OSAWATOMIE CITY COUNCIL
AGENDA
October 13, 2011
7:00 p.m., Memorial Hall

1. Call to order
2. Roll Call
3. Pledge of Allegiance

4. Consent Agenda
   Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action
   A. Approve Minutes of September 8, September 14, and September 28 Council Meetings
   B. Approve October 13 Agenda
   C. Appropriation Ordinances 11-17 & 11-18

5. Comments from the Public; Presentations
   Citizen participation will be limited to 5 minutes. Please stand & be recognized by the Mayor
   A. Presentation: Swimming Area Proposal by Rotary Club

6. Public Hearing
   A. Consideration of CDBG Grant Application for Osawatomie Public Library Improvements – Phase II

7. Unfinished Business
   A. Resolution Certifying Legal Authority to Apply for CDBG Grant and Authorize Mayor to Sign All Necessary Documents
   B. Resolution Assuring Operations & Maintenance of Improvements
   C. Residential Anti-displacement and Relocation Assistance Plan
   D. Statement Of Assurances and Certifications
   E. Approve Invoice(s) for Pacific, 14th, Brown Streets Project – Request No. 12
   F. Ordinance Prohibiting Dogs/Animals at the Sports Complex
   G. Ordinance Prohibiting Smoking at the Sports Complex

8. New Business
   A. Appointments - none
   B. Proclamation – Breast Cancer Awareness Month
   C. All For You Event – June 30, 2012
   D. Deannexation of 36530 Plum Creek Road
   E. Ordinance Approving Regulations for Temporary Special Event CMB Permits
   F. Discussion of Engineering of Future Street Projects

9. Council Reports
10. Mayor's Report
11. City Manager's Report
12. Executive Session - none
13. Adjournment

MEETING/WORK SESSION – October 27, 2011
REGULAR MEETING – November 10, 2011

Osawatomie, Kansas. **September 8, 2011.** The Council meeting was held in Memorial Hall. Mayor Dudley called the meeting to order at 7:00 p.m. Council members present were Dickinson, Farley, Govea, Hunter, Klein, LaDuex, and Maichel. Absent was Moon. Also present were City Manager Cawby, City Attorney Wetzler, and City Clerk Elmquist. Visitors were Robert Kerr, Cindy Govea, Danny Govea, Kirk and Shelagh Wright, Travis Perry, and Jeff Gulley.

CONSENT AGENDA. Approval of the Minutes of August 9, August 11 and August 25 Council Meetings, approval of September 8 Agenda, and approval of Appropriation Ordinances 11-15 & 11-16. Motion made by Hunter, seconded by Govea to approve September 8 Agenda. Motion made by Hunter, seconded by Dickinson to approve the Minutes of August 9, August 11 and August 25. Yeas: All. Motion made by Maichel, seconded by Hunter to approve Appropriation Ordinances 11-15 & 11-16. Yeas: All.

Public Participation; Presentations: none

Public Hearing: none

Unfinished Business:

APPROVE INVOICE(S) FOR PACIFIC, 14TH, BROWN STREETS PROJECT – REQUEST No. 11. Motion made by Hunter, seconded by Govea to approve Pay Request No. 11. Yeas: All.

ORDINANCE INCREASING THE TAX REVENUES FOR THE 2012 BUDGET YEAR. Motion made by Hunter, seconded by Maichel to approve ordinance increasing the tax revenues for the 2012 budget year. Yeas: Dickinson, Farley, Govea, Hunter, LaDuex, and Maichel. Nay: Klein. Motion passed. The Ordinance was assigned No. 3685.

OLD STONE CHURCH. Bids were received for repair of the roof.

Cedarside Roofing	Louisburg	$12,620.00
Keaton Roofing	Paola	$16,682.78
Sam Inscore Construction	Osawatomie	$13,320.00

Motion made by Maichel, seconded by Farley to approve the bid from Cedarside Roofing for $12,620.00. Yeas: All.

New Business:

APPOINTMENTS.

Library Board	DuWayne Tewes
League of KS Municipalities	delegates: City Manager Cawby and Maichel alternates: Govea and Mayor Dudley
KMEA Board of Directors Director #1	City Manager Cawby

Motion made by Maichel, seconded by Farley to approve the appointment to the KMEA Board of Directors. Yeas: All. Motion made by Farley, seconded by Hunter to approve the appointment to the Library Board. Yeas: All. Motion made by Farley, seconded by LaDuex to approve the appointments to the League of Kansas Municipalities. Yeas: All.

APPROVE AUTOMATED CONTROL SYSTEM FOR SEWER PLANT. Motion made by Hunter, seconded by Govea to approve the purchase of the automated control system for $25,450. Yeas: All.

PROCLAMATION – NATIONAL REHABILITATION AWARENESS WEEK. Proclamation was to declare the week of September 18 through September 24 as National Rehabilitation Awareness Week. Motion made by Hunter, seconded by Govea to approve the proclamation. Yeas: All.

RESOLUTION IN SUPPORT OF A NATIONAL MOMENT OF REMEMBRANCE OF THE 10TH ANNIVERSARY OF SEPTEMBER 11, 2001. Motion made by Dickinson, seconded by Hunter to approve the resolution in support a national moment of remembrance. Yeas: All. The Resolution was assigned No. 641.

ORDINANCE TO REZONE PROPERTY AT 400 E. MILL FROM R-2 (TWO-FAMILY RESIDENTIAL DISTRICT) TO C3 (HIGHWAY COMMERCIAL DISTRICT). Penwell-Gabell Funeral Home applied for rezoning of 500 E Mill in order to place a structure for services and business. The zoning currently R-2 would be changed to C-3. A public hearing was held by the Planning Commission on August 24 and no one appeared in opposition to the application. The Planning Commission voted 8-0 to recommend approval of the rezoning application. Motion made by LaDuex, seconded by Farley to approve the ordinance rezoning 400 E. Mill. Yeas: Dickinson, Farley, Govea, LaDuex, and Maichel. Abstain: Hunter and Klein. Motion passed. The Ordinance was assigned No. 3686.

RESOLUTION GRANTING EASEMENT TO INGRESS OR EGRESS PROPERTY LOCATED AT 29621 W. 343RD STREET. The property at 29621 W. 343rd is landlocked from the road and access to the property can only be granted through City property or adjacent private property. The driveway has existed for years when the State Hospital owned the land, but an easement was now needed. Motion made by Klein, seconded by Farley to approve the resolution granting the easement to 29621 W. 343rd Street. Yeas: All. Motion passed. The Resolution was assigned No. 642.

Council Reports:

LaDuex: Library Board. The summer reading program had 450 children enrolled. Circulation for June 2011 was double from 2009, when Library Director Elizabeth Trigg was hired.

Govea: Recreation Commission. Applications have been received for the recreation director position and Commissioners are in the process of looking through them. The screening is being conducted by three Commissioners and either the City Manager or himself.

Farley: How would the Recreation Commission go into executive session with people that are not a part of that governing body. What would be the potential liability if one of the Governing Body members sat through their executive session. City Attorney Wetzler said that if there is a need and a legitimate purpose for that body to have an executive session, then they have the ability to bring in someone that they feel is necessary for the purpose of that meeting. Farley said that the lines are a little blurred and present a concern to him.

Hunter: Tourism Committee. The Freedom Festival will be held September 17th and 18th.

Maichel: Spoke about the budget discussion at the last meeting. The budget was discussed for three months prior to the date the budget needed to be certified. There is a big difference between the budget to be adopted for next year and including discussion about the audit from last year. A comment was made that the Council was lying to the public. She has witnessed a total disrespect and disregard to

the other Council members. Having provided information that shows the Council did not lie, the Council members making those types of untruths should resign or they owe the people of this city an apology.

Mayor's Report:

He was unable to attend the August 25 meeting but learned about the behavior that occurred. That type of behavior is unacceptable. The Governing Body is a lot stronger when working together than fighting amongst themselves. Told the Council to not raise their voices, to conduct themselves professionally.

City Manager's Report:

Projects:

Pacific, 14th, Brown Streets Project. The contractor is close to finishing the tear-out of the last two blocks of Brown.

Sewer Plant. The diffusers have been replaced and the basin is up and running.

Street Work. The City crews are milling out the bad spots on Brown Avenue from 7th Street to 12th Street.

Railroad Sill at the Levy. The Union Pacific sent in a crew on a weekend to pour the sill for the railroad at the south stop gap on the levy and wasn't done evenly. They came back and re-poured the sill properly.

Library Expansion. Met with the Library Board, SFS Architecture, Inc., and Governmental Assistance Services. The hope is to use the City's commitment to the parking lot in order to increase the match for the project. There likely will be some on-site and off-site expenses that need to be identified.

Issues:

Lake Improvements. Visited the proposed swimming area with Govea. Will be working with Rotary to make sure there is zero to minimal maintenance and will fit into the City's project schedule. Also investigating what actions are required from a water quality standpoint.

Trees. Will be removing the dead tree in front of City Hall and several trees at the cemetery. Hopes to find a group to adopt the trees by the railroad track to help pick off bagworms and burn them.

Recycling. The bigger issue will be the yard waste and forestry dump. Staff is working on gates to control access as well as signage. The major concern is illegal dumping at the site and the potential problems that could cause for the City's KDHE burn permit.

De-annexation Request. Carl Sarica of 36530 Plum Creed Road has requested that his property be de-annexed from the City. The City does not provide any services.

Ward Realignment. Hopes to make contact with the Legislative Redistricting Committee to see if they can provide some of their information in a spreadsheet format.

Christmas Festival. Met last week with Tourism Committee Chairman Grady Atwater and Chamber of Commerce Executive Director Shelagh Wright to "reinvent" the Christmas Festival. It will be moved up a week to the Saturday before Thanksgiving.

EXECUTIVE SESSION – PERSONNEL MATTER OF NONELECTED PERSONNEL. Motion made by Hunter, seconded by Maichel at 8:15 p.m. to recess into executive session for personnel matter of nonelected personnel for a period of 10 minutes. Yeas: All. The City Manager and City Attorney were present. Meeting reconvened at 8:27 p.m. No action taken.

Motion made by Hunter, seconded by Govea to adjourn. Yeas: All.

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Ann Elmquist, City Clerk

Osawatomie, Kansas, **September 14, 2011**. The Special Council meeting was held in Memorial Hall. Mayor Dudley called the meeting to order at 7:00 p.m. The purpose of the meeting was to hold a Joint Meeting with the Osawatomie Recreation Commission. Council members present were Dickinson, Govea, Hunter, Klein, Maichel, and Moon. Absent were Farley and LaDuex. Also present were City Manager Cawby and City Attorney Wetzler. The Recreation Commissioners present were Marilyn Cook, Bart Needham, DJ Needham, and Alan Neal. Absent was Joe Booe. Visitors were Ashley Dooley Wohlgemuth, Tricia Meinhold, Richard Alonzo, Troy Dalton, Ryan Crowley, Michelle Maley, Julie Packard, Kelly Callahan, Jamie Dees, Natalie Dempsey, Chrissy Rayl, Jacki Punshon Newcomb, Donna Darner, Chad Jones, Doug Jones, Susan Ellis, Cindy Schwalm, Cindy Govea, Danny Govea, Travis Perry, and Jeff Gulley.

Councilman Farley arrived at 7:02.

APPROVAL OF AGENDA. Motion made by Moon, seconded by Hunter to approve the agenda. Yeas: All.

MAYOR'S COMMENTS. Discussed his reasons for the meeting and letting the emotion of the situation settle down for a couple of weeks before having this discussion.

CHAIRMAN'S COMMENTS. Commission moving forward and has received 25 applications for the Recreation Director position. DJ Needham, Alan Neal and Mark Govea will be conducting interviews.

Motion made by Hunter, seconded by Maichel to adopt the Ground Rules for the meeting. Yeas: All.

CITY MANAGER PRESENTATION. Went over the employment agreement of the Recreation Commission, agreements between the City and Recreation Commission, and Kansas State Statues.

DJ Needham questioned interpretation by the City Manager and budget numbers. Believes the City is responsible to provide financial functions because of "city treasurer" language in statute. Bart Needham noted it will take time for them to take all of the presented information in.

Govea recommended a small group of 2 council members and 2 commissioners along with the City Manager to meet and make recommendations. Moon noted the expenditures by the City in excess of the 4 mills and the amount being over 3 mills. Also noted the City provides another 32,000 to support pool operations. Moon also noted that the City is not interested in doing away with recreation programs

as he has heard from rumors in the community and that they City was interested in retaining good programs but also protecting public tax money. Maichel commented that we should look at moving all of the expenditures under the Commission and questioned if that could be done.

DJ Needham pointed out the Commission needed to know what the City was going to do in the short term to resolve what employment package could be offered to potential recreation directors. Major concerns were salary, benefits, and vehicle. Stated that the Recreation Commission paid for all fuel.

