

**OSAWATOMIE CITY COUNCIL
AGENDA**

March 8, 2012

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 February 9 and February 23 Council Meetings
 - B. Approve March 8 Agenda
 - C. Appropriation Ordinances 12-3 & 12-4
5. Comments from the Public; Presentations

Citizen participation will be limited to 5 minutes. Please stand & be recognized by the Mayor.
6. Public Hearing – none
7. Unfinished Business
 - A. Approve Invoice(s) for Pacific, 14th, Brown Streets Project – Request No. 18
 - B. Letter of Engagement for Bond Underwriter Services with George K. Baum & Co.
 - C. Ordinance Authorizing Additional Project Authorizations
 - D. Resolution Authorizing Sale of Bonds
8. New Business
 - A. Appointments - none
 - B. Tree City Recognition
 - C. Community Fisheries Program
9. Council Reports
10. Mayor's Report
11. City Manager's Report
12. Executive Session - none
13. Adjournment

MEETING/WORK SESSION – March 22, 2012

REGULAR MEETING – April 12, 2012

Osawatome, Kansas. **February 9, 2012.** 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, Govea, Hunter, Klein, LaDuex, and Moon. Absent were Farley and Maichel. Also present were City Manager Cawby, City Attorney Wetzler, and City Clerk Elmquist. Visitors were Robert Kerr, Kenny Foulk, Jr., Kenny Harper, Michael Griffin, Joan Stevenson, Neil Phillips, Jim & Katie Mitzner, Travis Perry, and Kevin Grey.

CONSENT AGENDA. Approval of the minutes of January 12 and January 26 Council Meetings, approval of February 9 Agenda, and approval of Appropriation Ordinances 11-25, 12-1 & 12-2. Motion made by Hunter, seconded by Moon to approve the minutes of January 12 and January 26 Council Meetings as amended, the February 9 Agenda, and Appropriation Ordinances 11-25, 12-1 & 12-2. Yeas: All.

Public Participation; Presentations: none

Public Hearing:

FINAL PERFORMANCE HEARING CDBG STREETS GRANT. Mayor Dudley opened the hearing at 7:04 p.m. The purpose of the hearing was to evaluate the performance of the project and the completion of the work so the closeout packet can be submitted. The top layer of asphalt issue has not been resolved and because of the delay in closing the RDA loan the closeout cannot be completed. The public hearing was closed at 7:05 p.m.

Unfinished Business:

APPROVE INVOICE(S) FOR PACIFIC, 14TH, BROWN STREETS PROJECT – REQUEST No. 16. Motion made by Hunter, seconded by Moon to approve Pay Request No. 17. Yeas: All.

LETTER OF ENGAGEMENT FOR AUDITING SERVICES WITH JARRED, GILMORE & PHILLIPS. Audit services would be for 2011-2013 with the fee for 2011 at \$11,800. It will increase slightly for the next two years. Motion made by Moon, seconded by Hunter to authorize the Mayor to sign the Letter of Engagement with JGP. Yeas: All.

New Business:

APPOINTMENTS.

Economic Development

Thomas Burgin
Ben Maimer

Motion made by LaDuex, seconded by Hunter to approve the appointments. Yeas: All.

Planning Commission

Thomas Burgin
Jim Mitzner

Motion made by Klein, seconded by Hunter to approve the appointments. Yeas: All.

Tourism Committee

Lewis Case
Brian King
Amanda Perry

Motion made by Hunter, seconded by LaDuex to approve the appointments. Yeas: Dickinson, Govea, Hunter, Klein, and LaDuex. Nay: Moon.

Housing Authority

appointments made 6/9/11
assignment of 4-year terms expiring 12/31 of each year

Ben Maimer	2012
Jim Mitzner	2013
Larry Ratley	2014
Doug Singer	2015
Jeff Walmann	2015

Motion made by Moon, seconded by Hunter to approve the expiration date for terms. Yeas: All.

Parks & Recreation Committee

Kelly Callahan
Kenny Foulk, Jr.
Dave French
Jeff Gulley
Kenneth Harper
Brandon Olson

Even years – 2012	Kelly Callahan Kenneth Harper Brandon Olson
Odd years – 2013	Kenneth Foulk, Jr. Dave French Jeff Gulley
Councilmember	Mark Govea

Motion made by Hunter, seconded by Klein to approve the appointments. Yeas: Dickinson, Hunter, Klein, and LaDuex. Nays: Govea and Moon.

BURN PERMIT ISSUES. KDHE’S Regional Air Permit staff asked how the City gets rid of grass and leaves at the Forestry Site. They provided a copy of the site’s burn permit and learned that the State does not allow burning of these materials as part of the permit. Has been looking at different options along with the issues that each would bring.

PROPOSED WATER RATES. Revenues from the current rates are insufficient to sustain the water fund for the remainder of the year. The increase in rates would be about 7 percent in the first step in flattening the rates and moving away from the heavily tiered rate system. Motion made by Moon, seconded by Govea to approve the Annual Fee Resolution with the water rate increases. Yeas: Dickinson, Govea, Hunter, LaDuex, and Moon. Nay: Klein. Motion passed. The Resolution was assigned No 647.

DISCUSS LED LIGHTS FOR CITY STREET LIGHTS. A retro fit is needed.

Council Reports:

Hunter: April 21 is the Freedom Festival.

Moon: Attended the Public Safety Advisory Board. The Chamber of Commerce will be holding their Business Expo on March 3.

LaDuex: Disappointed that the Library expansion grant was denied.

Mayor’s Report: none

City Manager’s Report:

Projects:

Debt Issuance/Refinancing. There are still some issues that need to be worked out. The major holdup is the Brown and Pacific final numbers.

