

**OSSEO CITY COUNCIL
REGULAR MEETING MINUTES
November 22, 2021**

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 22, 2021. Due to the COVID-19 pandemic this meeting was held virtually.

2. ROLL CALL

Members present: Councilmembers Juliana Hultstrom, Harold E. Johnson, Larry Stelmach, Alicia Vickerman, and Mayor Duane Poppe.

Staff present: City Administrator Riley Grams, Community Management Coordinator Joe Amerman, Public Works Director Nick Waldbillig, and City Attorney Mary Tietjen.

Others present: Meghan Litsey and Lee Gustafson.

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 Hultstrom, to accept the Agenda as presented. A roll call vote was taken. The motion carried 5-0.

5. CONSENT AGENDA

- A. Receive EDA Minutes of November 8
- B. Approve City Council Minutes of November 8
- ~~C. Accept Resignation of City Clerk LeAnn Larson~~
- D. Receive Lions Club Gambling Report
- E. Receive American Legion Gambling Report
- F. Receive Fire Relief Association Gambling Report
- G. Approve Hire of Chaplains Daniel Burns and Karen Lewis
- H. Approve Police Training in January 2022

Johnson asked that Item 5C be pulled for further discussion.

Vickerman requested the Council minutes from November 8 be amended on Page 3 of the minutes stating her comment should read: if they can't get behind closing the 200 block.

A motion was made by Johnson, seconded by Stelmach, to approve the Consent Agenda as amended removing Item 5C. A roll call vote was taken. The motion carried 5-0.

5C. Accept Resignation of City Clerk LeAnn Larson

Johnson questioned if anything could be done to acknowledge City Clerk Larson for her years of dedicated service to the City of Osseo. Grams reported staff was working on a retirement party for Ms. Larson. He anticipated an event would be held mid to late December.

A motion was made by Johnson, seconded by Hultstrom, to accept the resignation of City Clerk LeAnn Larson. A roll call vote was taken. The motion carried 5-0.

6. MATTERS FROM THE FLOOR

Grams reported he received an anonymous email noting a resident had concerns regarding the 2022 alley project and the idea that some properties were left off the assessment roll. In addition, there were concerns that portions of the alleys were located on private property. This resident feared that WSB was not working in the best interests of the City as several alleyways were encroaching on private property.

7. SPECIAL BUSINESS – None.

8. PUBLIC HEARINGS

A. MS4 ANNUAL MEETING – Lee Gustafson, WSB & Associates

Lee Gustafson, WSB & Associates, reported Meghan Litsey would be presenting this item to the City Council.

Meghan Litsey, WSB, stated the Minnesota Pollution Control Agency (MPCA) has designated the City of Osseo as a Municipal Separate Storm Sewer System (MS4) community. Each MS4 community is required to develop a Stormwater Pollution Prevention Plan (SWPPP) to address the 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. At the annual meeting on Monday, November 22, staff will deliver a short presentation on this past year's accomplishments related to stormwater activities and receive any questions or comments from the community and the Council regarding the City's SWPPP. She commented further on the six program areas of the MS4 permit and asked for comments or questions.

A motion was made by Stelmach, seconded by Vickerman, to open the Public Hearing at 7:19 p.m. A roll call vote was taken. The motion carried 5-0.

Hultstrom suggested the city make a plan for the Lions Roar parade. Grams stated he would speak with Waldbillig regarding this matter to put a plan in place.

Vickerman requested further information on how the chloride and bacteria issues were being addressed. Ms. Litsey discussed in detail how she would be working to address the bacteria and chloride concerns within the city's stormwater system.

Stelmach questioned if the chloride issue was specific to Osseo or a state-wide concern. Ms. Litsey explained all MS4 permit holders had to follow specific standards in place regarding salt storage and use. Mr. Gustafson commented further on the impaired waters that were in the metro area.

A motion was made by Hultstrom, seconded by Johnson, to close the Public Hearing at 7:29 p.m. A roll call vote was taken. The motion carried 5-0.