The City Manager responded that he would support keeping the City's commitment on salary and benefits as it currently stands and would forward to the recreation commission an agreement which the City could live with in the short term to allow for the hiring of a new recreation director.

Mayor recommended that it be agreed by consensus that Govea and Farley be representatives of the Council to meet with two Recreation Commissioners, who are yet to be determined, and the City Manager to come up with a permanent resolution to the issue. It was also agreed by consensus that the City Manager would draft an interim agreement to be in effect until a permanent agreement could be reached. The City Manager would provide that to the small group for their consideration and hopefully have it ready for the City Council at their next meeting on the 22nd.

The Mayor recommended to those in attendance that the City would be happy to take written comments on the public's concerns over Recreation programs and these discussions.

Motion made at 8:21 p.m. by Moon, seconded by Maichel to adjourn. Yeas: All.

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Don Cawby, City Manager

Osawatomie, Kansas. **September 22, 2011**. The meeting was cancelled as there was no business to conduct.

Osawatomie, Kansas, **September 28, 2011**. The Special Council meeting was held in Memorial Hall. Mayor Dudley called the meeting to order at 6:30 p.m. The purpose of the meeting was to: Update on Recreation Commission Action, Executive Session – Personnel matters of nonelected personnel, Executive Session – Consultation with City Attorney which would be deemed privileged in the attorney-client relationship, and Motion Concerning the Operation of the Recreation Commission. Council members present were Dickinson, Farley, Govea, Hunter, LaDuex, Maichel, and Moon. Absent was Klein. Also present were City Manager Cawby and City Attorney Wetzler. Visitors were Travis Perry and Jeff Gulley.

UPDATE ON RECREATION COMMISSION ACTION. The Recreation Commission accepted Ron Maring's amended resignation effective September 28. They authorized the City to assume all operational control and the City begin the process of permanently moving the Recreation Commission into a City Parks and Recreation Department and the Recreation Commission would be serving as an advisory board. The City will take over hiring the Recreation Director.

EXECUTIVE SESSION – CONSULTATION WITH CITY ATTORNEY WHICH WOULD BE DEEMED PRIVILEGED IN THE ATTORNEY-CLIENT RELATIONSHIP. Motion made by Hunter, seconded by LaDuex at 8:04 p.m. to recess into executive session for personnel matter of nonelected personnel and consultation with city attorney which would be deemed privileged in the attorney-client relationship for a period of 20 minutes. Yeas: All. The City Manager and City Attorney were present. Meeting reconvened at 7:00 p.m. Motion made by Maichel, seconded by Moon to accept the recommended action of the Recreation Commission and directed the City Manager to draft an ordinance for the City to take over financial control of the Recreation Commission and that the City employees will be under the supervision of the City. Yeas: All.

MOTIONS CONCERNING THE OPERATION OF THE RECREATION COMMISSION. Motion made by Hunter, seconded by Maichel to authorize the City Manager to take over financial control of the Recreation Commission tomorrow until the ordinance setting the rules is drafted. Yeas: All.

Motion made by Maichel, seconded by Moon to adjourn. Yeas: All.

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Ann Elmquist, City Clerk

Record of Ordinances

ORDINANCE NO. 11-17

DATE WARRANTS ISSUED:
September 30, 2011

AN ORDINANCE MAKING APPROPRIATION FOR THE PAYMENT OF CERTAIN CLAIMS.

Be it ordained by the Governing Body of the City of Osawatomie, Kansas

Section 1. That in order to pay the claims hereinafter stated which have been properly audited and approved, there is hereby appropriated out of the respective funds in the city treasury the sum required for each claim.

CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
Payroll			87,257.13
Payroll			98,304.42
FICA			6,351.18
FICA			7,196.19
KPERS			13,151.33
Midwest Distributors	Miller	38372	107.52
Crawford Sales	Budweiser	38373	224.55
Suddenlink	internet	38374	250.75
City of Osawatomie	petty cash reimbursement	1263	4,434.91
City of Osawatomie	utilities	38375	14,399.90
Discover Mid-America	ad for Freedom Festival	38376	188.00
Kansas City Wilbert Vault	grave openings	38377	1,050.00
Kansas One Call Concepts	locates	38378	280.00
Rural Water District #1	service	38379	211.06
Mike Weaver	mowing - Library	38380	30.00
Wilson & Company	levee assessment	38381	28,919.79
Crawford Sales	Budweiser	38382	166.85
Midwest Distributors	Miller	38383	54.79
Postmaster	utility billing	38384	1,500.00
Postmaster	recycling letters	38385	615.56
Void		38386	-
Roger & Valerie Smith	fire insurance proceeds refund	38387	21,863.38
Kerry Alenbernd	entertainment - Freedom Festival	38388	75.00
Beachner Grain, Inc.	pesticides	38389	164.20
Steve Benner	reissued payroll check	38390	443.26
Eric Browning	reissued payroll check	38391	4.23
Happy Faces Entertainment LLC	summer reading winning team prog.	38392	425.00
KMEA EMP1	electricity, transmission	38393	74,118.22
Void		38394	-
L & K Services, Inc.	refuse	38395	30,560.86
Landmark National Bank	golf cart lease	38396	2,178.24
Miami County Internet OnRamp	internet	38397	19.95
Void		38398	-
Michael Moon	reissued payroll check	38399	83.11
Emory Platt	entertainment - Freedom Festival	38400	300.00
Void		38401	-
Ron Radford	entertainment - Freedom Festival	38402	300.00
Rich Raymer	sound system	38403	200.00
Rob Robinson	cannon bounty	38404	200.00
Tim Rues	Lecompton Reenactors - FF	38405	75.00

Record of Ordinances

DATE WARRANTS ISSUED:
September 30, 2011

CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
Suddenlink	internet	38406	79.15
Visa	lodging, misc	38407	1,202.51
Void		38408	-
Brad Waggoner	Pro shop	38409	1,513.96
Jeffery Walmann	reissued payroll check	38410	277.04
Void		38411	-
AT&T	RTU's	38412	221.24
ICC	membership	38413	125.00
Kansas Dept of Revenue	sales tax	38414	13,667.58
Kansas Gas Service	power plant	38415	26.73
KMEA Nearman	electricity	38416	47,887.73
Reserve Account	postage	38417	1,200.00
Ricoh Americas Corp.	maintenance agreement	38418	81.00
Elliott Insurance Inc.	quarterly premium	38419	40,971.00
Kansas City Power & Light	services	38420	2,116.80
Kansas Gas Service	services	38421	325.39
Ricoh Americas Corp.	copier lease	38422	289.00
Service First Cleaning	strip & wax floors - MH	38423	263.25
Suddenlink	internet	38424	59.95
Crawford Sales	Budweiser	38425	164.95
Midwest Distributors	Miller	38426	80.64
Grady Atwater	lodging, mileage	38427	1,198.81
Bradley A/C & Heating	labor, repairs on A/C	38428	358.01
CenturyLink	RTU's	38429	236.56
CenturyLink	services	38430	2,274.78
CenturyLink	long distance	38431	367.47
Coventry	health insurance	38432	31,708.02
Brianna Crain	Council scholarship	38433	250.00
Delta Dental	dental insurance	38434	3,673.59
Elliott Insurance Inc.	notary bond - Cannon	38435	115.00
First Option Bank	loan - Golf Course	38436	19,692.82
Gowing's Construction, LLC	leveled rock & dirt - Power Plant	38437	945.00
KMEA GRDA	electricity	38438	69,252.19
KMEA - Hydro	hydroelectric	38439	2,595.62
Lybarger Oil, Inc.	fuel	38440	6,869.88
Midway Ford	bucket truck repairs	38441	1,035.99
Osa Chamber of Commerce	membership program, appropriation	38442	20,000.00
Pitney Bowes	postage meter lease	38443	299.00
Sprint	service	38444	29.93
Suddenlink	internet	38445	119.90
Vision Service Plan	vision insurance	38446	1,147.82
Wal-Mart Community	supplies	38447	172.53
City of Osawatomie	petty cash reimbursement	1264	4,761.52
			673,361.74

Record of Ordinances

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September 30, 2011

CLAIMANT		NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
GO	196,619.43			
WT	32,823.45			
EL	276,749.20			
Emp Bn	47,482.12			
Refuse	31,851.42			
Rec	4,308.35			
RF	3,656.53			
Ind	53.94			
St Imp	3,879.53			
Fire Ins	21,863.38			
Sewer	13,368.63			
GC	37,987.42			
Trsm	2,718.34			
	673,361.74			

Record of Ordinances

ORDINANCE NO. 11-18

DATE WARRANTS ISSUED:
October 13, 2011

AN ORDINANCE MAKING APPROPRIATION FOR THE PAYMENT OF CERTAIN CLAIMS.

Be it ordained by the Governing Body of the City of Osawatomie, Kansas

Section 1. That in order to pay the claims hereinafter stated which have been properly audited and approved, there is hereby appropriated out of the respective funds in the city treasury the sum required for each claim.

CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
ACS Firehouse Software	FH support contract renewal	38448	625.00
Agrium Advanced Technologies	chemicals	38449	290.00
Airgas Mid South, Inc.	oxygen cylinder	38450	79.14
Altec Parts	ground assy.	38451	265.99
Analytical Services, Inc.	analytical service	38452	428.60
Altla Pen & Pencil Corp.	golf pencils	38453	283.70
Baker & Taylor	books	38454	1,398.75
Bearing Headquarters Co.	parts for basin repair	38455	27,422.85
Beckman Ford, Inc.	throttle, labor	38456	460.38
BG Consultants, Inc.	street improvements	38457	4,809.08
Board of Police Commissioners	alert system user charges	38458	21.64
Bollings Bargain Bonanza	clips	38459	3.00
Bowes Automotive Products	filters	38460	25.70
Brenntag Mid-South, Inc.	chemicals	38461	7,681.37
Brewers Automotive Repair	batteries, tow	38462	249.94
Bridgewell Resources	poles	38463	8,188.97
C & G Merchants Supply, Inc.	paper goods, snacks	38464	396.26
Champion Brands, LLC	shop supplies	38465	889.56
CleanHarbors Env. Services	disposal of PCB's	38466	870.95
CMI, Inc.	fuel regulator	38467	112.99
Coleman Equipment, Inc.	coil assy., dust cover	38468	140.59
Conrad Fire Equipment, Inc.	skull saver	38469	168.22
Crash Technology Group	virus, City Manager set up	38470	960.00
Cross-Midwest Tire Co.	tires	38471	460.00
Dell Marketing LP	toner cartridge	38472	152.99
Demco	protectors, craft paper	38473	104.97
Donna & Viola's Shirts	City logo on shirts	38474	144.00
Employee Screening Services	drug testing	38475	218.40
Environmental Compliance Solutions	PCB compliance audit	38476	750.00
Environmental Laboratories, Inc.	analytical service	38477	217.00
Evco Wholesale Food Corp.	gatorade, hot dogs	38478	350.03
Extreme Collision & Custom	bedline chain cover	38479	250.00
Void		38480	-
Family Center	batteries, supplies	38481	799.78
Farwest Line Specialties	carhartt shirts	38482	828.72
Fastenal Company	parts for water meter	38483	48.00
First Place Trophies	City Manager plaque	38484	10.00
Richard M. Fisher, Jr. LLC	court appointed attorney	38485	925.00
Galls	gear bag, clipboard	38486	93.61
Gerken Rental	portable restrooms	38487	683.00

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CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
Grainger	hoist control	38488	98.60
Grass Pad, Inc.	bluegrass sod	38489	28.75
Graybar	connectors	38490	632.53
Greeley Farm Implement Co.	parts for seeder	38491	280.51
Hach Company	water testing chemicals	38492	159.85
Hanes Florist & Greenhouse	plants	38493	173.50
HD Waterworks	water meter	38494	763.72
Helena Chemical Co.	pesticides, fertilizer	38495	840.10
Holderman Printing	business cards	38496	84.00
Holliday Sand & Gravel	sand	38497	155.32
Inland Truck Parts & Service	hose, couplings	38498	54.73
JMK Sports	golf cards	38499	62.58
John Deere Landscapes	belts	38500	56.65
KACM	membership	38501	70.00
KDHE	certification	38502	20.00
Kansas Municipal Utilities	lineman apprenticeship	38503	500.00
Kansas One Call Concepts	locates	38504	247.80
Kansas State Treasurer	training funds	38505	633.50
Kansas State University	soil test	38506	8.00
Killough Construction, Inc.	asphalt	38507	7,572.05
Kincaid Ready Mix	concrete	38508	2,678.63
Void		38509	-
Kriz-Davis Co.	electric line supplies	38510	6,757.52
Landmark Inn	lodging - performer for FF	38511	121.30
League of Kansas Municipalities	conference, ad, handbooks	38512	933.93
Logan Contractors Supply, Inc.	water cooler	38513	29.95
Martin Pringle Attorneys	poles	38514	6,829.10
S.D. Meyers, Inc.	transformer oil test	38515	840.00
Miami County	Northland site study	38516	1,250.00
Miami County Register of Deeds	plate copies	38517	6.00
Miami County Sheriff's Office	prisoner care Aug. Sept.	38518	2,595.72
Miami County Solid Waste	Christmas in Ocotber	38519	190.56
Mid American Signal, Inc.	parts for traffic signal	38520	336.00
Mississippi Lime	hydrated lime	38521	1,792.20
Void		38522	-
Void		38523	-
Moon's IGA	supplies	38524	550.96
National Sign Company, Inc.	marking paint	38525	131.90
Navrat's Office Products	labels, ink cartridge	38526	22.75
NEKLS	thermal rolls, cleaning cloth	38527	19.00
Void		38528	-
Void		38529	-
Nicholson Law Office, LC	court appointed attorney	38530	640.00
NPG Newspapers	ads	38531	620.00
O'Reilly Auto Parts	parts	38532	16.48

