These additions usually came about because adjacent panels broke during the project or panels received additional damage since they were originally reviewed by staff. Staff thought it was best to add these panels to the project since the contractor was here and willing to do the extra work, and the City received good bid prices. In order to address the issue of adding the sidewalk panels, staff has reviewed funding source options for the additional panels and as mentioned in Agenda Item 10C. The additional amount of \$8,655.15 was added to the original project cost.

A motion was made by Johnson, seconded by Stelmach, to approve Change Order #1 for the 2017 Sidewalk Replacement Project. The motion carried 3-0.

E. APPROVE TREE REPLACEMENT POLICY

Grams stated the City Council recently reviewed draft policy language for the new Tree Replacement Policy at the July 31 Council work session meeting. The policy sets forth the criteria and conditions to replace impacted trees lost in the City's right-of-way or on other private property during City construction projects. The policy also lists the approved species available to property owners. If approved, the policy would be effective

beginning in next year's street and alley improvement project. Staff recommended the Council approve the Osseo Tree Replacement Policy.

A motion was made by Stelmach, seconded by Johnson, to approve the Osseo Tree Replacement Policy. The motion carried 3-0.

F. APPROVE GATEWAY SIGN LANDSCAPE PLAN

Grams stated now that the Gateway Sign itself is up and running, staff is looking for approval to complete the entire project by installing the landscaping around the sign. The proposed landscaping would make this gateway corner of Osseo stand out.

Grams reported as discussed by the Council at the July 31 work session, the plan calls for the entire area to be sodded (with 3 inches of black top soil laid first) to give the entire corner a nice green appearance. Designing Nature has proposed a landscape plan with various plants/shrubs/flowers. The entire area would need to be irrigated.

Grams explained staff also proposes installing new curbing along Jefferson Highway and West Broadway to keep vehicles from driving back behind the sign, and also to direct water from the roadways to nearby catch basins away from the landscaped area. Because the curbing actually helps facilitate roadway drainage, staff proposes this amount be paid out of the Pavement Management Fund. All others costs associated with this project should come from the Gateway Sign Fund. Currently the Fund has a remaining balance of \$23,250. The proposed project costs include the following:

<i>Paid out of the Gateway Sign Fund –</i>	
Designing Nature landscape design fee	\$ 130
Water service tap in	\$ 3,600
Toro underground irrigation system	\$ 2,260
Three inches black topsoil	\$ 6,224
Sod	\$ 4,340
Plants/installation	\$ 3,450
TOTAL from Gateway Sign Fund	\$20,004

**Note: Any remaining funds in the Gateway Sign Fund would be returned to the EDA General Fund.*

Grams stated one of the Osseo-based landscape companies has offered to donate plants/flowers at its cost, which would reduce that last number. Staff will coordinate with that company should they want to donate towards this project. If so, staff will work with NorthWest Landscape to alter that plant and installation number accordingly.

<i>Paid out of the Pavement Management Fund –</i>	
<u>216 feet of new curb around project area</u>	<u>\$7,560</u>
TOTAL from Pavement Management Fund	\$7,560

Grams recommended the Council approve the Osseo Gateway Sign Landscape Plan with \$20,004 paid out of the Gateway Sign Fund and \$7,560 paid out of the Pavement Management Fund.

Stelmach asked if the Gateway Sign Fund could be used to cover the expense for the curbing as this was a part of the project costs. Grams stated this could be done and

explained the Council would just have to establish what amount would be going back to the EDA.

Johnson suggested the Council follow staff's recommendation.

A motion was made by Johnson, seconded by Stelmach, to approve the Osseo Gateway Sign Landscape Plan with \$20,004 paid out of the Gateway Sign Fund and \$7,560 paid out of the Pavement Management Fund. The motion carried 3-0.

G. APPROVE FALL YOUTH RECREATION ART CLASSES

Abts stated this summer's art classes were cancelled due to low enrollment. Vanessa Merry of Merry Time Arts heard from people interested in the classes but wanted them scheduled earlier in the day. She would like to offer the same classes this fall.

Abts reported classes would be offered from 9-10 a.m. (not 12:30-1:30 p.m.) for ages 2 through 5, with their parent/caregiver. The class would begin with reading a book to the group. Then, they would complete an art project related to the book. Projects would include painting, work with glue, and practice cutting. Each class would be a different hands-on art project. The agreement that is in place with Merry Time Arts is in effect through the end of 2017. It can be amended to include these new classes if both parties agree. Staff explained the Parks and Recreation Commission recommended the Council approve the proposed parent-child arts classes for this fall.

Johnson asked if these classes would be successful given students would be going back to school. Abts stated these classes were for parents and their children ages 2 through 5.

Stelmach understood a large number of 5-year-olds would be in preschool or kindergarten. He believed there were enough 2- to 4-year-olds that could take advantage of these classes. He supported the City trying to achieve their objective in offering these classes for the public. For this reason, he would be supporting staff's request.

A motion was made by Johnson, seconded by Stelmach, to approve the proposed parent-child arts classes for this fall. The motion carried 3-0.

H. APPROVE ACCOUNTS PAYABLE

Grams reviewed the Accounts Payable with the Council.

A motion was made by Johnson, seconded by Stelmach, to approve the Accounts Payable as presented. The motion carried 3-0.

11. ADMINISTRATOR REPORT – None.
12. COUNCIL AND ATTORNEY REPORTS

Poppe invited the public to attend the Osseo Farmers Market every Tuesday from 3-7 p.m. at Boerboom Park.

Poppe stated the next Movie in the Park event would be held on Tuesday, August 15, at 8:30 p.m. where Moana will be screened.

Poppe noted the next Music in the Park event would be held on Tuesday, August 22, at 7 p.m. where the band Bad Mojo would be playing. At 8:30 p.m. that night the Movie Lego Batman will be screened.

Poppe reported the final Movie in the Park event would be held on Tuesday, August 29, at 8:30 p.m. where the movie Might Ducks would be played.

Poppe encouraged all Osseo residents to plan on attending Lions Roar which would be held September 8-9.

13. ADJOURNMENT

A motion was made by Stelmach, seconded by Johnson, to adjourn the City Council meeting at 8:09 p.m. The motion carried 3-0.

Respectfully submitted,

Heidi Guenther
TimeSaver Off Site Secretarial, Inc.