9. OLD BUSINESS

A. APPROVE SMALL BUSINESS SATURDAY SPECIAL EVENT PERMIT

Community Management Coordinator Joe Amerman reported this fall the Economic Development Authority directed staff to develop plans to support Osseo's business community through a Small Business Saturday event on November 27. This proposed event is summarized as an effort to draw business to Osseo's businesses using promotional efforts, special deal offerings, a prize drawing, fire pits, and a street closure. Key points are as follows:

- This began with a mass email in late September. A notice was included in the city's 3rd quarter utility bill. Other efforts included the city's social media page, a specially created web page located on the city website, further emails, gateway signs, phone calls, and walk-in visits, with more than 50 local businesses notified of a Small Business Saturday effort.
- As a result, and notably in combination with the recruitment efforts of local business leaders, more than 20 businesses have committed to a day of special deals and offers. A smaller number have committed to providing donations towards a set of prizes for shoppers who visit on Small Business Saturday.
- These prizes will be awarded through a drawing of 'passports' turned in at, or mailed to, City Hall by Monday, December 6. These passports are being distributed to businesses for residents and shoppers to pick up either beforehand or on November 27.

Amerman explained several other incentives have been developed to draw shoppers. First, the city has reserved two propane heated table tops to provide warmth and operate as gathering points. With the Council's approval, these will be placed the morning of the event and removed immediately following.

Amerman reported city staff had initially confirmed two food trucks to operate for the duration of the event. While these food trucks are still mentioned in the permit application, those confirmations have been cancelled following the EDA and City Council's November 8 decision not to make food trucks a part of the city's Small Business Saturday efforts.

Amerman stated to support a festive pedestrian shopping experience, the application is asking for a closure of Central Avenue between 2nd and 3rd streets from 10 am to 4 pm.

As a note, choosing to end the street closure at 4 pm was an intentional effort to ensure that the closure would in no way impede traffic intended for local restaurants or bars over the dinner hours. Following the Council's November 8 meeting, a Councilmember made an alternative proposal to close 3rd Street NW from Central Avenue to the alley. Making this move a condition of the special event permit approval is allowed under §117.06 of the Osseo City Code. It was noted, given the timeline, tabling this item to a future meeting was not an option.

Hultstrom stated it was with regret she had to speak to the matter of integrity. She indicated this event has caused an open meeting violation, and personal abuse of authority of office for personal gain. She reported her integrity means more to her than anything else and she indicated she could not support this event because it was not legally or conscientiously planned, drafted, and executed. She believed that the EDA could have held a special meeting and these concerns could have been addressed. She explained there were businesses that felt excluded from this event and noted there were residents that were upset as well. She feared this event had terrible optics due to the fact an EDA member applied for the special event permit. She commented this member could have come forward and apologized or explained. She reported the law has been broken and, for this reason, she would not be supporting this event.

Stelmach reported he missed the last Council meeting. He questioned where the law was broken or abuse had happened.

Hultstrom explained there was an open meeting law violation because an email was sent from an EDA Commissioner that said, "Hello all". This email was sent to all EDA Commissioners and City Councilmembers trying to pressure the Council into supporting the Small Business Saturday event. This email was sent from an EDA Commissioner that was a small business owner and she believed there was a conflict of interest because this event would directly benefit this business. She stated this was against the law, because an elected or appointed person would be financially benefiting from their office.

Stelmach asked if the City Attorney had reviewed this matter. City Attorney Mary Tietjen advised she was aware of Councilmember Hultstrom's opinion that there was an open meeting law violation. She explained Councilmember Hultstrom was referring to an email where an EDA member hit "reply all" to an email that was sent rather than responding directly to the sender. She noted the open meeting law talks about intentional violations and after speaking with the EDA member about the situation, she indicated that this was not intentional. She reported the law was clear that to violate the open meeting law, there must be intention. She explained she encouraged the EDA Commissioner to be mindful of the open meeting law and to not reply all to any emails in the future. She stated with the respect to the conflict issue, she had not spoken to Councilmember Hultstrom directly regarding the matter. She commented in her opinion this was analogous to a situation where you have a Councilmember on a street that is being improved so the Councilmember might be benefiting from the project in the same manner as the other residents living on the street. She indicated this business owner would be benefiting in the same manner as other business owners in the community. She reported she would be willing to discuss this matter further off camera.