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CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
Oil Patch	brass tee, coupling	38533	21.64
Olathe Winwater Works	water line parts	38534	440.55
Onyx Valve Co.	smart box, parts	38535	1,318.66
Osawatomie Journal	ads	38536	363.45
Paola Hardware	fittings	38537	108.35
Pepsi	pepsi	38538	235.38
Praxair Distribution Inc.	acetylene, oxygen	38539	363.73
Quill	supplies	38540	187.35
RMI Golf Carts	golf cart rental	38541	1,920.00
Read It Free	ads	38542	152.50
Red Bud Supply, Inc.	gloves	38543	168.59
Rejis Commission	subscription	38544	30.00
Ron's Small Engine, Inc.	chain saw chains	38545	41.20
Royal Metal Industries, Inc.	pipe - recycle program	38546	95.00
Ruan Logistics Corp.	freight for lime	38547	1,449.52
Rural Water District #1	service	38548	156.50
Rural Water District #3	ETI	38549	16.50
SFS Architecture	Library addition	38550	2,317.88
Sherwin-Williams	paint	38551	419.96
T & R Electric	pole mount transformer	38552	1,800.00
Debbie Talley	Memorial Hall Janitorial	38553	375.00
TFMComm, Inc.	antenna	38554	77.00
Thomas Outdoor Advertising, Inc.	John Brown billboard	38555	540.00
Thompson Pump	hose for pump	38556	2,380.42
Tri County Ice	ice machine	38557	50.00
Turfwerks	decoders	38558	505.35
University of Kansas	registration fees	38559	50.00
UZ Engineered Products	parts	38560	233.98
Viking Industrial Supply	paper goods, trash bags	38561	312.90
Wade Quarries	rock	38562	1,703.68
Wallis Lubricant LLC	grease	38563	52.99
Mike Weaver	mowing - Library	38564	60.00
Westfall GMC Truck, Inc.	bumper, spring	38565	107.68
Wilson & Company	levee assessment	38566	14,443.35
John A. Wilson	court appointed attorney	38567	100.00
Winfield Solutions	pesticides	38568	690.00
Winkler, Domoney & Schultz	Municipal Court Judge	38569	2,000.00
Void		38570	-
Winterscheid Auto Parts	parts	38571	591.04
Wycoff's Locksmithing	rekey Rec office	38572	91.50
YMCA	City share wellness programs	38573	37.50
Zep Sales & Service	wasp spray, hand soap	38574	157.00
			136,778.52

Record of Ordinances

DATE WARRANTS ISSUED:
October 13, 2011

CLAIMANT		NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
GO	37,020.99			
WT	44,354.22			
EL	23,969.99			
Refuse	312.87			
Lib	2,317.88			
Ind	1,266.50			
Sp Pks	91.50			
St Imp	14,661.30			
Sewer	4,816.64			
GC	6,202.33			
Trsm	1,764.30			
	136,778.52			

City of Osawatomie
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Osawatomie City Hall
439 Main Street • PO Box 37
Osawatomie, KS 66064
Phone: (913)755-2146
Fax: (913)755-4164

STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 13, 2011

AGENDA ITEM: **CDBG Grant Application for the Library**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: The Osawatomie Public Library is applying for a Community Block Development Grant (CDBG) grant for the Phase Two improvements to its facility. Governmental Assistance Services (GAS) from Lawrence, Kansas is the grant writer and administrator of the project for the Library on this grant application. SFS Architecture from Kansas City Missouri, is the architect and project design leader.

The State of Kansas requires all CDBG applicants to hold a public hearing prior to turning in applications. A notice was placed in the Osawatomie Journal advising the public of the hearing and the project. A copy of the actual notice is attached.

Generally, the project budget for Phase Two is as follows:

Construction	$ 432,666
Furnishings, AV & Equipment	40,000
Special Inspections	2,000
GAS Administration Fee	20,000
Architect and Engineering Fees	51,580
Total	$ 546,346

Funding for the project would be as follows:

CDBG Grant	$ 400,000
Library Donations	100,000
City – Parking Lot	33,644
Library Operation Funds	12,702
Total	$ 546,346

A representative of GAS will attend the public hearing to answer any questions and explain the project, the resolutions that need to be adopted and the documents that need to be signed.

COUNCIL ACTION NEEDED: The City Council will need to pass two resolutions to approve the grant application. The first resolution authorizes the mayor to apply for the grant and states the local matching funds that will be provided. The second resolution assures the library's operation and maintenance cost will be budgeted. Upon the approval of these two resolutions, the mayor will need to sign the documents that are included in this packet.

STAFF RECOMMENDATION TO COUNCIL: Review the assurances being provided by the City prior to approval of the resolution and application.

Legal Notice

Community Improvement Application Public Hearing Notice
(Published in the Sept. 28 edition of the Osawatomie Journal)

The city of Osawatomie, KS will hold a public hearing on Thursday, October 13th, 2011, at 7pm, in the city hall, for the purpose of considering an application to be submitted to the Kansas Department of Commerce for Small Cities Community Development Block Grant funds under the Community Facilities category. A specific project application to be discussed is a Phase Two Library Expansion & Renovation Project in the area generally bounded by the city limits of Osawatomie, KS. Specific project activities will include but are not limited to the construction of a 2,200 square foot addition to the south of the existing building which will provide a reading room, a 'Kansas Room', and a meeting room, the acquisition of adjacent property to the south to provide 16 additional parking spaces, and other interior renovations. The estimated total project cost is approximately $550,000 with the grant request for $400,000 of the project cost. Other project proposals introduced at the hearing will be considered. Oral and written comments will be recorded and become part of Osawatomie CDBG Citizen Participation Plan. Reasonable accommodations will be made available to persons with disabilities. Requests should be submitted to the city clerk (913.755.2146) by October 12th, 2011.

THE CITY/COUNTY OF Osawatomie, KANSAS

RESOLUTION NO. _____

RESOLUTION CERTIFYING LEGAL AUTHORITY
TO APPLY FOR THE 2012 KANSAS
SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
FROM THE KANSAS DEPARTMENT OF COMMERCE
AND AUTHORIZING THE MAYOR/COMMISSIONER
TO SIGN AND SUBMIT SUCH AN APPLICATION

WHEREAS, The City/County of Osawatomie, Kansas, is a legal governmental entity as provided by the laws of the STATE OF KANSAS, and

WHEREAS, The City/County of Osawatomie, Kansas, intends to submit an application for assistance from the 2012 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

THE APPLICANT hereby certifies that the City/County of Osawatomie, Kansas, is a legal governmental entity under the status of the laws of the STATE OF KANSAS and thereby has the authority to apply for assistance from the 2012 KANSAS SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

THE APPLICANT hereby authorizes the MAYOR/COMMISSIONER of Osawatomie, Kansas, to act as the applicant's official representative in signing and submitting an application for the assistance to the 2012 COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM.

THE APPLICANT hereby dedicates $146,346 in cash funds toward this project and $-0- in force account labor for same.

APPROVED BY THE GOVERNING BODY OF THE CITY/COUNTY OF Osawatomie, KANSAS, this 13th day of October, 2011.

APPROVED _____
MAYOR/COMMISSIONER

ATTEST _____

(SEAL)

THE CITY/COUNTY OF Osawatomie, KANSAS

CITY/COUNTY OF Osawatomie, KANSAS

RESOLUTION NO. _____

A RESOLUTION ASSURING THE KANSAS DEPARTMENT OF COMMERCE THAT FUNDS WILL BE CONTINUALLY PROVIDED FOR THE OPERATION AND MAINTENANCE OF IMPROVEMENTS TO THE Library SYSTEM TO BE FINANCED WITH COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

WHEREAS, The City/County of Osawatomie is applying for Small Cities Community Development Block Grant funds under the Community Improvement Category, as administered by the Kansas Department of Commerce; and,

WHEREAS, The City/County of Osawatomie wishes to utilize this funding for the purpose of constructing improvements to the city's/county's Library system, as described in the Community Development Block Grant application submitted to the Kansas Department of Commerce; and,

WHEREAS, The City/County of Osawatomie has determined that the annual operation and maintenance costs of the Library system improvements are anticipated to be approximately $125,000; and,

WHEREAS, The annual Library budget has been determined to be adequate to fund the operation and maintenance of the Library system,

NOW, THEREFORE, BE IT RESOLVED THAT: The Governing Body of the City/County of Osawatomie, Kansas, hereby assures the Kansas Department of Commerce that sufficient funds will be provided for the continued operation and maintenance of the above described improvement; that these operation and maintenance costs will be reviewed annually; and that the budget will be adjusted, when necessary, to reflect and cover any increase in costs.

ADOPTED BY THE GOVERNING BODY OF THE CITY/COUNTY OF Osawatomie, KANSAS THIS 13th DAY OF October, 2011.

ATTEST:

_____
MAYOR/COMMISSIONER

_____
CITY CLERK/COUNTY CLERK

(SEAL)

(Minimum required by all applicants for funding – must be submitted with application)

Residential Anti-displacement and Relocation Assistance Plan
under Section 104(d) of the
Housing and Community Development Act of 1974, as Amended

The [jurisdiction] City/County will replace all occupied and vacant occupiable low- and moderate-income dwelling units demolished or converted to a use other than as low- moderate-income housing as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended, as described in 24 CFR Part 570.488.

All replacement housing will be provided within three years of the commencement of the demolition or rehabilitation relating to conversion. Before obligating or expending funds that will directly result in such demolition or conversion, the [jurisdiction] City/County will make public and submit to the Kansas Department of Commerce the following information in writing:

1. A description of the proposed assisted activity;

2. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low- and moderate-income dwelling units as a direct result of the assisted activity;

3. A time schedule for the commencement and completion of the demolition or conversion;

4. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as Section 104(d) replacement dwelling units;

5. The source of funding and a time schedule for the provision of Section 104(d) replacement dwelling units; and

6. The basis for concluding that each Section 104 (d) replacement dwelling unit will remain a low- and moderate-income dwelling unit for at least ten years from the date of initial occupancy.

The [jurisdiction] City/County will provide relocation assistance, as described in Section 570.488 to each low- and moderate-income household displaced by the demolition of housing or by the conversion of a low- and moderate-income dwelling to another use as a direct result of assisted activities.

Consistent with the goals and objectives of activities assisted under the act, the [jurisdiction] City/County will take the following steps to minimize the displacement of persons from their homes:

Based on initial review of project, the following occupied dwellings (by address) will be demolished with grant funds;

(should contain proposed demolitions)

Demolition will not be part of this project.

As chief elected official of [jurisdiction] City/County, I hereby certify that the above plan was officially adopted by [jurisdiction] City/County of Osawatomie on the 13th day of October, 2011.

Date: _____ Signature – Chief Elected Official: _____

STATEMENT OF ASSURANCES AND CERTIFICATIONS

The applicant hereby assures and certifies with respect to the grant that:

(1) It possesses legal authority to make a grant submission and to execute a community development and housing program.

(2) Its governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the grantee to submit the final statement, all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the grantee to act in connection with the submission of the final statement and to provide such additional information as may be required.

(3) Prior to submission of its application to Commerce, the grantee has met the citizen participation requirements, prepared its application of community development objectives and projected use of funds, and made the application available to the public, as required by Section 104(a)(2) of the Housing and Community Development Act of 1974, as amended, and implemented at 24 CFR 570.486.

(4) It has developed its final statement (application) of projected use of funds so as to give maximum feasible priority to activities which benefit low- and moderate-income families or aid in the prevention or elimination of slums or blight; the final statement (application) of projected use of funds may also include activities that the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available.