Issues:

Planning & Zoning. Scott Michie will be providing planning and zoning consulting services on an on-call basis. He will be conducting a training session on the role of planning and zoning boards and an overview of some of the more important issues. Would like Michie to staff the Planning Commission and Board of Zoning Appeals meetings to help work on the current zoning regulations to take into account the eliminations of the growth area and to tackle some the issued that have changed in the last 10 years. Also, would like his help with a future land use plan.

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

Ann Elmquist, City Clerk

Osawatomie, Kansas. **February 23, 2012.** The Council meeting was held in Memorial Hall. Mayor Dudley called the meeting to order at 7:30 p.m. Council members present were Dickinson, Farley, Govea, Hunter, Klein, LaDuex, Maichel, and Moon. Also present were City Manager Cawby, City Attorney Wetzler, and City Clerk Elmquist. Visitors were Webster Hawkins, Robert Kerr, Kirk and Shelagh Wright, Brian Kinsley, Larry Smith, Bryce Smith, Travis Perry, and Jeff Gulley.

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

APPOINTMENTS TO MIAMI COUNTY AIRPORT ZONING BOARDS.

Airport Airspace Protection Commission (AAPC)	John Klein
Airport Board of Appeals	John Klein

Motion made by Hunter, seconded by Farley to approve the appointments. Yeas: All.

L&K TRASH AND RECYCLING PROPOSED CHANGES. KDHE last week notified the City that leaves and grass cannot be burned at the burn site where they issued a permit. Options discussed with Larry Smith and Bryce Smith were to have L&K Services haul the yard waste or the City do some composting but having to find land. The Council agreed to have L&K Services haul for several months to allow time to come up with a permanent plan. Starting April 1 recyclables will only be picked up on Mondays for the entire town. [Motion approved later in the minutes for addendum to contract]

City Manager Updates:

Planning Commission. A public hearing will be held March 14 at 7:00 p.m. to consider a special use permit. Afterwards, Scott Michie will begin training for the members and City staff. The Council was invited to attend.

Parks & Recreation. Interim Parks & Recreation Director Ryan Crowley was named the new Parks & Recreation Director.

Motion made by Moon, seconded by Hunter to allow the City Manager to modify the contract with L&K Services to add an addendum to change the days for pickup of recyclables to only Monday. Yeas: All.

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

Ann Elmquist, City Clerk

Record of Ordinances

ORDINANCE NO. 12-3

DATE WARRANTS ISSUED:
February 29, 2012

Page No. 1

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 02/10/12			82,295.11
Payroll 02/24/12			90,433.84
FICA 02/10/12			5,984.81
FICA 02/24/12			6,607.32
KPERS			13,111.94
Midwest Distributors	Miller, Coors	39076	88.80
Ace Pest Control LLC	pest control	39154	475.00
City of Osawatomie	utilities	39155	12,917.85
Dish Network	service	39156	180.03
Home Depot Credit Services	quikrete, lighting	39157	96.09
Kansas City Wilbert	grave openings	39158	1,200.00
KDHE-Bureau of Water	operator examination	39159	25.00
Kansas Municipal Utilities	membership dues, safety meetings	39160	6,644.00
League of Ks Municipalities	membership dues, journal	39161	1,832.12
Suddenlink	internet	39162	59.95
Airgas USA LLC	oxygen cylinder	39163	85.10
AT&T	RTU's	39164	221.24
Beachner Grain, Inc.	kerosene	39165	22.50
Kansas Gas Service	power plant	39166	42.42
L & K Services, Inc.	refuse	39167	29,636.83
Landmark National Bank	golf cart loan	39168	2,178.24
Suddenlink	internet	39169	79.15
Osawatomie Journal	legal's	39170	222.85
Ks Dept of Health & Environment	water revolving loan	39171	32,491.31
Kansas Dept of Revenue	compensating use tax	39172	333.59
Kansas Dept of Revenue	sales tax	39173	9,826.25
KMEA - Nearman	electricity	39174	57,209.52
Miami County Treasurer	vehicle tags	39175	1,093.50
Miami County Internet OnRamp	internet	39176	19.95
Reserve Account	postage meter	39177	1,200.00
Ricoh Americas Corp.	copier lease - Office	39178	289.00
Ricoh Americas Corp.	copier lease - P.D.	39179	183.90
Visa	magazine subscription, DVD's, toner	39180	577.51
Tess Newport	referee	39181	120.00
Courtney Kilbourn	referee	39182	120.00
Josh Criddle	referee	39183	100.00
Cole Rayl	referee	39184	100.00
Austin Chisam	referee	39185	100.00
Crawford Sales	Budweiser	39186	111.60
Bradley A/C & Heating	filters	39187	20.52