Stelmach stated he appreciated the differentiation noting this event was part of a larger effort and was not benefiting only one business. He thanked City Attorney Tietjen for the clarification on the open meeting law and how it was based on intentionality. He commented if an individual was asked to spearhead an event, he believed this person was just doing their part. For this reason, he supported the Small Business Saturday event moving forward. He noted the city's small businesses have been adversely impacted by COVID and he wanted to see the city supporting the businesses that remained. He stated he always supported the city creating events that drew people to the community. He indicated he did not see any abuse of power but rather an individual was asked to assist with planning and this individual followed through. He stated the COVID numbers were beginning to rise again, which could adversely impact small businesses again, which was scary to him. He understood the optics were not quite right, but reported he was excited to be holding this event in downtown Osseo.

Hultstrom explained she disagreed with City Attorney Tietjen's assessment. She believed the intent of the email was to reply all when addressed, "Hello all." She reported she would disagree with the City Attorney on this matter and noted this was a direct violation with the open meeting law. She questioned if the Council wanted to pretend it didn't happen or if the Council was going to downplay it. Either way, she indicated the event took place. She stated if this matter had to go to a civil case, it would go to a civil case and the email will prove that an open meeting violation occurred. She recommended the 3rd Street NW road closure be considered because it was more inclusive. She commented the only way she would support this event moving forward was if it was not segregated to one block that was benefiting and that the Council was listening to the other businesses that do not want Central Avenue closed.

Vickerman indicated she supported closing 3rd Street NW. She believed this closure would provide a fun and festive atmosphere for the Small Business Saturday event. She discussed the facts and figures small business owners provided her on how the closure of Central Avenue would adversely impact their businesses. For this reason, she recommended 3rd Street NW be closed and not Central Avenue.

Stelmach questioned what section of roadway Councilmember Vickerman supported being closed.

Vickerman stated she supported the closure of Third Street outside the Olympia Café between there and the bank. She asked if staff had spoken to the bank and Olympia Café regarding this potential closure. Grams stated he had spoken to the bank owner and was told this would not be a concern.

Stelmach commented it made more sense to him to have the closing be more central so that all those attending the event must pass through. He was of the opinion this meant the closure should be where businesses were most dense to create more energy. He indicated the bank would be closed on Saturday. He explained the city wanted to get the most people possible walking in front of its businesses and not in a bank parking lot. He stated this would create a different type of energy. He supported the closure being Main Street-ish. He commented on the number of emails he had received from local business owners requesting the Council's help. He anticipated this event would not hurt any local businesses the way COVID had. He understood that with this decision there

would be people that support and oppose the final decision. In the end, he recommended the Council consider what they could do to help.

Poppe stated the street closure and fire pits were suggested to create an experience. He noted the closure would only be for six hours.

Vickerman discussed how closing 3rd Street NW would still be the better option because it would not hurt anybody and would provide an outdoor gathering space for the event.

Stelmach commented on how the passport would drive people to businesses that were not within the central, hub area. He stated this was a difficult matter for the Council to address because while there were a few businesses that would be upset, there were more businesses asking for the Council's help. He hoped that the Council could go for a high energy, experiential event.

Vickerman stated she thought the Council was working to help people and she commented she did not support hurting people in the processing of helping others.

Stelmach commented he respected Councilmember Vickerman's statement. He discussed how there were two ways to look at hurt. He reiterated that most of the businesses between 3rd Street and 2nd Street have asked for help.