(5) Its chief executive officer or other officer of the grantee approved by Commerce:

- (a) Consents to assume the status of a responsible federal official under the National Environmental Policy Act of 1969 and other provisions of federal law as specified in 24 CFR 58.1(a);
- (b) Is authorized and consents on behalf of the grantee and himself/herself to accept the jurisdiction of the federal courts for the purpose of enforcement of his/her responsibilities as such an official; and

(6) The grant will be conducted and administered in compliance with the following federal and state regulations (see Appendix A: Applicable Laws and Regulations):

(a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), and implementing regulations issued at 24 CFR Part 1:

(b) Fair Housing Amendments Act of 1988, as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing; and will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing, and the provision of brokerage services;

(c) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto (24 CFR Section 570.602);

(d) Section 3 of the Housing and Urban Development Act of 1968, as amended; and implementing regulations at 24 CFR Part 135;

(e) Executive Order 11246, as amended by Executive Orders 11375 and 12086 and implementing regulations issued at 41 CFR Chapter 60;

(f) Executive Order 11063, as amended by Executive Order 12259 and implementing regulations at 24 CFR Part 107;

(g) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended and implementing regulations when published for effect;

(h) The Age Discrimination Act of 1975, as amended, (Pub. L. 94-135), and implementing regulations when published for effect;

(i) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the implementing regulations at 24 CFR 570.488;

(j) Anti-displacement and relocation plan requirements of Section 104(d) of Title I, Housing and Community Development Act of 1974, as amended:

(k) Relocation payment requirements of Section 105(a)(11) of Title I, Housing and Community Development Act of 1974, as amended.

(l) The labor standards requirements as set forth in 24 CFR 570.603 and HUD regulations issued to implement such requirements;

(m) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control, and abatement of water pollution;

(n) The regulations, policies, guidelines and requirements of OMB Circular Nos. A-87, A-110 and A-122 as they relate to the acceptance and use of federal funds under this federally assisted program;

(o) The American Disabilities Act (ADA) (P.L. 101-336: 42 U.S.C. 12101) provides disabled people access to employment, public accommodations, public services, transportation, and telecommunications;

(7) The conflict of interest provisions of 24 CFR 570.489 apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the state, or of a unit of general local government, or of any designated public agencies, or sub recipients which are receiving CDBG funds. None of these persons may obtain a financial interest or benefit from the activity, or have an interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter, and that it shall incorporate or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purpose of this certification;

(8) It will comply with the provisions of the Hatch Act that limits the political activity of employee;

(9) It will give the state, HUD, and the Comptroller General or any authorized representative access to and the right to examine all records, books, papers, or documents related to the grant;

(10) It will comply with the lead-based paint requirements of 24 CFR Part 35 Subpart B issued pursuant to the Lead-Based Paint Hazard Elimination Act (42 U.S.C. 4801 et seq.).

(11) The local government will not attempt to recover any capital costs of public improvements assisted in whole or in part with CDBG funds by assessing properties owned and occupied by low- and moderate-income persons unless: (a) CDBG funds are used to pay the proportion of such assessment that relates to non CDBG funding or; (b) the local government certifies to the state that, for the purposes of assessing properties owned and occupied by low- and moderate-income persons who are not very low-income, that the local government does not have sufficient CDBG funds to comply with the provision of (a) above.

(12) It accepts the terms, conditions, selection criteria, and procedures established by this program description and that it waives any right it may have to challenge the legitimacy and the propriety of these terms, conditions, criteria, and procedures in the event that its application is not selected for CDBG funding.

(13) It will comply with the regulations, policies, guidelines, and requirements with respect to the acceptance and use of federal funds for this federally assisted program.

(14) It will comply with all parts of Title I of the Housing and Community Development Act of 1974, as amended, which have not been cited previously as well as with other applicable laws.

The applicant hereby certifies that it will comply with the above stated assurances.

	Philip A. Dudley
Signature, Chief Elected Official	Name (typed or printed)
Mayor	
Title	Date

To Whom It May Concern:

As Chief Elected Official of the City/County of Osawatomie, I hereby certify that I have knowledge of all activities in the above-referenced application. I also certify that I am aware that the regulations of the CDBG program prevent the use of any facility built or rehabilitated with CDBG funds, or any portion thereof, to be used for the conduct of official business. I therefore certify that no portion of the above application violates this regulation.

Mayor/County Commission

ATTEST:

City/County Clerk

Kansas Department of Commerce

Applicant/Recipient Disclosure/Update Report

Instructions in General Application Requirements or Grantee Handbook

Applicant/Recipient Information Indicate whether this is an Initial Report ☒ or an Update Report ☐

1. Applicant/Recipient Name, Address, and Phone (include area code):	2. Social Security Number or Employer ID Number:
City of Osawatomie 439 Main St PO Box 37 Osawatomie, KS 66064 (913) 755-2146	
3. CDBG Grant Number:	4. Amount of HUD Assistance Requested/Received $400,000.00

5. State the name and location (street address, City and State) of the project or activity:
439 Main St PO Box 37 Osawatomie, KS 66064

Part I Threshold Determinations.

1. Are you applying for assistance for a specific project or activity?	2. Have you received or do you expect to receive assistance, involving the project or activity in this application, in excess of $200,000 during this fiscal year.
☒ Yes ☐ No	☒ Yes ☐ No

If you answered "**No**" to either question 1 or 2, **Stop!** You do not need to complete the remainder of this form.
However, you must sign the certification at the end of the report.

Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan subsidy, guarantee, insurance, payment, credit, or tax benefit.

Department/State/Local Agency Name and Address	Type of Assistance	Amount Requested/Provided	Expected Uses of the Funds
CDBG	Grant	$400,000.00	Construction
Local Funds	Cash	$146,346.00	Construction, Arch, admin

(Note: Use Additional pages if necessary.)

Part III Interested Parties. You must disclose:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. Any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first)	Social Security No. or Employee ID No.	Type of Participation in Project/Activity	Financial Interest in Project/Activity ($ and %)
G.A.S.	48-1046945	Administration	$20,000 / 3.8%
SFS Architecture		Architectual Design/Inspection	$53,680 / 9.8%

(Note: Use Additional pages if necessary.)

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.
I certify that this information is true and complete.

Signature:	Date: (mm/dd/yyyy)
X	10/13/2011

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 13, 2011

AGENDA ITEM: **Payment Request No. 12 for Brown and Pacific Project**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: This request is to pay for work submitted in September. After this payment, we will still have approximately $520,000 to pay out to the contractor out of the bid price of just under $935,000. We will still have some inspection, engineering and CDBG administrator costs on top of that as well. Our estimate is still around $1.1 million for the project and we are now at the stage where we are spending our own funds on the project which will be reimbursed by a USDA Rural Development loan.

COUNCIL ACTION NEEDED: Approve the payment request.

STAFF RECOMMENDATION TO COUNCIL: Approve the payment.

CITY OF OSAWATOMIE
439 Main Street
PO Box 37
Osawatomie, KS 66064
913-755-2146

PACIFIC, 14TH, BROWN STREETS PROJECT

CDBG GRANT # 10-PF-045
PAYMENT REQUEST
October 13, 2011
Payment Request No. 12

Claimant	Description	Document Number	Amount
Governmental Assistance Services 905 Joseph Drive Lawrence, KS 66049	administration	9/30/11	$ 1,308.20
BG Consultants 4806 Vue Du Lac Place Manhattan, KS 66503	design services	9/14/11	$ 978.00
BG Consultants 4806 Vue Du Lac Place Manhattan, KS 66503	inspector	9/14/11	$ 3,831.08
Orr Wyatt Streetscapes 9812 E 56th Street Raytown, MO 64133-2804	construction	App #3	$ 139,887.00
	TOTAL		$ 146,004.28

Approved by the Osawatomie City Council this 13th day of October, 2011 contingent upon approval by the funding agencies.

Philip A. Dudley, Mayor

CITY OF OSAWATOMIE
439 Main Street
PO Box 37
Osawatomie, KS 66064
913-755-2146

PACIFIC, 14TH, BROWN STREETS PROJECT
CDBG GRANT # 10-PF-045
PAYMENT REQUESTS — PROJECT-TO-DATE
October 13, 2011

Claimant	Description	#12 (10/13/11) Document Number	#12 (10/13/11) Amount	To-Date TOTALS
GAS	administration	9/30/11	$ 1,308.20	$ 12,134.52
BG Consultants	engineering design	9/14/11	$ 978.00	$ 25,496.00
	inspection	9/14/11	$ 3,831.08	$ 8,741.33
	survey work			$ 1,960.50
	easement descriptions			$ 5,830.75
	design/easement change			$ -
Orr Wyatt Construction	construction	App #3	$ 139,887.00	$ 413,702.64
	TOTALS	——	$ 146,004.28	**$ 468,750.24**

468,750.24

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 13, 2011

AGENDA ITEM: **Animals at the Sports Complex**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: The Council, at the request of the Recreation Commission, asked staff to draft an ordinance concerning pets, specifically dogs, at the sports complex. Upon review of the issue, City staff is recommending the following:

1. Prohibit all animals at the sports complex an hour before to an hour after scheduled games or events.
2. Dogs and cats could be at the sports complex for walking when there are no games or practices, subject to the first rule.
3. Prohibit any animals from being on the fenced ball diamond areas at the sports complex.
4. Require all pets to be on leashes when at the complex.
5. Make pet owners responsible for any actions, injury or damage caused by the pets when at the complex.
6. Require pet owners to pick up any waste left by an animal at the complex or on any public property.

Under this ordinance, owners could walk their pets at the sports complex in the non-field areas of the complex, as long as they clean up after them. Also, the owners would be able to take their pets to the fields during practices or other, low usage times, but not during events when there are larger crowds.

COUNCIL ACTION NEEDED: Review, discussion and possible action.

STAFF RECOMMENDATION TO COUNCIL: Review and seek consensus, but hold the ordinance for two weeks before passage to allow public feedback on the issue.

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 13, 2011

AGENDA ITEM: **Smoking at the Sports Complex**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: Upon the request of the Recreation Commission the City Council was asked to look at prohibiting smoking at the sports complex. While looking at the multiple ways in which to approach this issue, staff recommends a very specific approach. While there might be some merit to passing a broader ordinance which covers all outdoor sports facilities, the lists of exceptions and other possibilities becomes so difficult that a more focused ordinance in this circumstance is deemed the best option.

The staff recommends an ordinance which specifically would prohibit smoking at the sports complex. Staff also recommends defining the sports complex so that it does not include the parking lot area, which would allow for a smoking area for visitors to the facility.

Of course, under current Kansas law, smoking is prohibited in all indoor sports facilities under the Kansas Indoor Clean Air Act.

COUNCIL ACTION NEEDED: Review and discuss the proposed resolution.

STAFF RECOMMENDATION TO COUNCIL: Approve the ordinance and direct the City Manager to create and place appropriate signage at the sports complex.

Proclamation

Issued by the Mayor of Osawatomie

WHEREAS, the more than 2.5 million breast cancer survivors living in the United States today are a testament to the importance of promoting awareness about breast cancer, providing information, funding research, following recommended screening guidelines, and offering treatment to those who are affected; and

WHEREAS, breast cancer affects both women and men. Although breast cancer is the most commonly diagnosed cancer among women in the United States, an estimated 2,140 new cases of invasive breast cancer will be diagnosed among men; and

WHEREAS, breast cancer is the most commonly diagnosed cancer among women in the United States. A woman receives a diagnosis of breast cancer every three minutes and a woman will die of breast cancer every 13 minutes; and

WHEREAS, an estimated 232,620 new cases of invasive breast cancer are expected to occur among women in the United States this year; and

WHEREAS, every woman is at risk for breast cancer even if she has no family history or other risk factors of the disease, affecting 1 in 8 women during their lives; and

WHEREAS, early detection can be an extremely effective tool through patient awareness and routine mammography screening allowing patients great treatment options and improved chances for successful treatment. There is a 98% survival rate through early detection and treatment; and

WHEREAS, through research and advocacy, significant advances have been made in the fight against breast cancer; and

WHEREAS, National Breast Cancer Awareness Month is a platform for educating women about the importance of early detection of breast cancer through mammography and other methods; and

NOW, THEREFORE, I, Philip A. Dudley, Mayor of the City of Osawatomie, do hereby proclaim the month of October, 2010 as

National Breast Cancer Awareness Month

in Osawatomie, and encourage all women and men in the City of Osawatomie and surrounding community to become aware of their risk and ways to reduce it. I further encourage all women take preventative measures, follow the recommended examinations and screening schedule, and discuss any concerns with their health care providers.

PROCLAIMED this 13th day of October, 2011.