Record of Ordinances

DATE WARRANTS ISSUED:
February 29, 2012

Page No. 2

CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
Capitol Plaza Hotel	lodging	39188	127.19
Don Cawby	lodging	31989	108.77
Kansas City Power & Light	service	39190	1,150.14
Kansas Gas Service	service	39191	6,394.98
KMEA	annual dues	39192	843.00
Suddenlink	internet	39193	59.95
Brad Waggoner	Pro Shop	39194	154.80
Bob's Sales & Service	recharge fire extinguishers	39195	244.00
CenturyLink	RTU's	39196	236.56
CenturyLink	long distance	39197	380.26
CenturyLink	service	39198	2,311.30
Coventry	health insurance	39199	25,631.80
Delta Dental	dental insurance	39200	2,798.39
KACM	membership	39201	50.00
KMEA - EMP1	electric, transmission	39202	30,727.28
KMEA - Hydro	hydroelectric	39203	2,777.17
KMEA - GRDA	electricity	39204	57,573.03
Lybarger Oil	fuel	39205	7,780.15
Postmaster	utility billing	39206	1,000.00
Ricoh Americas Corp.	maintenance agreement	39207	81.00
Sprint	service	39208	18.83
Vision Service	vision insurance	39209	797.74
Wal-Mart Community	wireless mouse, USB	39210	84.70
Wichita State University	seminar	39211	125.00
City of Osawatomie	petty cash reimbursement	1271	161.69
Kansas State Treasurer	bond interest	121	57,516.25
			557,470.82
GO	130,979.65		
WT	58,452.32		
EL	204,334.29		
Emp Bn	38,999.02		
Refuse	29,811.83		
RF	1,731.75		
Inc	24.86		
Sp Pks	6,200.91		
St Imp	1,837.17		
B & I	57,516.25		
Sewer	13,446.20		
GC	13,903.02		
Trsm	233.55		
	557,470.82		

Record of Ordinances

ORDINANCE NO. 12-4

DATE WARRANTS ISSUED:
March 8, 2012

Page No. 1

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
Altec Industries, Inc.	replace bearing	39214	566.96
Americas Computers	laptop screen	39515	149.99
Analytical Services, Inc.	analytical service	39216	489.26
Atco International	deodorizers	39217	225.25
Baker & Taylor	books	39218	568.45
BG Consultants, Inc.	street improvements, engineer	39219	2,890.50
Bollings Bargain Bonanza	gloves, paper, supplies	39220	154.15
Brenntag Mid-South, Inc.	chemicals	39221	23,854.78
Brewers Automotive Repair	batteries, tow	39222	337.90
C & G Merchants Supply, Inc.	popcorn, candy bars	39223	110.66
Campbell Fire Protection LLC	repair backflow, annual recertification	39224	495.81
Champion Brands LLC	oil	39225	767.04
Coleman Equipment, Inc.	mower parts	39226	241.20
Corrosion Products, Inc.	couplings	39227	85.80
Demco	jacket covers, chairs	39228	381.52
Diamond International	oil filter	39229	93.65
Emedco, Inc.	signs	39230	212.73
Entersect Police Online	police online	39231	79.00
Environmental Laboratories, Inc.	analytical service	39232	434.00
Family Center	parts	39233	752.52
Void		39234	-
Richard M. Fisher, Jr. LLC	court appointed attorney	39235	1,825.00
Galls, LLC	baton, handcuff key	38236	170.55
GNC Enterprises, Inc.	chemical resistant gloves	39237	90.00
Graybar	clamps, cutouts	38238	1,397.42
Hach Company	chlorine reagent set	38239	329.87
Brad Henson	plan review for Penwell Gabel	39240	100.00
Inland Truck Parts & Service	air relay valve	39241	75.16
John Deere Financial	roller, locknut	39242	60.36
Ka-Comm, Inc.	mobile video system	39243	393.55
The Kansas City Star	subscription	39244	297.44
Kansas One Call Systems, Inc.	locates	39245	135.80
Kansas Rural Water Assoc.	consumer confidence report	39246	50.00
Kel-Con Technologies, Inc.	network service, basic support	39247	3,658.50
Killough Construction, Inc.	asphalt	39248	330.00
Kincaid Ready Mix	concrete	39249	1,030.01
Kriz-Davis, Co.	electric line supplies	39250	6,217.86
Lang Chevrolet	tail pipe	39251	459.44
League of Kansas Municipalities	ad - public safety officer	39252	65.00
Logan Contractors Supply, Inc.	fluorescent paint	39253	93.36

Record of Ordinances

DATE WARRANTS ISSUED:
March 8, 2012

Page No. 2

CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
Maceks, Inc.	windshield glass	39254	250.00
Martin Pringle Attorneys at Law	City attorney	39255	5,171.25
Miami County Sheriff's Office	prisoner care	39256	1,440.00
Miami County, Kansas	327th corridor study	39257	375.00
Void		39258	-
Moon's IGA	supplies	39259	201.05
National Sign Company, Inc.	signs	39260	98.85
NEKLS	shared automation, office supplies	39261	1,555.61
Void		39262	-
Nicholson Law Office, LC	court appointed attorney	39263	1,145.00
O'Reilly Auto Parts	belts, JB weld	39264	41.38
Old Dominion Brush	mobile gutter broom	39265	240.00
Oil Patch Pump & Supply, Inc.	couplers, flanges	39266	187.16
Olathe Medical Services	employment physical - Beaudry	39267	102.00
Osawatomie Journal	ads	39268	128.05
Paola Hardware	gate latch, timer	39269	31.94
Pat's Signs	window decals	39270	36.00
R.E. Pedrotti Co., Inc.	restart water plant computer	39271	1,087.00
Psychological Resources	psychological evaluation	39272	110.00
Quill	office supplies	39273	151.10
R & R Products, Inc.	tee towels, gasket set	39274	151.01
Rejis Commission	Leweb subscription service	39275	30.00
Rural Water District #1	service	39276	141.10
Rural Water District #3	ETI	39277	16.50
Scott A. Michie Planning Services	zoning for parking	39278	431.62
State Industrial Products	cleaners	39279	173.70
Superior Lamp	lighting supplies	39280	875.40
Supreme Turf Products, Inc.	pesticides	39281	7,849.50
Debbie Talley	Memorial Hall janitorial	39282	375.00
Tri County Ice	ice machine	39283	50.00
USA Blue Book	storage solution, freight	39284	81.25
U.S.A. Mechanical, Inc.	heater installed	39285	1,995.00
Van Wall Equipment	new reels, grind reels	39286	1,942.33
Vance Brothers	asphalt	39287	575.00
Viking Industrial Supply	trash bags, paper goods	39288	272.77
Westfall GMC Truck, Inc.	mirror, fenders	39289	578.10
Wilson & Company	levee assessment	39290	10,814.05
John A. Wilson	court appointed attorney	39291	150.00
Winkler, Dononey & Schultz	Municipal Court Judge	39292	2,000.00
WinPro Solutions	paper goods	39293	270.87
Void		39294	-
Void		39295	-
Winterscheid Auto Parts	parts	39296	676.39
YMCA	city share of wellness program	39297	37.50
Zep Sales & Service	deodorizers	39298	275.00