Poppe stated something unique for the businesses between 3rd and 2nd streets was that they have back entrances, while other businesses don't have that opportunity. He reiterated that this was for a single event for six hours. He supported the city trying something to create a great event. He indicated if the event was not a success the street closure would not be pursued in the future. He stated if it was being done, he wanted to see it done right with Central Avenue closed to generate the right energy.

Stelmach stated it would be his preference to have the road closure where there was more likely to have a high degree of energy and success. He believed this would be the city putting its best foot forward. He was of the opinion this closure would create an experience that would draw people into the community and would bring them back for future shopping. He supported Central Avenue being closed.

Hultstrom reported Osseo has a precedence of closing 3rd Street NW for Lions Roar and other events. She indicated the only way she would throw support behind this event was if Central Avenue was not closed.

Stelmach commented this event was quite different than Lions Roar. He noted Lions Roar held a concert in the bank parking lot. He noted Small Business Saturday was a shopping experience which led him to believe the street closure should be centered where the event should be occurring.

Johnson stated he was opposed to closing Central Avenue. He discussed where the fire pits were being proposed and noted the road closure would eliminate some parking along Central Avenue. He indicated Central Avenue just reopened and he would like this roadway to remain open. He explained he would only support the closing of 3rd Street NW with the fire pits near Central Avenue.

Stelmach discussed how closing Central Avenue would force visitors to park next to fringe businesses which would create greater foot traffic and visitors for these businesses.

A motion was made by Hultstrom, seconded by Vickerman, to approve the Economic Development Authority's 2021 Small Business Saturday special event permit application by closing 3rd Street NW from Central Avenue to the bank. A roll call vote was taken.

Stelmach suggested the street closure not be approved. He anticipated this street closure would be money wasted by the city and the businesses would not be helped.

Hultstrom stated with all due respect Councilmember Stelmach's opinion has been made clear, as has hers. She requested the Mayor call the question.

The motion carried 3-2 (Councilmember Stelmach and Mayor Poppe opposed).

10. NEW BUSINESS

A. APPROVE 2021-2022 MS4 PERMIT APPLICATION – Lee Gustafson, WSB & Associates

Lee Gustafson, WSB & Associates, reported Meghan Litsey would be presenting this item to the City Council.

Meghan Litsey, WSB & Associates, stated a municipal separate storm sewer system (MS4) is a conveyance or system of conveyances (roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, etc.) which is owned by a public entity that has jurisdiction over wastes or stormwater that discharge to waters of the U.S. The City of Osseo is therefore classified as a MS4 entity and is permitted as such.

Mr. Gustafson explained the main purpose of the MS4 Permit is to reduce the amount of sediment and pollution that enters surface and ground water from storm sewer systems. Public entities that own or operate a MS4 are required to develop and implement a stormwater pollution prevention program (SWPPP) to reduce the discharge of pollutants from their storm sewer system to the maximum extent practicable. An effective SWPPP is required to include six Minimum Control Measures (MCMs), as follows:

1. Public education and outreach that includes teaching citizens about better stormwater management
2. Public participation: Include citizens in solving stormwater pollution problems
3. A plan to detect and eliminate illicit discharges to the storm sewer system (like chemical dumping and wastewater connections)
4. Construction-site runoff controls
5. Post-construction runoff controls
6. Pollution prevention and municipal "good housekeeping" measures, like inspecting and maintaining infrastructure, covering salt piles, and street sweeping

Mr. Gustafson reported as a part of the Application of Reauthorization, the regulated entity must also identify best management practices (BMPs) which will be implemented to reduce pollution from reaching impaired waters that are covered by a total maximum daily load (TMDL) study. A TMDL is the maximum amount of a pollutant a body of water can receive without violating water quality standards and an allocation of that amount to the pollutant's sources. The TMDL process identifies all sources of a pollutant and determines the amount that each source (i.e., each MS4 owner/operator) must reduce its contribution by to meet the standard.

Stelmach asked if the city could apply for grants to cover the expense of this unfunded mandate. Mr. Gustafson stated he was not aware of any grant opportunities. He commented he was hopeful that opportunities would arise in 2022. Grams indicated staff could check with the watershed district as well.