_____

Philip A. Dudley, Mayor

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 13, 2011

AGENDA ITEM: **All For You Event – Use of John Brown Park**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: Philip Slater has requested use of John Brown Park on Saturday June 30th, 2012 from 3 to 10 p.m. for the All For You event. The event is a Christian-themed praise and family celebration event which includes a non-commercial fireworks display. Once the use of the park is approved by the Council, Philip and the event planners will move forward with getting insurance for the event.

For events, the City will require a copy of the proof of insurance for the event.

COUNCIL ACTION NEEDED: Approve or disapprove the requested action.

STAFF RECOMMENDATION TO COUNCIL: No recommendation. If approved, it should be subject to proof of insurance being provided to the CIty.

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 13, 2011

AGENDA ITEM: **De-Annexation**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: Mr. Carl Sarica of 36530 Plum Creek Road has requested that his property be de-annexed from the City. It appears that the property was brought into the City as part of an island annexation in 1997 (Ordinance 3430) to allow the city manager's residence to be in the city limits. The city does not provide any services to the site, but it has since been connected to the city through the annexation of the US-169 corridor.

Mr. Sarica will be asked to come state his case in reference to his property. I have attached a copy of the survey of his property to this memo.

COUNCIL ACTION NEEDED: Review, discussion and possible action.

STAFF RECOMMENDATION TO COUNCIL: No recommendation.

36100
Creek Rd
36618
169
7

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 13, 2011

AGENDA ITEM: **Special Event Cereal Malt Beverage Permits**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: During the past Legislative session, the state passed Senate Bill 80, which allows cities and counties to issue special event Cereal Malt Beverage (CMB) permits for the duration of an event. Vendors are limited to no more than four special events permits in a one-year period.

The attached ordinance levies a fee of $50 per day for each special permit, in addition to the Kansas Division of Alcoholic Beverage Control (ABC) fee of $25. The statute requires the city's fee to be between $25 and $200. The recommended $50 fee is equal to the fee for a temporary liquor license.

The ordinance requires the permit to be acquired 30 days in advance of the event, prohibits the serving of CMB between the hours of midnight and 6:00 a.m., and will generally require the permit holder comply with other state and local laws and regulations applicable to the serving and consumption of CMB.

COUNCIL ACTION NEEDED: Vote on the proposed ordinance.

STAFF RECOMMENDATION TO COUNCIL: Approve the ordinance.

City of Osawatomie
www.osawatomieks.org

Osawatomie City Hall
439 Main Street • PO Box 37
Osawatomie, KS 66064
Phone: (913)755-2146
Fax: (913)755-4164

STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 13, 2011

AGENDA ITEM: **Future Engineering Work**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: The mayor has requested a discussion of the next round of engineering work which should be done. Currently, we have plans for the replacement of Brown Ave from 16th-18th already developed. According to the Capital Improvement Plan here are the street and utility projects that have been identified for the next 5 years.

2012
Water Main and Valves on Main St. from 14th to 18th
Water Main and Valves on Reed from 4th to 6th

2013
Streets/Curb/Storm Sewer on Brown from 16th to 18th – **Already Engineered**
Streets/Curb/Storm Sewer on 8th & 9th from Main to Pacific
Water Main and valves on Walnut from 1st to 3rd
Replace Electric Lines from 16th to 18th between Main and Parker (Underground)

2014
Water Main & Valves on Reed from 3rd to 4th
Streets/Curb/Storm Sewer on Pacific from 1st to 6th and on Brown from 7th to 12th
Replace Electric Lines on Brown from 16th to 18th (Underground)

2015
Streets/Curb/Storm Sewer on Main Street from 1st to 12th
Replace Electric Lines on Main from 16th to 18th (Underground)

2016
Replace Electric Lines on Lockhart Lane (Underground)

COUNCIL ACTION NEEDED: Discussion and direction for staff.

STAFF RECOMMENDATION TO COUNCIL: No recommendation.

Osawatomie Fire Department

Fighting Fire Since 1896

Fire Department Activity Report for time frame of 10/2 to 10/8/11. Prepared by Chief Tewes.

Calls For Service:

10/4/11 – 38310 Bethel Church: Landing zone for Lifeflight. Cancelled enroute.

10/5/11 – 363rd and Hedge (Fontana Station): Report of a grass fire. Unfounded.

10/6/11 – 1725 Main St. Terr: Assist EMS with moving a patient.

10/6/11 – 351st & Indianapolis: Trash fire. Extinguished.

Training:

10/3/11: 10 Staff members attended EMT Transition class.

Public Relations:

10/8/11: Open House conducted at the Fontana Station. MICO EMS was also present for short time.

Upcoming Activity:

EMT Transition Continues 10/10/11

Fire Safety presentations at Swenson School 10/11/11

Fire Safety presentation at Trojan Elementary 10/12/11

Osawatomie Station Open House, Saturday 10/15/11 10am to 2pm

If Prometheus was worthy of the wrath of heaven for kindling the first fire upon earth,
how ought all the Gods to honour the men and women who make it their professional business to put it out?
-John Godfrey Saxe, circa 1850

OSAWATOMIE CITY COUNCIL

WORK SESSION / MEETING AGENDA

October 27, 2011

7:00 p.m., Memorial Hall

WORK SESSION

A. Call to Order

B. Roll Call

C. Work Session Items
   1. Christmas Lights
   2. Housing Committee
   3. Future Streets Engineering Work

D. Adjournment of Work Session

REGULAR MEETING – **7:30 p.m.**

E. Call to Order

F. Roll Call

G. Approval of Agenda

H. Council Items
   1. Approve Invoice(s) for Pacific, 14th, Brown Streets Project – Request No. 13
   2. Ordinance to Approve Special Use Permit to Penwell-Gabel Funeral Home to Operate a Funeral Home at O'Neal Street and 500 E. Mill Street
   3. Ordinance Prohibiting Dogs at the Sports Complex
   4. Ordinance Prohibiting Smoking at the Sports Complex
   5. Ordinance Approving Regulations for Temporary Special Event CMB Permits
   6. Resolution of Intent to Create a City Parks and Recreation Department
   7. L & K Services Contract Changes
   8. Communication to Miami County Commission on Mill Street Bridge
   9. Discuss Legislative Agenda and Items to Present at the Miami County Elected Officials Dinner

I. Adjournment of Regular Meeting

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 27, 2011

AGENDA ITEM: **Christmas Lights**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: I asked that this item be put on the work session for discussion. I was given the name of Tim Renfro, with Knight Lighter, a Christmas Light company out of Louisburg. Tim does the lights at First Option Bank. Knight Lighter will put up and take down Christmas lights for individual companies or whole downtowns. There would be a one-time charge for the lights and then an annual charge for putting up and taking down.

The bid I received for purchasing the lights was $6,048 for 2,200 feet of white LED lights that would run across the tops of the buildings on Main Street. The lights would run from the Elks to the tracks on the north and from City Hall to Dollar General on the south.

While LED lights are a little more expensive, the use 1/10th of the power of regular bulbs and would probably only need one outlet, maybe two per side of each block. Tim suggested adding the sides of a few buildings, particularly those on the corners. That would require an additional 450 feet of lights at a cost of approximately $1,237.

Knight Lighter also bid the annual cost of putting up and taking down once each year. The cost to install, maintain, remove, and store at their facility would be $5,100 per year. With the additional 450 feet, the additional installation cost would be $941.

The company would come in and work at night so that we wouldn't disturb daily downtown business. We would only need to provide a few plugs, compared to what we have done in the past. Our crews would still need to do the 6th street light pole decorations, help with the lights and garland on the poles and any of the other items we might have during the Christmas season.

I wanted to bring this bid to the attention of the City Council because we would be able to do the Christmas lights by about Dec 2nd this year and then in subsequent year we would have them done by the weekend prior to Thanksgiving.

COUNCIL ACTION NEEDED: Review and discussion and possible direction.

STAFF RECOMMENDATION TO COUNCIL: My recommendation is to discuss if this is something the City Council wants to do this year, next year, or if this is something in which there is no interest. If the Council was interested in making it happen this year, we would purchase the lights and then sign an agreement for installation. They would both be under the $10,000 limit, so we wouldn't have to go out for bid.

The cost for lights seems reasonable to me and while the cost for install and take down seems high, it is equal to only one week of our cost for our own line crew. If our staff was to do the same thing, it would cost us some overtime and would probably take longer than 40 hours.

Also, it is much less than what most cities spend on the 4th of July and that only lasts a few minutes. This will brighten our downtown for a month during the most important retail shopping period of the year.

We aren't flush this year and likely will have to dip into the electric fund more than expected. However, this seems like a legitimate electric fund item that would benefit the community and our staff would be happy to not have to divert 2-3 weeks more per year away from their normal work.

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 27, 2011

AGENDA ITEM: **Future Engineering Work**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: The issue of future engineering was requested for a work session discussion. Currently, we have plans for the replacement of Brown Ave from 16th-18th already developed. According to the Capital Improvement Plan here are the street and utility projects that have been identified for the next 5 years.

2012
Water Main and Valves on Main St. from 14th to 18th
Water Main and Valves on Reed from 4th to 6th

2013
Streets/Curb/Storm Sewer on Brown from 16th to 18th – **Already Engineered**
Streets/Curb/Storm Sewer on 8th & 9th from Main to Pacific
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2015
Streets/Curb/Storm Sewer on Main Street from 1st to 12th
Replace Electric Lines on Main from 16th to 18th (Underground)

2016
Replace Electric Lines on Lockhart Lane (Underground)

COUNCIL ACTION NEEDED: Discussion and direction for staff.

STAFF RECOMMENDATION TO COUNCIL: Direct staff to re-evaluate the City streets and come back with a new priority list prior to CIP discussions in February and March.

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 27, 2011

AGENDA ITEM: **Payment Request No. 13 for Brown and Pacific Project**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: This request is to pay for work submitted in October. After this payment, we will still have approximately $280,000 to pay out to the contractor out of the bid price of just under $935,000. We will still have some inspection, engineering and CDBG administrator costs on top of that as well. Our estimate is still around $1.1 million for the project and we are now at the stage where we are spending our own funds on the project which will be reimbursed by a USDA Rural Development loan.

COUNCIL ACTION NEEDED: Approve the payment request.

STAFF RECOMMENDATION TO COUNCIL: Approve the payment.

CITY OF OSAWATOMIE
439 Main Street
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913-755-2146

PACIFIC, 14TH, BROWN STREETS PROJECT

CDBG GRANT # 10-PF-045
PAYMENT REQUEST
October 27, 2011
Payment Request No. 13

Claimant	Description	Document Number	Amount
Governmental Assistance Services 905 Joseph Drive Lawrence, KS 66049	administration		$ -
BG Consultants 4806 Vue Du Lac Place Manhattan, KS 66503	design services		$ -
BG Consultants 4806 Vue Du Lac Place Manhattan, KS 66503	inspector		$ -
Orr Wyatt Streetscapes 9812 E 56th Street Raytown, MO 64133-2804	construction	App #4	$ 242,436.78
	TOTAL		$ 242,436.78

Approved by the Osawatomie City Council this 27th day of October, 2011 contingent upon approval by the funding agencies.

Philip A. Dudley, Mayor

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 27, 2011

AGENDA ITEM: **Special Use Permit – Penwell-Gabel Funeral Home**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: Heartland Management Company, which is doing business as Penwell-Gabel Funeral Homes, has applied for a special use permit to construct and operate a funeral home on 500 E Mill Street and the adjoining vacant property to the north. On September 8, 2011, the City Council voted to change the zoning of the 500 E Mill property to C-3 Highway Commercial.

The Osawatomie Planning Commission held a public hearing on this proposed Special Use Permit on October 5, 2011, and approved the permit. No protest was filed during the 14-day protest period following the decision of the Planning Commission.

COUNCIL ACTION NEEDED: The City Council must pass the attached ordinance in order to approve the special use permit.

STAFF RECOMMENDATION TO COUNCIL: Approve the ordinance.

ORDINANCE NO. _____

AN ORDINANCE PERTAINING TO THE SPECIAL USE PERMIT TO CONSTRUCT AND OPERATE A FUNERAL PARLOR.