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
March 8, 2012
Payment Request No. 18

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	2/14/12	\$ -
BG Consultants 4806 Vue Du Lac Place Manhattan, KS 66503	inspector	2/14/12	\$ 1,045.50
Orr Wyatt Streetscapes 9812 E 56th Street Raytown, MO 64133-2804	construction	App #	\$ -
	TOTAL		\$ 1,045.50

Approved by the Osawatomie City Council this 8th day of March, 2012 contingent upon approval by the funding agencies.

Philip A. Dudley, Mayor



STAFF AGENDA MEMORANDUM

DATE OF MEETING: March 8, 2012

AGENDA ITEM: Debt Refinance

PRESENTER: Don Cawby, City Manager
Dave Arteberry, George K. Baum & Co., Financial Advisor

ISSUE SUMMARY: Several weeks ago, you gave me approval to proceed with refinancing some of our higher rated debt in order to achieve some long-term savings. There have been several changes since we last discussed this issue. First, the sewer revolving loan funds can be refinanced without a referendum. Second, we have worked out the issues related to refinancing the next 21 years of USDA Rural Development Loans from 2008 and can easily finance those issues. Third, we have made the decision to include the City's match portion of the Brown and Pacific project and forego the Rural Development Loan for this project. When these three items are included with the existing loans for the water system, it totals an estimated \$4,225,000. That is the number which we are using for the not to exceed number in the authorizing resolution.

Attached is a calendar which shows the current schedule for the issuance of these bonds.

Also, we had discussed the issuance of temporary notes for the Sewer Plant improvements that need to be made this year. However, I think the timing of the issues involved will be more difficult to accommodate than we had imagined earlier and our best option is to seek temporary notes later, or to seek State Revolving Loan Funds for this project.

Finally, we need to officially approve George K. Baum as the underwriter.

COUNCIL ACTION NEEDED: Vote on approval of the underwriter, the authorizing resolution and project authority ordinance.

STAFF RECOMMENDATION TO COUNCIL: Approve George K. Baum as the underwriter of this issuance and authorize the resolution and ordinance.



UNDERWRITER ENGAGEMENT LETTER

THIS AGREEMENT (“Agreement”) is made this ___ day of _____ 2012 between the City of Osawatomie, Kansas (“Issuer”), and George K. Baum & Company, with its principal offices at 4801 Main Street, Kansas City, Missouri (“Provider”).

PURPOSE: The Issuer has identified an opportunity to refinance certain outstanding general obligation bonds and state revolving fund loans to achieve interest cost savings. Additionally, the Issuer has identified a new capital project that requires permanent financing. The refinancing of the outstanding debt and the financing of the new project is hereinafter referred to as the “Financing Plan”. The Financing Plan will be accomplished through the issuance of general obligation bonds. The Issuer deems it in its best interest to engage and retain the Provider, a qualified investment banking firm, to provide underwriting services, including the preparation of supporting data and underwriting bonds.

CONSIDERATION: Consideration for this Agreement includes the services, compensation, and mutual exchange of promises of the parties specified herein.

SPECIFIC PROVISIONS: The provisions of the above “Purpose” section shall be material and binding to this Agreement.

1. **Provider’s Obligations.** The Provider shall provide the Issuer with investment banking services for the analysis of cost factors relative to the underwriting, including:
 - A. Work with the Issuer and others, as directed by the Issuer’s governing body, concerning the issuance of bonds for the Financing Plan;
 - B. Attend all meetings and make itself available to the Issuer, its staff, governing body, and other agents for consultation and conference at times and places mutually agreed upon throughout the proceedings;
 - C. Prepare financial information and schedules necessary to acquaint the Issuer with the benefits of the various forms of financing, including interest rates, marketing factors, credit enhancement, and user fee costs;
 - D. Advise the Issuer on the underwriting of its bonds, providing regular updates of bond market conditions, analysis of financial or accounting factors of importance to the proper placement of bonds, recommendations regarding appropriate maturity schedules, call features, registration provisions, paying agency and trusteeship responsibility, user rate covenants, any special sinking fund provisions, flow of tax or user fee funds, interest rate limitations, delivery procedures, and investment of idle funds;
 - E. Make recommendations as to the exact amount of the bonds to be issued, maturity schedules, redemption features and provisions, and other related items, in order to formulate the most attractive and appealing investment package to the purchasers of the bonds which will result in the maximum benefit and minimum net effective interest cost to the Issuer;