A motion was made by Hultstrom, seconded by Johnson, to approve the engineering proposal with WSB for this MS4 Permit Application. A roll call vote was taken. The motion carried 5-0.

B. APPROVE 2022 ALLEY PROJECT FEASIBILITY REPORT AND ORDER PUBLIC HEARING – Lee Gustafson, WSB & Associates (Resolution)

Lee Gustafson, WSB & Associates, stated the 2022 Alley Reconstruction Project consists of alley improvements throughout the city. A map illustrating the various projects was reviewed with the Council. Alley improvements consist of replacing the existing bituminous or concrete pavement with concrete pavement, minor utility improvements, and driveway and sidewalk repair. For the alley behind Dean's Supermarket, some concrete panels are proposed to be replaced. He acknowledged that the City did not have all the right of way necessary for this project and noted the City would be working to obtain it. Staff commented further on the utility improvements that would be completed, discussed the project timeline, and recommended the Council approve the feasibility report and order the public hearing.

Stelmach thanked staff for the thorough report. He discussed how the City would be working with property owners to gain right of way to complete this project. He asked if Ms. Fauske had experience with this kind of matter. Ms. Fauske explained this has come up in every community she has worked in. She noted she would be working collaboratively with Mr. Gustafson and the residents on this.

Johnson asked why the city was considering concrete for the alley between 4th and 5th. He noted this alley was originally constructed in 1964. He anticipated the width of the new alley would not be the same as the original alleyway. Mr. Gustafson reported existing alleyway was 10 feet to 14 feet wide.

Hultstrom reported the city would be working with property owners to get written consent if there was a right of way issue. Mr. Gustafson stated this was the case.

Hultstrom questioned if a right of entry was needed and a resident or property owner denied this request, would the entire project be soiled from moving forward. Mr. Gustafson discussed how an alley was designed and reported he has survey information

for every property along the alley. He indicated this information would be used to ensure the alley could work in its existing form. He stated he could not guarantee perfection but noted the alleyway would function. He discussed how unique alleys were because they could have varying elevations for garages and driveways and noted all of this would be taken into consideration. He reported he would work with the property owners to make the alley project the best it can be.

Hultstrom anticipated that alley projects were more difficult than street projects. She commented she wanted to make sure for optics purposes that if the feasibility study were approved and the City needs to get written consent for right of way that the city was not cutting off its nose despite its face. Mr. Gustafson explained none of the alleyways have been designed yet, which meant he was not aware of the issues that may arise.

A motion was made by Stelmach, seconded by Hultstrom, to adopt Resolution No. 2021-62, receiving the Feasibility Report and Calling for the Improvement Hearing. A roll call vote was taken. The motion carried 5-0.

- C. APPROVE CHANGE ORDER NO. 1 FOR LIFT STATION PROJECT – Lee Gustafson, WSB & Associates (Resolution)

Lee Gustafson, WSB & Associates, stated the Contractor has made significant progress at Lift Station Nos. 2 and 3 over the past month. These two lift stations were successfully started up on November 17, and all that remains at these locations is site restoration. The work at Lift Station No. 1 has not yet begun due to two delays, as follows:

1. Shipment of the new 40 HP pumps for this lift station have been significantly delayed by primarily manufacturing delays associated with the pandemic. Based on approval at the end of May, the pumps would have typically arrived around the end of September. However, they are not expected in port in the U.S. until late November at the earliest. The communication from Quality Flow Systems and KSB documents this delay.
2. There is an existing overhead power line that crosses a few feet over the roof of the Lift Station No. 1 building, as well as over the proposed bypass valve vault location. The protective coating on the wires is worn, and the wires are exposed in some locations. Xcel Energy is scheduled to replace and realign this power line on November 22-23.