WHEREAS, Heartland Management Company, d/b/a Penwell-Gabel, is requesting a Special Use Permit to operate a funeral parlor at 500 E Mill and includes the vacant lot to the north; and

WHEREAS, the current zoning of the property is the City's C-3 Highway Commercial District; and

WHEREAS, the Osawatomie Planning Commission held a public hearing on this proposed Special Use Permit on October 5, 2011, in accordance with City and State zoning laws and the Planning Commission recommended approval of the Special Use Permit; and

WHEREAS, no protest was filed during the 14-day protest period following the decision of the Planning Commission.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS AS FOLLOWS:

SECTION ONE: A special use permit is granted to Heartland Management Company to operate a funeral parlor facility at the above described location, Osawatomie, Kansas, subject to the following conditions:

1. The Special Use Permit will be issued to Heartland Management Company, d/b/a Penwell-Gabel, its successors and assigns, and not the property;

SECTION TWO: The special use permit will be issued for and the operation conducted on the following described real estate, situated in Osawatomie, Miami County, Kansas, to-wit:

O'Neal St. – Beginning at the Southwest corner of the Northwest Quarter (NW¼) of Section (12), Township (18) South, Range (22) East of the Sixth Principal Meridian; thence North 01 degrees 37 minutes, 00 seconds West for a distance of 204.77 feet along the West line of said Quarter Section to the true point of beginning; thence North 01 degrees 37 minutes 00 seconds West for a distance of 137.31 feet along the West line of said Quarter Section; thence North 88 degrees 23 minutes 00 seconds East for a distance of 147.85 feet by Deed, 147.83 feet, measured to a point on the West right of way line of Highway 169; thence South 02 degrees 25 minutes 37 seconds West for a distance of 137.65 feet along said Highway right of way; thence South 88 degrees 23 minutes 00 seconds West for a distance of 138.12 feet to the true point of beginning, together with and subject to covenants, easements and restrictions of record, Osawatomie, Miami County, Kansas.

500 E. Mill – Beginning at the Southwest corner of the Northwest Quarter of section 12, Township18 South, Range 22 East, of the Sixth Principal Meridian, thence North 01 degrees 37 minutes 00 seconds West for a distance of 204.77 feet along the West line of said Quarter Section, thence North 88 degrees 23 minutes 00 seconds East for a distance 138.12 feet to a point on the West right of way line of Highway 169, thence South 02 degrees 25 minutes 37 seconds West for a distance of 205.59 feet along said Highway right of way, thence South 88 degrees 31 minutes 36 seconds West for a distance of 123.62 feet along the South line of said Quarter Section to the point of beginning, In the City of Osawatomie, Miami County, Kansas.

SECTION THREE: This ordinance shall take effect and be in force from and after its passage and one publication in the official City newspaper.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Miami County, Kansas, a majority being in favor thereof, this 27th day of October, 2011.

APPROVED and signed by the Mayor.

Philip A. Dudley
Mayor

(SEAL)

ATTEST:

Ann Elmquist
City Clerk

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 27, 2011

AGENDA ITEM: **Dogs at the Sports Complex**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: The Council, at the request of the Recreation Commission, asked staff to draft an ordinance concerning pets, specifically dogs, at the sports complex. Based upon discussions at the last meeting, City staff is recommending the following ordinance as a starting point for the discussion.

The proposed ordinance would prohibit dogs, leashed or unleashed, from the sports complex when any public event is taking place. The ordinance also directs the City Manager to put up the appropriate signs to notify citizens of the ordinance. The ordinance would also make violations subject to section 2-214 of the City Code which imposes a $50 to $500 fine and up to 30 days in jail.

COUNCIL ACTION NEEDED: Review, discussion and possible action.

STAFF RECOMMENDATION TO COUNCIL: I believe this ordinance is very narrow and appropriate for the issue that has been occurring at the complex. I recommend approval of the ordinance.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF OSAWATOMIE BY ADDING A NEW SECTIONS 219, 220, 221 AND 223 TO ARTICLE TWO OF CHAPTER TWO REGARDING ANIMALS AT THE CITY SPORTS COMPLEX.

WHEREAS, the City owns an operates a sports complex in the City that is generally located at 12th and Walnut Streets, that is known as the Karl E. Cole Sports Complex;

WHEREAS, citizens have voiced concerns and complaints regarding the presence of dogs during events held at the complex;

WHEREAS, the governing body finds that the presence of dogs, even while leashed represent a nuisance, during times when the public is at the Sports Complex to participate in and view various events;

WHEREAS, the governing body by this ordinance intends to regulate the presence of dogs at the Sports Complex during sporting events; and

WHEREAS, the City does hereby amend the Chapter Two, Article Two of the Code of the City of Osawatomie by adding a new sections 219, 220, 221, 222 and 223 regarding animals at the City Sports Complex.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:

Section 1. That Chapter Two, Article 2 of the Code of the City of Osawatomie is hereby amended by adding a new section 219 which shall read as follows:

2-219. Sports Complex defined. As used herein, "Sports Complex" shall mean the land that comprises the City owned sports facility located at 12th and Walnut Streets in the City of Osawatomie and is known as the Karl E. Cole Sports Complex.

2-220. Dogs Prohibited During Sporting Events. No dogs, leashed or unleashed, shall be permitted on the premises of the Sports Complex at times when a public event, sporting or otherwise, is occurring at the Sports Complex.

2-221. Posting. The City Manager is authorized and directed to post signs at the Sports Complex advising of the restrictions imposed by Section 2-220 of the City Code.

2-222. Exception. This ordinance shall have no application to animals categorized as "Service Animals" under state or federal law.

2-223. Penalties. Any person violating or permitting the violation of Section 2-220 shall be subject to punishment as provided by Section 2-214 of the Code of the City of Osawatomie.

Section 2. This ordinance shall take effect and be in force as of the date of its passage, approval and publication as provided by law.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, a majority being in favor thereof, this ____ day of October, 2011.

APPROVED AND SIGNED by the Mayor.

_____
Phillip A. Dudley
Mayor

(SEAL)

ATTEST:

_____
Ann Elmquist
City Clerk

APPROVED AS TO FORM:

_____
Richard S. Wetzler, City Attorney

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 27, 2011

AGENDA ITEM: **Smoking at the Sports Complex**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: Upon the request of the Recreation Commission the City Council was asked to look at prohibiting smoking at the sports complex. While looking at the multiple ways in which to approach this issue, staff recommends a very specific approach. While there might be some merit to passing a broader ordinance which covers all outdoor sports facilities, the lists of exceptions and other possibilities becomes so difficult that a more focused ordinance in this circumstance is deemed the best option.

The proposed ordinance would prohibit smoking at the sports complex, as defined. The ordinance also directs the City Manager to put up no smoking signs and to designate a smoking area, which I would designate as the parking lot. The ordinance would also make violations subject to the Uniform Public Offense Code.

COUNCIL ACTION NEEDED: Review and discuss the proposed ordinance.

STAFF RECOMMENDATION TO COUNCIL: Approve the ordinance.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF OSAWATOMIE BY ADDING A NEW SECTIONS 388, 389, 390 and 391 TO ARTICLE THREE OF CHAPTER ELEVEN REGARDING SMOKING AT THE CITY SPORTS COMPLEX.

WHEREAS, the City owns an operates a sports complex in the City that is generally located at 12th and Walnut Streets, that is known as the Karl E. Cole Sports Complex;

WHEREAS, citizens have voiced concerns and complaints regarding smoking in public areas where persons congregate at the complex;

WHEREAS, the governing body finds that smoking has a potential to cause physical harm and other laws of the City and State impose limits on smoking;

WHEREAS, the governing body has determined that smoking at the sports complex should be restricted and smoking should be permitted only in designated areas.

WHEREAS, the governing body by this ordinance intends to regulate smoking at the sports complex and to authorize the City Manager to designate areas where smoking is permitted; and

WHEREAS, the City does hereby amend the Chapter Eleven, Article Three of the Code of the City of Osawatomie by adding a new sections 388, 389, 390 and 391 regarding smoking at the City Sports Complex.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:

Section 1. That Chapter Eleven, Article 3 of the Code of the City of Osawatomie is hereby amended by adding a new sections 388, 389, 390 and 391 which shall read as follows:

11-388. Sports Complex defined. As used herein, "Sports Complex" shall mean the land that comprises the City owned sports facility located at 12th and Walnut Streets in the City of Osawatomie and is known as the Karl E. Cole Sports Complex.

11-389. Smoking Prohibited During Public Events. Except as provided in Section 11-390, no person, shall be permitted to smoke on the premises of the Sports Complex..

3-390. Posting. The City Manager is authorized and directed to post signs at the Sports Complex advising of the restrictions imposed by Section 11-389 and to also post signs designating areas at the Sports Complex where smoking is permitted.

3-391. Penalties. Any person violating or permitting the violation of Section 11-389 shall be subject to punishment for a cigarette or tobacco infraction as provided by Section 10.26 (d) of the Uniform Public Offense Code as adopted by the City of Osawatomie.

Section 2. This ordinance shall take effect and be in force as of the date of its passage, approval and publication as provided by law.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, a majority being in favor thereof, this ____ day of October, 2011.

APPROVED AND SIGNED by the Mayor.

_____
Phillip A. Dudley
Mayor

(SEAL)

ATTEST:

_____
Ann Elmquist
City Clerk

APPROVED AS TO FORM:

_____
Richard S. Wetzler, City Attorney

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 27, 2011

AGENDA ITEM: **Special Event Cereal Malt Beverage Permits**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: During the past Legislative session, the state passed Senate Bill 80, which allows cities and counties to issue special event Cereal Malt Beverage (CMB) permits for the duration of an event. Vendors are limited to no more than four special events permits in a one-year period.

The attached ordinance levies a fee of $50 for each special permit, in addition to the Kansas Division of Alcoholic Beverage Control (ABC) fee of $25. The statute requires the city's fee to be between $25 and $200. The recommended $50 fee is equal to the fee for a temporary liquor license, but this fee is not a per day fee like the temporary liquor license.

The ordinance requires the permit to be acquired 30 days in advance of the event, prohibits the serving of CMB between the hours of midnight and 6:00 a.m., and will generally require the permit holder comply with other state and local laws and regulations applicable to the serving and consumption of CMB.

COUNCIL ACTION NEEDED: Review and discuss the proposed ordinance.

STAFF RECOMMENDATION TO COUNCIL: Approve the ordinance.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF OSAWATOMIE BY ADDING A NEW SECTIONS 214, 215, 216 and 217 TO ARTICLE TWO OF CHAPTER THREE REGARDING SPECIAL EVENT CEREAL MALT BEVERAGE PERMITS..

WHEREAS, the City desires to amend the City Code so that permit and regulate the issuance of Special Event Cereal Malt Beverage Permits.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS:

Section 1. That Chapter Three, Article 2 of the Code of the City of Osawatomie is hereby amended by adding a new sections 214, 215, 216 and 217 which shall read as follows:

3-214 PERMIT REQUIRED.

(a) It shall be unlawful for any person to sell or serve any CMB at any special event within the city without first obtaining a local special event permit from the city clerk.

3-215 PERMIT FEE.

(a) There is hereby levied a special event permit fee in the amount of $50.00 on each group or individual, which fee shall be paid before the event begins. Such fee shall be in addition to the $25.00 fee to be remitted to the Division of Alcohol Beverage Control.

(b) Every special event permit holder shall cause the permit receipt to be placed in plain view on any premises within the city where the holder of the special event permit is serving CMB for consumption on the premises.

3-216 CITY SPECIAL EVENT PERMIT.

(a) It shall be unlawful for any person to serve CMB at a special event without first applying for a local special event permit at least 30 days before the event. Written application for the local special event permit shall be made to the city clerk on the form used for annual cereal malt beverage sales as directed by the city clerk. In addition to any other information required, the applicant shall provide the following:

(1) the name of the applicant;

(2) the group for which the event is planned;

(3) the location of the event;

(4) the date and time of the event;

(5) any anticipated need for police fire or other municipal services.

(b) Upon meeting the requirements to obtain a special event permit, the city clerk shall issue a local special event permit to the applicant if there are no conflicts with any zoning or other ordinances of the city.

(c)The city clerk shall notify the chief of police whenever a special event permit has been issued and forward a copy of the permit and application to the chief of police.

3-217 PERMIT REGULATIONS.

(a) No special event permit holder shall allow the serving of CMB between the hours of 12:00 a.m. and 6:00 a.m. at any event for which a special event permit has been issued.

(b) No CMB shall be given, sold or traded to any person under 21 years of age.

(c)No more than four special event permits may be issued in a calendar year to the same applicant.

(d) No special event permit issued hereunder may be transferred or assigned to any other vendor.

(e) all local ordinances and state statutes for the sale and consumption of CMB apply to holders of special event permits.

Section 2. TAKE EFFECT.

This ordinance shall take effect and be in force as of the date of its passage, approval and publication as provided by law.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, a majority being in favor thereof, this ____ day of October, 2011.

APPROVED AND SIGNED by the Mayor.

_____

Phillip A. Dudley
Mayor

(SEAL)

ATTEST:

_____

Ann Elmquist
City Clerk

APPROVED AS TO FORM:

_____

Richard S. Wetzler, City Attorney

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STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 27, 2011

AGENDA ITEM: **Parks and Recreation Resolution of Intent**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: On September 28, 2011 the Osawatomie Recreation Commission recommended that the City Council assume financial and operational control of the Recreation Commission and begin the process for the permanent transition to a City operated Parks and Recreation Department. On the same evening, the City Council accepted that recommendation and approved the City Manager to assume financial and operational control until a permanent ordinance is adopted for an official transition. The attached resolution begins the process for a permanent transition.