- F. Assist in the preparation of a credit presentation for rating agencies and bond insurance companies, if appropriate;
- G. Collect, format, and prepare information, in cooperation with the Issuer for a Preliminary Official Statement as appropriate, related contracts or agreements, and proceedings, all of which shall be appropriately executed and satisfactory to the Issuer;
- H. Engage in pre-marketing activities to announce and promote the sale of the Financing Plan bonds;
- I. Distribute the Preliminary Official Statement to potential investors;
- J. Provide for a pricing conference call, during which the related pricing levels for the Financing Plan bonds will be established prior to the offering of a purchase contract agreement;
- K. Arrange for closing and delivery of the Financing Plan bonds;
- L. Prior to the offering of any bonds for sale, provide an estimate to the Issuer of all underwriting profits and interest rates, and upon completion of the sale, provide the Issuer with a detailed accounting of actual total profits and expenses;
- M. It is expressly understood and agreed that this Agreement does not intend, and is not under any circumstances to be construed as requiring the Provider to perform services which may constitute the practice of law. The Provider is employed in an expert financial capacity only;
- N. It is expressly understood and agreed that, under this Agreement, the Provider is not acting as a financial advisor or fiduciary to the Issuer. The Provider is engaged and retained by Issuer to act as a principal in a commercial, arm's length transaction as the Issuer's underwriter. As such, the Provider has financial and other interests that differ from those of the Issuer;
- O. It is expressly understood and agreed that the Provider will not limit its work to the steps outlined but will extend its services as necessary to insure that the Financing Plan is brought to a successful conclusion on behalf of the Issuer in a professional and satisfactory manner.

2. **Issuer's Obligations.** The Issuer's obligations shall include the following:

- A. Retain the Provider as its Investment Banker to act as bonds underwriter;
- B. Cooperate with the Provider in the proper development of the Financing Plan and provide all pertinent information needed to support successfully underwritten bonds on behalf of the Issuer;
- C. Employ a nationally recognized firm of bond attorneys and utilize the services of the Issuer's attorney;
- D. Pay for all costs of legal advice, printed matter (informational brochures, bond printing, Preliminary and Final Official Statements), advertising, engineering, ratings, bond insurance premium, required audits and other professional services;

- E. Pay the Provider an underwriting fee equal to 0.85% of the par amount of bonds payable from proceeds of the sale of such bonds, or other available funds, and only upon successful closing and delivery.
- 3. **Term.** The term of this Agreement shall commence on the date of this Agreement, and shall expire on the earlier of either one year from such date, or the completion of the financing for the Financing Plan, subject to the termination provisions in Section 4 below.
- 4. **Termination.** Either party shall have the right to terminate this Agreement in full for any reason with at least ninety (90) days prior written notice to the other party. In addition, the Issuer shall provide written notice to the Provider of any violation or default of the terms of this Agreement and the Provider shall have thirty (30) days to cure such default. If the Provider is not able to cure the default to the Issuer's satisfaction by the end of such cure period, the Issuer thereafter shall have the right to immediately terminate this Agreement. At the termination of this Agreement, in any such manner, the Issuer shall pay the Provider such compensation earned to the date of such termination, which payment shall be in full satisfaction of all claims against the Issuer under this Agreement.
- 5. **Execution.** This Agreement may be executed in multiple counterparts and together such counterparts will be deemed an original.

IN WITNESS WHEREOF, the parties here have executed this Agreement the day and year first above written.

AGREED TO AND ACCEPTED:

GEORGE K. BAUM & COMPANY

By: _____

Title: _____

AGREED TO AND ACCEPTED:

CITY OF OSAWATOMIE, KANSAS

By: _____

Title: _____

ATTEST:

Title: _____

(Published in *the Osawatomie Journal* on March __, 2012)1t

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY OF OSAWATOMIE, KANSAS TO MAKE WATER SYSTEM IMPROVEMENTS, EXPAND AND IMPROVE THE WASTEWATER TREATMENT PLANT; PREPAY CERTAIN OUTSTANDING LOANS AND AUTHORIZING THE CITY TO ISSUE ITS GENERAL OBLIGATION BONDS IN THE AMOUNT NECESSARY TO PAY COSTS OF SUCH IMPROVEMENTS

WHEREAS, pursuant to K.S.A. 65-162a *et seq.*, and particularly K.S.A. 65-163d through 65-163u (the "Water Act"), the City of Osawatomie, Kansas (the "City") is a municipality that operates and maintains a public water supply system, as defined in the Water Act, and the City is authorized to acquire, construct, reconstruct, improve, equip, rehabilitate and extend all or any part of the public water supply system; provided such improvement is not related to the diversion or transportation of water acquired through a water transfer, as defined by K.S.A. 82a-1501; and

WHEREAS, the Governing Body of the City finds it necessary to improve the City's public water supply system by acquiring and constructing a water treatment plant upgrades and related facilities, all to serve the City's municipal water supply system, and all things necessary and incidental thereto (the "Water System Improvements"); and

WHEREAS, the estimated costs of the Water System Improvements to be financed by the City is \$901,478.72, plus necessary costs of issuing temporary and permanent financing to fund the Water System Improvements; and

WHEREAS, the Water System Improvements are not related to the diversion or transportation of water acquired through a water transfer defined in K.S.A. 82a-1501; and

WHEREAS, it is necessary to pay costs of the Water System Improvements by issuing general obligation bonds of the City; and

WHEREAS, K.S.A. 12-1736 to 12-1739, inclusive, as amended ("Building Act"), authorizes the Governing Body of the City to acquire and construct, make repairs, reconstruct, remodel, replace, make additions to, furnish or equip any public building and to issue general obligation bonds of the City for such purposes; and

WHEREAS, the Governing Body of the City has determined that it is necessary to improve, expand, modify and equip the waste water treatment plant and related structures and facilities in the City to comply with federal, state and local environmental regulations, at an estimated cost of \$3,932,831.66 (the "Public Building Improvements"); and

WHEREAS, it is necessary and desirable to pay costs of the Public Building Improvements by issuing general obligations bonds of the City; and

WHEREAS, the City has previously entered into loan agreements with the Kansas Department of Health and Environment to finance the Public Building Improvements and the Water System Improvements (the “Loans”) as follows:

<u>Loan</u>	<u>Original Loan Amount</u>	<u>Estimated Balance Outstanding for Prepayment</u>
A. PWS Loan # 2128 (Water Facilities)	\$ 901,478.72	\$ 567,460.34
B. WPC Loan #C20 1314-01 (Waste Water Plant and Related Structures)	\$ 1,518,928.96	\$ 413,160.60
C. WPC Loan #C20 1395-01 (Waste Water Plant and Related Structures)	\$ 2,413,902.70	\$ 999,691.42

WHEREAS, the City has determined it can achieve substantial interest cost savings by issuing general obligation bonds to finance the projects financed by the Loans and prepaying the Loans as permitted by the loan agreements between the City and KDHE; and

WHEREAS, pursuant to Article 12, §5 of the Kansas Constitution (the “Home Rule Amendment”), the City is authorized to determine its local affairs and government except when limited or prohibited by an enactment of the state legislature applicable uniformly to all cities of the same class; and

WHEREAS, no statutory authority exists to limit or prohibit the exercise of the City’s authority under the Home Rule Amendment to authorize issuance of its general obligation bonds to pre-pay the Loans; and

WHEREAS, it is necessary and desirable for the City to issue its general obligation bonds to finance the Water System Improvements, the Public Building Improvements and to prepay the Loans.

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

SECTION 1. The Water System Improvements and the Public Building Improvements (collectively, the “Projects”) are authorized and directed to be completed pursuant to the Water Act and the Building Act (collectively, the “Act”).

SECTION 2. To provide funds to pay costs of the Projects, and as authorized by the Act, the City authorizes the issuance of its general obligation bonds in an aggregate amount of not to exceed \$4,834,310.38, plus necessary costs of issuing temporary and permanent financing.

SECTION 3. Pursuant to the Act and the Home Rule Amendment the City authorizes issuance of its general obligation bonds in an amount necessary to prepay the outstanding balances of the Loans, and pay costs of issuing such bonds. The estimated principal amount of such bonds is \$2,030,000.

SECTION 4. The Mayor and City Clerk are authorized and directed to take such other action, including the execution of documents, as may be necessary to proceed with the intent of this Ordinance. The City Manager's execution and delivery of a notice to the Kansas Department of Health and Environment, complying with the Loan Agreements, stating the City's intention to prepay the Loans is ratified and confirmed.

SECTION 5. This Ordinance shall be in full force and effect after it is passed and approved by the City Governing Body and published one time in the official City newspaper.

[Remainder of Page Intentionally Left Blank]

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas on March 8, 2012.

CITY OF OSAWATOMIE, KANSAS

By _____
Philip A. Dudley, Mayor

(SEAL)

ATTEST:

By _____
Ann Elmquist, City Clerk

[Remainder of Page Intentionally Left Blank]

EXCERPT OF MINUTES

A regular meeting of the City Council of the City of Osawatomie, Miami County, Kansas was held on March 8, 2012 at Memorial Hall, Osawatomie, Kansas at 7:00 p.m. The meeting was called to order by Phillip A. Dudley, Mayor who presided, and Ann Elmquist acted as City Clerk of the meeting. Upon call roll the City Clerk reported that the following members were present:

Absent:

Among other business, there came for consideration and discussion the following:

AN ORDINANCE AUTHORIZING THE CITY OF OSAWATOMIE, KANSAS TO MAKE WATER SYSTEM IMPROVEMENTS, EXPAND AND IMPROVE THE WASTEWATER TREATMENT PLANT; PREPAY CERTAIN OUTSTANDING LOANS AND AUTHORIZING THE CITY TO ISSUE ITS GENERAL OBLIGATION BONDS IN THE AMOUNT NECESSARY TO PAY COSTS OF SUCH IMPROVEMENTS

After discussion, Council Member _____ moved that the issuance of bonds be in the estimated amount of not to exceed \$_____. Council Member _____ seconded the motion. The motion was voted upon and approved unanimously. Council Member _____ moved to authorize the _____ improvements within the city and authorize the issuance of bonds, as amended. Council Member _____ seconded the motion. The motion was voted upon. Those voting in favor of the motion were:

Opposed:

The motion carried by a vote of __ in favor to __ opposed being a majority vote of the members elect of the Governing Body. The Ordinance was assigned No. _____

Upon motion duly made to adjourn, seconded and unanimously carried, the meeting adjourned.

CERTIFICATE

I, the undersigned, City Clerk of the City of Osawatomie, Kansas, hereby certify that the above and foregoing is a true and correct copy of portions of the minutes of the meeting of the Governing Body held on March 8, 2012 as recorded on Page _____ of City Council Journal No. 19 of the City of Osawatomie, Kansas.

WITNESS MY HAND and THE SEAL of the City of Osawatomie, Kansas.

(SEAL)

Ann Elmquist, City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF OSAWATOMIE, KANSAS AUTHORIZING AND PROVIDING FOR THE UNDERWRITING AND OFFERING FOR SALE OF THE CITY'S GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2012A IN THE APPROXIMATE AGGREGATE PRINCIPAL AMOUNT OF \$4,225,000.

WHEREAS, the City of Osawatomie, Kansas (the "City") has selected the firm of George K. Baum & Co., Kansas City, Missouri (the "Underwriter") to underwrite approximately \$4,225,000 aggregate principal amount of the City's General Obligation Refunding and Improvement Bonds, Series 2012 (the "Bonds") to (1) provide for the partial refunding of the City's outstanding General Obligation Bonds, Series 2008A and the refunding of the City's outstanding General Obligation Bonds, Series 2003A (the "Refunded Bonds"), (2) to pay the costs of certain street and related improvements in the City (the "Project"), and (3) to pay the costs of certain improvements through prepayment of outstanding loan agreements between the City and the Kansas Department of Health and Environment described herein (the "Loans"); and

WHEREAS, the City desires to authorize the Underwriter to offer the Bonds for sale and take such other actions as are necessary to offer the Bonds.