Mr. Gustafson stated due to the pump shipment and power line relocation delays described above, two options have been identified for the completion of the work at Lift Station No. 1:

1. Extend the substantial and final completion dates to May 31, 2022, for spring construction at Lift Station No. 1. No change to the original contract amount is proposed by the contractor or required.
2. Extend the substantial completion date to December 20, 2021, and final completion date to May 31, 2022, for winter construction at Lift Station No. 1.

These dates require additional costs for winter conditions which were not necessary when the project was bid, including insulation and heat for the temporary bypass piping and tenting and heat for the building roof work. The contractor's estimated cost for winter work conditions is \$56,267.91, as detailed in the cost table.

Mr. Gustafson reported the temporary bypass pumping has not yet been initiated at Lift Station No. 1. Delaying the construction at this location would have no adverse effects on the sanitary sewer system or sanitary service for the city. The only notable effect will be the storage of construction materials at the Lift Station No. 1 site through the winter. Extending the substantial and final completion dates to May 31, 2022, and doing the work in the spring versus winter is the most cost-effective option. Staff commented further on the project and recommended approval of the change order.

Stelmach asked if the city would wait until May to finish this project, even if there was a warm spring. Mr. Gustafson anticipated the contractor would start as soon as the weather allows. Public Works Director Nick Waldbillig believed this would be the case.

Stelmach questioned if the residents that use Lift Station No. 1 would be adversely impacted by pushing this project out to May 2022. Waldbillig reported nothing would be changed when it came to service for residents.

Stelmach supported the city waiting to finish the project until next May, noting this would save the city \$56,000.

Johnson concurred.

A motion was made by Hultstrom, seconded by Johnson, to adopt Resolution No. 2021-63, approving Change Order No. 1 for the Lift Station Project. A roll call vote was taken. The motion carried 5-0.

D. APPROVE ACCOUNTS PAYABLE

Grams reviewed the Accounts Payable with the Council noting there was an additional item for the Central Avenue project in the amount of \$199,119.07.

A motion was made by Johnson, seconded by Hultstrom, to approve the Accounts Payable as amended. A roll call vote was taken. The motion carried 5-0.

11. ADMINISTRATOR REPORT

Grams reported the City Council would be holding a virtual budget work session on Monday, November 29.

12. COUNCIL AND ATTORNEY REPORTS

Hultstrom thanked the Mayor for making the decision to hold virtual meetings.

Vickerman reported the Blue Line Extension Committee met on Friday, November 12, and discussed continuing community outreach. She explained a great deal of information was available regarding the Blue Line on the Met Council's website. Vickerman commented on the exhibit at the Hennepin History Museum called Human Toll which focused on 35W. She wished everyone a happy Thanksgiving.

Johnson discussed the charitable gambling report from the Osseo Lions and thanked the Lions for the scholarships they provided to Osseo students. He commented on the Osseo Fire Relief charitable gambling reports and thanked this organization for their many contributions to the community. Johnson welcomed Chaplains Burns and Lewis to the City of Osseo. He stated he appreciated meeting all of the WSB staff at the work session.

Stelmach wished everyone a safe and happy Thanksgiving. He reported all members of the Council had the local businesses best interests at heart and the entire Council wishes all business owners a happy Small Business Saturday.

13. ANNOUNCEMENTS

Poppe stated City Hall would be closed on Thursday, November 25, and Friday, November 26, for Thanksgiving.

Poppe reported Osseo would be celebrating Small Business Saturday on Saturday, November 27, with events planned from 10 a.m. to 4 p.m.

Poppe stated Minidazzle would be held on Friday, December 3, from 6 p.m. to 8 p.m., and Lunch with Santa would be held on Saturday, December 4, from 11 a.m. to 1 p.m.

Poppe encouraged residents to consider donating a new, unwrapped toy to the Toys for Tots drive taking place from Tuesday, November 16, through Thursday, December 16.

14. ADJOURNMENT

A motion was made by Hultstrom, seconded by Johnson, to adjourn the City Council meeting at 9:20 p.m. A roll call vote was taken. The motion carried 5-0.

Respectfully submitted,

Heidi Guenther
Minute Maker Secretarial