K.S.A. 12-1929 authorizes any city, which has established a recreation commission system, to combine the commission's operations and administration with its park system into a city operated department. In order to make this change, a city must publish for two consecutive weeks a notice of intent to make this change. There is a standard 30-day protest period to allow for a petition to place the item on the ballot.

After that protest period the City Council will need to pass an ordinance to adopt these changes and address some outstanding issues, such as transition of funds and assets, establishing a Parks and Recreation Advisory Board, and clarifying the role of the Parks and Recreation Director and the Advisory Board. I have attached a draft ordinance which covers those issues so the Council can see what kind of ordinance would be adopted after this statutory process is completed.

COUNCIL ACTION NEEDED: Review and discuss.

STAFF RECOMMENDATION TO COUNCIL: Approve the resolution.

RESOLUTION NO. ____

A RESOLUTION TO CREATE A CITY PARKS AND RECREATION DEPARTMENT BY COMBINING THE OPERATION AND ADMINISTRATION OF THE PARK SYSTEM AND RECREATION SYSTEM PURSUANT TO K.S.A 12-1929.

WHEREAS, the Governing Body of the City of Osawatomie, Kansas created the Osawatomie Recreation Commission with Ordinance No. 1801 in the year 1952; and

WHEREAS, the Governing Body, in consultation with the Osawatomie Recreation Commission, has decided to combine all recreation programs presently offered through or administered by the Osawatomie Recreation Commission with the City of Osawatomie and to be developed, supervised and administered by the City in a single City parks and recreation department.

WHEREAS, K.S.A. 12-1929(a) authorizes combining the two entities; and

NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS and by the OSAWATOMIE RECREATION COMMISSION:

SECTION 1. The recreation programs presently offered through or administered by the Osawatomie Recreation Commission and supported by taxes levied by the City of Osawatomie shall be combined with the City's park system into a City parks and recreation department to be thereafter administered and supported by the City.

SECTION 2. The Governing Body of the City of Osawatomie shall prepare and have published pursuant to K.S.A. 12-1929(a) a notice of intention to combine all programs currently under the Recreation Commission with the City's park system creating a City parks and recreation department subject to the supervision and control of the City of Osawatomie.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas this 27th day of October, 2011, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

_____
Philip A. Dudley
Mayor

(SEAL)

ATTEST:

_____
Ann Elmquist
City Clerk

(Published in the Osawatomie Journal, November 2, 2011) **2t**

PUBLIC NOTICE

NOTICE OF INTENTION TO COMBINE PROGRAMS OF RECREATION COMMISSION INTO A CITY PARKS AND RECREATION DEPARTMENT

The City of Osawatomie, Kansas intends, pursuant to K.S.A. 12-1929(a), to combine all recreation programs presently offered through or administered by the Osawatomie Recreation Commission with the City to be developed, supervised and administered by the City in a single City parks and recreation department.

This notice shall be published once each week for two consecutive weeks and the City then shall proceed upon such proposition at that time unless within 30 days after the date of the last publication there is filed with the City a petition signed by at least 5% of the qualified voters of the City requesting an election upon such question.

City of Osawatomie, Kansas

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ORDINANCE NO. ____

AN ORDINANCE PERTAINING TO THE CREATION OF A PARKS AND RECREATION DEPARTMENT IN THE CITY OF OSAWATOMIE AND THE TRANSITION OF THE OSAWATOMIE RECREATION COMMISSION TO THE OSAWATOMIE PARKS AND RECREATION ADVISORY BOARD.

WHEREAS, the City Council of the City of Osawatomie, Kansas, and the Osawatomie Recreation Commission have agreed to combine the recreation programs administered by the Recreation Commission into a City park and recreation department; and

WHEREAS, a notice of intention to combine the programs was duly prepared and published and there being no protest filed to the combining of the programs and creation of the Osawatomie City Parks And Recreation Department, the governing body of the City by this ordinance hereby combines the programs of the Osawatomie Recreation Commission with the City's park system creating a parks and recreation department.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE CITY, KANSAS:

SECTION ONE: The recreation programs previously established by the City of Osawatomie, Kansas, through the Osawatomie Recreation Commission are hereby combined with the City's parks department and thereby creating a City parks and recreation department.

SECTION TWO: The department may operate a system of parks, playgrounds and public recreation facilities and supervise and administer recreation programs within the city. The department may purchase and own equipment and hire personnel as deemed necessary and within a budget as established by the City.

SECTION THREE: The Parks and Recreation Department shall be under the supervision of a Parks and Recreation Director. Such Director shall have a background or education in the operation of recreation programs for adults and youth, the promotion and marketing of such programs, and the development and maintenance of parks and recreation facilities. The Parks and Recreation Department will operate under the authority of the City Manager and the City Manager will have the authority to hire and dismiss or terminate the employment of the Parks & Recreation Director.

The Director shall be responsible for the daily operations of the Parks and Recreation Department and shall, with the approval of the City Manager, hire the staff necessary to operate the programs. The Director shall operate the Department's programs within the budget provided and the funds available to the program through the approved budget. The Department will be subject to the same City ordinances, regulations and policies as are the other City Departments.

SECTION FOUR: There is hereby established a Parks and Recreation Advisory Board, which may be commonly referred to as the Parks and Recreation Board, consisting of seven (7) members to be appointed by the governing body of the City. Each member shall be of an adult age and shall be selected and meet the following qualifications:

a. One member shall be a current member of the Osawatomie City Council and shall serve for a term concurrent with the term as member of the city council. This member shall be a council liaison and will serve as an ex-officio member of the Board, and therefore may not be eligible to serve as the Chairperson or Vice-Chairperson of the Board and shall not have a vote in matters of the Board, but shall be included in any and all deliberations and discussions of the Board.

b. Six members shall be appointed at large by the Mayor, with the approval of the City Council. All members must be residents of the City of Osawatomie.

c. Upon the first meeting of the Board after the passage of this ordinance, and at the first meeting of the Board after May 1 in each subsequent year, the Board shall elect from among its members a Chairperson and Vice-Chairperson. The Chairperson shall be responsible for conducting the meetings, and the Vice-Chairperson shall conduct meetings in the Chairperson's absence.

d. The City Manager may provide a Board secretary on a part-time basis to the take minutes of the meeting and to publish them in accordance with the Kansas Open Meetings Act. Should a Board secretary not be provided to the Board by the City Manager, the Board may elect a secretary from among the Board members.

e. Following initial appointment, members shall serve a term of two years beginning on May 1 of the appointed year. The Mayor shall make the initial appointments such that three members shall have terms expiring in an odd year and three members have terms expiring in an even year. The initial terms of such Parks and Recreation Advisory Board members shall begin on January 1, 2012, with the lengths of individual terms to be determined by the Mayor upon appointment in accordance with this ordinance.

f. No initial appointment shall create a term that is longer than two years commencing May 1, 2012. Members may not serve upon the Board for more than 3 consecutive two-year terms.

SECTION FIVE: All meetings of the Parks & Recreation Board shall be subject to the Kansas Open Meetings Act. The Parks and Recreation Board is encouraged to meet monthly, or more often as needed, but no less than once in each quarter in a place to be determined by the Board. Any change in such meeting must be published according to the Kansas Open Meetings Act and sufficient notice shall be provided to all interested parties.

SECTION SIX: The Parks and Recreation Advisory Board is only an advisory board and can take no binding action. The Board is responsible for the following:

a. making recommendations to assist in operation and planning of parks and recreation facilities, including facility use policies and the development of a parks master plan for presentation to the City Council;

b. making recommendations on the recreation programs to be offered, both current and new, the rules for operation of those programs, and user fees or participation fees for programs and facilities;

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c. making recommendations on the capital improvements plan and the annual budget for the parks and recreation department;

SECTION SEVEN: The Parks and Recreation Director shall provide information to the Board as requested and will make recommendations and presentations as deemed necessary. The Board will work with the Parks and Recreation Director to provide the programs needed in the community for both children and adults.

SECTION EIGHT: The City Manager shall retain the final authority for the operation of the Parks and Recreation Department.

SECTION NINE: Nothing in this ordinance shall be construed to require the City Council to act upon any recommendations by the Parks and Recreation Advisory Board.

SECTION TEN: Upon the passage of this ordinance, all assets and liabilities of the Osawatomie Recreation Commission shall become the property and responsibility of the City of Osawatomie, Kansas. All funds in the accounts of the Recreation Commission on the date of this ordinance shall be transferred to the City of Osawatomie and placed in the Special Parks and Recreation Fund for the operation of the Parks and Recreation Department. All funds received by the City for the property taxes or other outstanding amounts due to the Recreation Commission, on and after the date of this act, shall be transferred from the Recreation Commission to the City of Osawatomie to be placed in the Special Parks and Recreation Fund for the operation of the Parks and Recreation Department.

SECTION ELEVEN: This ordinance shall take effect and be in force from and after its passage and one publication in the official City newspaper.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Miami County, Kansas, a majority being in favor thereof, this ___th day of _____, 2011.

APPROVED and signed by the Mayor.

_____
Philip A. Dudley
Mayor

(SEAL)

ATTEST:

_____
Ann Elmquist
City Clerk

City of Osawatomie
www.osawatomieks.org

Osawatomie City Hall
439 Main Street • PO Box 37
Osawatomie, KS 66064
Phone: (913)755-2146
Fax: (913)755-4164

STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 27, 2011

AGENDA ITEM: **L&K Services Contract**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: After discussions with Bryce from L&K Services on our trash and recycling contract, he has provided us with a new contract which consolidates several amendments and incorporates the changes regarding the holiday schedule. However, the contract presented to us extends the contract for five years to 2016, something which I am not willing to do at this time outside of the bid process.

I would like the City Council to review the contract prior to the meeting and to discuss the proposed changes to the holiday collection schedule. The City Attorney and I will have a revised and negotiated contract which has the same length of term as the previous contract and only incorporates the amended changes which have been made from the original.

As a reminder, the major issue that brought about the revised contract was holiday trash collection. Our current contract requires us to not to pick up on the Thursday or Friday of Thanksgiving. Of course, that is now going to be an issue with our only trash pickup on those days. Bryce suggested going to the same schedule as the rest of their contracts, except Paola, which when a holiday falls in a week, everything else is backed up one day and then Saturday is used to catch up. For example, on Thanksgiving, Thursday would move to Friday and Friday would move to Saturday. And on Memorial Day, recycling and trash would all move back a day and Friday's trash would be on Saturday.

COUNCIL ACTION NEEDED: Review and discuss the proposed contract changes

STAFF RECOMMENDATION TO COUNCIL: Approve the revised contract, to be presented Thursday, as reviewed and recommended by the City Attorney and City Manager.

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CONTRACT FOR COLLECTION OF SOLID WASTE

THIS CONTRACT, made and entered into this _____ day of _____, 2011, by and between the **CITY OF OSAWATOMIE, KANSAS** (hereinafter referred to as the "City") and **L & K SERVICES, INC.** (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the City desires Contractor to assume citywide collection of its municipal solid waste in accordance with the terms and conditions of this Contract and Contractor desires to provide said notice.

NOW THEREFORE, Contractor, for and in consideration of the compensation to be paid by the City in the manner set forth herein, hereby agrees and binds itself and its successors as follows:

1. **SERVICE WORK TO BE PERFORMED.**

(A) **General Terms.** The service work to be performed under this contract shall consist of providing residential, commercial and industrial refuse collection, recycling collection and disposal service as required by laws of the State of Kansas, and any amendments thereto, and shall include furnishing all labor, equipment and materials as necessary to provide such service. The Contractor shall provide an adequate number of vehicles for regular collection services. All vehicles, bins and other equipment shall be kept in good repair, appearance and in a sanitary condition at all times. Each vehicle shall have clearly visible on each side, the identity and telephone number of the Contractor.

(B) **Residential Collection.** Contractor shall provide curbside or alley collection service for the collection of residential refuse to each residential unit one (1) time per week. The City will adjust this schedule monthly, adding and/or deleting location(s) and/or increasing and/or decreasing frequency of collection at location(s). Should the Contractor deem it advisable to revise this schedule, Contractor will first seek the consent of the City. During the term of this Contract collection practices, schedules and services may be modified under mutual consent and in writing. Operating hours for residential refuse collection shall be 7:00 a.m. until the completion of the route. Containers and/or bags shall be placed at curbside or alley by 7:00 a.m. on the designated collection day. Household waste containers or bags must be approximately thirty (30) gallon in size with a maximum of three (3) containers or bags per week. One ninety-six (96) gallon trash receptacle will also be considered acceptable. Any additional waste that a resident needs to have disposed of will need to be placed in a bag approximately thirty (30) gallon in size with a pre-paid sticker attached. Stickers will be made available for purchase at local businesses, City Hall and L & K Services, Inc.