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

SECTION 1. Authorization of Offering. The Underwriter is authorized to proceed with offering for sale of the General Obligation Refunding and Improvement Bonds, Series 2012A in the approximate principal amount of \$4,225,000.

SECTION 2. Authorization Preliminary Official Statement and Official Statement. The Underwriter is authorized and directed to prepare or provide for the preparation of a Preliminary Official Statement for the Bonds. The Mayor is authorized to execute the Preliminary Official Statement on behalf of the City. The City hereby consents to and authorizes the Underwriter to use and publicly distribute the Preliminary Official Statement (but only in its entirety) to prospective purchasers of the Bonds. Upon a successful offering of the Bonds, the Underwriter is authorized to prepare or provide for the preparation of a final Official Statement by amending, supplementing and completing the Preliminary Official Statement and the City authorizes the execution of the final Official Statement by its Mayor or acting Mayor, with such changes and additions as such officer deems appropriate. The final Official Statement is authorized to be distributed to the public (in its entirety) in connection with the offering and sale of the Bonds.

SECTION 3. SEC Rule Compliance; Continuing Disclosure. To permit the Underwriter to comply with the requirements of Rule 15c2-12(b)(1) of the Securities and Exchange Commission (the "SEC Rule") the Mayor or the City Clerk are authorized, if requested to do so, to certify that the City deems the information in the Preliminary Official Statement "final" as of its date except for the omission of information as permitted by the SEC Rule and to take such other actions as such officers find necessary to permit the Underwriter to comply with the SEC

Rule. The City agrees that, on or before the date the Bonds are delivered, it will enter into a written undertaking to provide continuing disclosure about the City while the Bonds remain outstanding, if required by the applicable sections of the SEC Rule.

SECTION 4. Authorization of Additional Actions as Required. The Mayor, the City Clerk, the Underwriter and Triplett, Woolf & Garretson, LLC, as Bond Counsel, are each authorized and directed to take all such other actions as are necessary to complete the offering and issuance of the Bonds, including but not limited to, providing any necessary notice of the City's intent to redeem the Refunded Bonds on their projected redemption date of June 1, 2012 and to prepay the Loans on May 8, 2012 or as soon thereafter as possible. The Loans are identified below:

<u>Loan</u>	<u>Original Loan Amount</u>	<u>Estimated Balance Outstanding for Prepayment</u>
A. PWS Loan # 2128 (Water Facilities)	\$ 901,478.72	\$ 567,460.34
B. WPC Loan #C20 1314-01 (Waste Water Plant and Related Structures)	\$ 1,518,928.96	\$ 413,160.60
C. WPC Loan #C20 1395-01 (Waste Water Plant and Related Structures)	\$ 2,413,902.70	\$ 999,691.42

SECTION 5. Effective Date. This Resolution shall be in force and take effect from and after its adoption and approval.

[Remainder of Page Intentionally Left Blank]

ADOPTED AND APPROVED by the governing body of the City of Osawatomie, Kansas on March 8, 2012.

CITY OF OSAWATOMIE, KANSAS

By _____
Philip A. Dudley, Mayor

(SEAL)

ATTEST:

By _____
Ann Elmquist, City Clerk

EXCERPT OF MINUTES

A regular meeting of the City Council of the City of Osawatomie, Miami County, Kansas was held on March 8, 2012 at Memorial Hall, Osawatomie, Kansas at 7:00 p.m. The meeting was called to order by Phillip A. Dudley, Mayor who presided, and Ann Elmquist acted as City Clerk of the meeting. Upon call roll the City Clerk reported that the following members were present:

Absent:

Among other business, there came for consideration and discussion the following:

A RESOLUTION OF THE CITY OF OSAWATOMIE, KANSAS AUTHORIZING AND PROVIDING FOR THE UNDERWRITING AND OFFERING FOR SALE OF THE CITY’S GENERAL OBLIGATION REFUNDING AND IMPROVEMENT BONDS, SERIES 2012 IN THE APPROXIMATE AGGREGATE PRINCIPAL AMOUNT OF \$4,225,000 .

After discussion, Council Member _____ moved that the issuance of bonds be in the estimated amount of not to exceed \$_____. Council Member _____ seconded the motion. The motion was voted upon and approved unanimously. Council Member _____ moved to authorize the _____ improvements within the city and authorize the issuance of bonds, as amended. Council Member _____ seconded the motion. The motion was voted upon. Those voting in favor of the motion were:

Opposed:

The motion carried by a vote of __ in favor to __ opposed being a majority vote of the members elect of the Governing Body. The Ordinance was assigned No. _____

Upon motion duly made to adjourn, seconded and unanimously carried, the meeting adjourned.

CERTIFICATE

I, the undersigned, City Clerk of the City of Osawatomie, Kansas, hereby certify that the above and foregoing is a true and correct copy of portions of the minutes of the meeting of the Governing Body held on March 8, 2012 as recorded on Page _____ of City Council Journal No. 19 of the City of Osawatomie, Kansas.

WITNESS MY HAND and THE SEAL of the City of Osawatomie, Kansas.