(C) **Commercial and Industrial Collection.** Contractor shall provide bin collection service for the collection of commercial and industrial refuse to commercial and industrial units according to individual agreement. Contractor shall provide bins for commercial and industrial units whenever accessible, outside location on a hard surface according to individual agreement. Contractor may decline to collect refuse in bins not so placed.

(D) **Collection of Recycling Material.** Contractor will provide each residential unit with an 18 gallon or 23 gallon recycling bin for the purpose of collecting recyclables. One (1) additional bin will be available upon request. 65 gallon and 95 gallon karts are also available for a small fee upon request. Residents may use their own containers with the exception of any type of bag. If additional containers are used, residents need to make sure that they are clearly marked RECYCLING. Contractor will collect recyclables from each residential curbside or alley on the designated collection day. Operating hours for recycling pickup shall be from 7:00 a.m. until the completion of the route. The City will adjust this schedule monthly, adding and/or deleting location(s) and/or increasing and/or decreasing frequency of collection at location(s). Curbside recycling services shall at a minimum collect:

(1) #1 thru #7 plastics
(2) Aluminum food and beverage containers
(3) Steel food and beverage containers
(4) Newspaper
(5) Office Paper
(6) Magazines and Phone Books
(7) Cardboard and Cereal Boxes

Recycling material does not include Glass or Glass products and will be left at the curb or alley in the bin. All residential recyclables which meet Contractor's stated policies and are properly placed for collection by the resident will be collected weekly.

(E) **Bulky Item Pickup.** Contractor will add one (1) additional pickup per residential household per month for bulky items. Collection shall be provided for all residential refuse customers. Bulky item pickup shall not include bags or boxes of regular trash, loose or scattered materials, construction debris, and liquid waste or hazardous materials. Residents will be required to put all items for bulky item pickup at curbside regardless of their regular trash and/or recycling pickup location.

(F) **Tire Pickup.** Once each year tires will be picked up with a limit of six (6) tires per household. This service will not be included in the price for bulky item pickup. The City will be responsible for payment of this service.

4. **Service Area.** The service area covered by this Contract is all residential, commercial and industrial business establishments within the city limits of the City of Osawatomie, Kansas.

5. **Collection Schedule.** Contractor will adhere to the City's new collection schedule to the greatest extent possible. Residential refuse will be collected on Thursday and Friday of each week. Residential curbside or alley recycling will be collected on Monday and Tuesday's of each week. Should schedule change be required, Contractor shall publish notice of the change in the **Osawatomie Graphic** at the Contractor's expense.

6. **Holidays.** In the event that Contractor will not provide pickup services on the scheduled collection date due to any Federal or State holiday, Contractor will notify residential and business customers by publication, at Contractor's expense, of that revised collection date at least three (3) business days prior to said Federal or State holiday. See Schedule 'A' for schedule.

7. **Collection Misses.** Contractor will notify the City Clerk or City Manager by noon, of any assigned pickup date, if a breakdown or equipment will prevent pickup on that day. In that event, the Contractor must immediately make such pickup, upon the proper repair of equipment, within twenty-four (24) hours thereafter, but in no event than forty-eight (48) hours from the assigned collection time.

Failure to pick up trash and refuse at the service pickup point shall not be grounds for termination of this Contract, unless prior written notice shall be given to the Contractor and the Contractor shall fail to service said pickup point within twenty-four (24) hours after receipt of said notice. A representative of Contractor shall report to City Hall at anytime requested by the City. The City will encourage the public to contact City Hall or L & K Services, Inc. whenever a pickup is missed.

8. **Equipment.** Contractor shall use proper and suitable equipment and employees to perform the duties hereunder and shall perform same in a competent manner. Contractor shall keep all equipment clean and in a condition so that the equipment will not emit noxious odors. The Contractor will operate solely using single-axle equipment to remove residential solid waste and recycling from the City. For non-single axle equipment usage, Contractor must receive prior approval and consent from the City.

9. **Compliance with Law.** Contractor will at all times comply with all Federal, State and local laws, ordinances, orders and regulations. Residential and Commercial waste collected by Contractor shall only be disposed of at the Miami County Transfer Station or at an approved Subtitled D landfill or an approved transfer station approved by the City. Residential and Commercial recycling collection by Contractor shall only be disposed of at an approved commingled recycling facility. All disposal costs are the responsibility of the Contractor. The Contractor shall observe all City ordinances relating to obstructing streets and keeping passageways open. The Contractor is granted the privilege of using the streets for the purpose of doing work specified in the Contract, but is not granted the exclusive use of the streets. The Contractor shall perform all work in a manner that will cause the least inconvenience and annoyance to the general public and to the property owners.

10. **Indemnification.** Contractor will indemnify and hold harmless the City, its representatives, agents and employees from all loss, damages, suits, claims and other actions whatsoever arising from acts, omission and negligence of Contractor, its employees, servants and agents. Further, the Contractor will indemnify and hold harmless the City, its representatives, agents and employees from all loss, damages, suits and claims for injury or damage received, sustained or allegedly received or sustained by the Contractor, its employees, servants and agents, including any claim made by virtue or Worker's Compensation.

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11. **Insurance.** Contractor will maintain, at all times during the term of this Contract, employer's liability, automobile liability and general liability insurance in the amount of one million dollars ($1,000,000.00), single limit coverage. The insurance coverage shall list the City as an additional insured under the provisions of the policy or policies. Such insurance coverage shall protect Contractor and the City against all claims arising from injuries to any person or damage to property of others arising out of any act or omission of Contractor, its agents or employees. Contractor shall provide and maintain insurance with a minimum limit of one million dollars ($1,000,000.00) to protect the City against any and all claims for damages for personal injury, including accidental death, as well as claims under this contract, whether such operations are by the Contractor by any of its agents or employees or by anyone directly or indirectly employed by the Contractor. Such insurance policy shall name the City as an additional insured under the provisions of the policy. The policies of insurance referred to in this paragraph shall provide that no cancellation or change shall be made with regard to said policy unless the insurance company first gives the City ten (10) days written notice by certified mail prior to the cancellation or change. The lapse of any insurance coverage required under this Contract shall result in immediate termination of this Contract. Further, Contractor shall maintain Worker's Compensation insurance to fully protect Contract. Contractor shall file with the City a certificate from the insurer that the policy or policies are in full force and effect and that the same will not be altered, amended or terminated without a thirty (30) day prior written notice having been given the City

12. **Term.** It is agreed by the parties hereto that this contract shall remain in full force and effect for a term of five (5) years commencing on the 1st day of November, 2011 and ending at midnight October 31st, 2016. The City may, in its sole discretion, renew this contract for one (1) successive five-year (5) term upon ninety (90) days written notice to Contractor.

13. **Consideration.** Contractor will be paid for its services by the City. The total compensation paid to the Contractor will fluctuate in relation to the monthly receipts for services. Payment to Contractor will be made by the City by the 15th of the month for the previous month's receipts. The fees charged by the Contractor for residential, commercial and industrial collection shall be held for a minimum of twelve (12) months with the exception of a review of the fuel surcharge semi-annually. Every six (6) months from the date of this Contract, an average cost of the actual per gallon charge will be figured. Using the base price of three dollars ($3.00) per gallon, a one percent (1%) adjustment, up or down, will be made for every twenty cent ($0.20) change in fuel prices. Thereafter, prices will be increased three percent (3%) annually with the addition of the fuel surcharge reviewed semi-annually.

14. **Billing.** The City will bill and collect for services for which the City will deduct fifty (50) cents per customer per month from the monthly compensation earned by the Contractor. The Contractor compensation will be based solely on gross receipts from payments of services performed.

15. **Exclusive Collection Provisions.** This agreement shall be exclusive and Contractor shall be the only permittee to operate under the authority of the City of Osawatomie, Kansas. It is further the intention of the City that all other commercial collectors of refuse and recycling are hereby prohibited from collecting the same and operating under the laws of the City of Osawatomie, Kansas.

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16. **Assignment.** This agreement is binding upon the parties hereto and their successors, legal representatives and assigns; provided, however, that Contractor may not assign this Contract without express consent of the City, and such consent will not be reasonably withheld by the City if the proposed assignee is acceptable to the City.

17. **Default.** In the event the Contractor shall fail or refuse to perform his duties and obligation, or shall become insolvent, or shall become the subject of a proceeding of bankruptcy, or shall become the subject of any proceeding for the appointment of a receiver or in the event of an assignment by Contractor for the benefit of its creditors, or the taking of trucks, equipment, vehicles and other facilities used in connection with the performance of the work under any execution against Contractor, in any such event, city may at its option, upon five (5) days written notice, declare the Contractor to be in breach of this Contract. City may terminate the Contract and declare same cancelled and terminated and shall, in addition, be entitled to recover damages and take such other actions and seek such other remedies as may be permitted by law.

18. **Entire Agreement.** This Contract is the entire agreement between the City and Contractor. Any other written or oral representations, agreements or understanding pertaining to the service for hereunder are null and void.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the day and year first above written.

CITY OF OSAWATOMIE, KANSAS

By:_____
Phillip A. Dudley , MAYOR

ATTEST:

By:_____
Ann Elmquist, CITY CLERK

DRAFT

STATE OF KANSAS, COUNTY OF MIAMI, SS:

Before me, the undersigned, a Notary Public, within and for said County and State on this _____ day of _____, 2011, personally appeared **Phillip A. Dudley, Mayor of the CITY OF OSAWATOMIE, KANSAS,** a municipal corporation duly organized, incorporated and existing under and by virtue of the laws of the State of Kansas, who is personally known to me to be the person who executed, as such officer, the within instrument on behalf of said corporation and such person duly acknowledged the execution of the same to be the voluntary act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the day and year last above written.

_____

Notary Public

My Commission Expires:

_____

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L & K SERVICES, INC.

By:_____
Larry W. Smith, President

STATE OF KANSAS, COUNTY OF MIAMI, SS:

Before me, the undersigned, a Notary Public, within and for said County and State on this _____ day of _____, 2011, personally appeared **Larry W. Smith, President of L & K SERVICES, INC.,** a corporation duly organized, incorporated and existing under and by virtue of the laws of the State of Kansas, who is personally known to me to be the person who executed, as such officer, the within instrument on behalf of said corporation and such person duly acknowledged the execution of the same to be the voluntary act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the day and year last above written.

_____
Notary Public

My Commission Expires:

_____

APPROVED AS TO FORM:

_____
Richard S. Wetzler,
Osawatomie City Attorney

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APPENDIX "A"

The following shall be holidays for the purpose of this agreement: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Contractor must provide service for any pick up which falls on a holiday on the next working day.

Holiday Collection Schedule:

Monday Holiday:	Monday collection goes to Tuesday Tuesday collection goes to Wednesday Thursday collection goes to Friday Friday collection goes to Saturday
Tuesday Holiday:	Tuesday collection goes to Wednesday Thursday collection goes to Friday Friday collection goes to Saturday
Wednesday Holiday:	Thursday collection goes to Friday Friday collection goes to Saturday
Thursday Holiday:	Thursday collection goes to Friday Friday collection goes to Saturday
Friday Holiday:	Friday collection goes to Saturday
Weekend Holiday:	No change to the normal collection schedule.

Any changes to the above schedule must be approved by City. Contractor will notify all customers by publication, at Contractor's expense, of the revised collection dates at least three (3) business days prior to said holiday.

City of Osawatomie
www.osawatomieks.org

Osawatomie City Hall
439 Main Street • PO Box 37
Osawatomie, KS 66064
Phone: (913)755-2146
Fax: (913)755-4164

STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 27, 2011

AGENDA ITEM: **Mill Street Bridge**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: With the closure of the Mill Street Bridge, I need to begin discussions with the County Commission on behalf of the City to share with them what the City would like to see happen. I have secured a time on the County Commission's work session next Wednesday, November 2, for a time to be determined.

While I see that there are several options available to the City Council, here are the most viable options that you may want to consider when coming to an agreement on the direction we would like to move.

1. Requested that the County conduct an engineering study on the feasibility of rehabilitation of repair of the Mill Street Bridge.
2. Request that the County asphalt or chip seal Lookout Road so we have a hard surface from U.S. 169 to the plant.
3. Request an engineering study on the cost and feasibility of building a new road from 345th Street directly to the Sewer Plant, to provide the City with a hard surface road out of the floodplain.
4. Request that the County conduct an engineering study on the feasibility of replacing the 1st Street Bridge in lieu of replacing the Mill Street Bridge.

COUNCIL ACTION NEEDED: Review and discuss.

STAFF RECOMMENDATION TO COUNCIL: Provide official direction to the City Manager on what, if anything, to request of the County Commission in connection with the Mill Street Bridge.