(SEAL)

Ann Elmquist, City Clerk

Debt Refinance and Issuance

City of Osawatomie

Debt Issuance	<u>Series 2003 A</u>	<u>Sewer SRF Loan 1314</u>	<u>Sewer SRF Loan 1395</u>	<u>Water SRF Loan 2128</u>	<u>USDA Sewer Loan*</u>	<u>Total Refinance</u>	<u>New Street Bonds</u>	<u>Total Issuance</u>
Amount Refinanced	275,000	420,000	1,020,000	580,000	1,330,000	3,625,000	600,000	4,225,000
Years Left	7.0	4.5	7.5	11.0	21		20	
Current Avg. Debt Service	44,079	100,129	150,585	64,983	95,564	455,339	-	455,339
Proposed Avg. Debt Service	<u>41,318</u>	<u>96,413</u>	<u>144,836</u>	<u>59,038</u>	<u>84,628</u>	<u>426,233</u>	<u>35,292</u>	<u>461,525</u>
Avg Annual Savings	2,761	3,716	5,748	5,945	10,936	29,107	(35,292)	(6,185)
Lifetime Savings	19,328	16,724	43,111	65,395	229,654	374,213	(705,840.00)	(331,627.29)

** Only showing amount to be refinanced. Still \$2.169 million outstanding beginning in 2031.*

6-Mar-2012

**CITY OF OSAWATOMIE, KANSAS
GENERAL OBLIGATION BONDS
SERIES 2012-A**

REVISED CALENDAR OF EVENTS

- FEB** 27 Draft of Resolution Authorizing Sale of Bonds (“Sale Resolution”) Distributed
Draft New Project Authorizing Resolution Distributed
- MAR** 2 Comments Due on Sale Resolution
Preliminary Official Statement Distributed for Comment
Final Sale Resolution Forwarded to City
Final New Project Authorizing Resolution Forwarded to City
8 City Council Updated on Financing Plan
City Adopts Additional Project Authorizations, if Needed
City Passes Resolution Authorizing Sale of Bonds
19 Notice of Bond Redemption (USDA Loan) Forwarded to State Treasurer
22 Notice of Bond Sale (Private Placement) Sent to Local Paper and Kansas Register, if needed
23 Draft Bond Ordinance and Resolution Distributed
28 & 29 Notice of Bond Sale (Private Placement) Published in Local Paper and Kansas Register, Respectively, if needed
30 Finalize New Project Borrowing Amount
- APR** 2 Comments Due on Preliminary Official Statement
3 Preliminary Official Statement Sent to Potential Investors
6 Comments Due on Draft Bond Ordinance and Resolution
11 Bonds Offered to Investors
12 Pass Bond Ordinance and Resolution
13 Bond Ordinance Forwarded to Local Paper
Transcript Assembly Begins
16 Final Official Statement to Printer
Receive Final Official Statement from Printer
18 Bond Ordinance Published in Local Paper
30 Registration Instructions to State Treasurer
Bond Printing Complete - Bonds Forwarded to State Treasurer
Transcript Assembly Complete
Transcript Forwarded to Attorney General
- MAY** 1 Closing Memorandum Distributed
7 Transcript Approved
Bond Registration Complete - Bonds Forwarded to DTC
8 Closing and Delivery of Funds
Prior Bonds (USDA Loan) Repaid

FEBRUARY						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29			

MARCH						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

APRIL						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

MAY						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

February 13, 2012


Note: Bold items indicate actions of City Council

Kansas Forest Service

1901 E. 95th St. S.
Haysville, KS 67060-8351
316-788-0492, ext. 202
Fax: 316-788-3844
<http://www.kansasforests.org>

February 20, 2012

TO: Kansas TCUSA Communities

FROM: Tim McDonnell, Comm. Forestry Coordinator, Kansas Forest Service 

RE: 2011 Kansas TCUSA Community Recognition Day

I first would like to congratulate your community for being recognized as an Arbor Day Foundation's Tree City USA Community for the year 2011. The Kansas Forest Service appreciates your participation in this program and the importance you continue to place on our Community Forestry resources. This year marks the 36th anniversary of the TCUSA program in Kansas.

Secondly, I would like to invite you to attend the upcoming TCUSA Recognition Day and Pre-Tours in Derby, KS on March 27- 28th. It is titled "Celebrating Kansas Community Forestry" and will be held at the Derby Community Center (Derby City Hall) and the John C. Pair Horticulture Center in Haysville, KS. On March 27th, we will meet at the John C. Pair Horticulture Center at 1 pm and will tour the centers tree trials till 3:30 pm. On March 28th the TCUSA Recognition Day will begin with registration and continental breakfast at 8:00 to 9:00 am. Along with the usual lunch (catered) and the awards ceremony we will have presentations by Dr. Jason Griffin, Woody Plant Specialist with KSRE; Kim Bomberger, Sabina Dhungana and Tim McDonnell from KFS; and Eric Berg, Community Forestry Program Leader with NFS. You will find more details and the agenda in the registration brochure that is enclosed. When registering, please note whether you are attending one or both days. You will notice that this is a two day event, and a block of 20 rooms have been reserved for the night of the 27th at the Haysville Sleep Inn at 651 E. 71st St. South, Haysville, KS, for a special state rate of \$75.00 plus tax. To make reservations call 316-425-6077 and be sure to mention Tree City USA. Rooms will be held till March 13th. This is a brand new hotel at the intersection of 71st St. South and the Haysville KTA exit # 39 and provides a free breakfast and wifi.

Please consider joining the other 100 plus TCUSA communities in Kansas for the day. Hope to see you in Derby for the meals, sharing with peers, speaker's presentations, and TCUSA awards. **Please be sure to have your registration form in by the due date of March 20th.** If you have any questions please give Tim McDonnell a call at 316-788-0492 or tmedonne@ksu.edu. Again, I would like to say 'Thank You' for all that you do for our Community Forestry resource in Kansas.



2011 Kansas - Tree City & Tree Line USA's

Tree City USA

Abilene	20	Junction City	36	Sedgwick	13
Anthony	27	Kansas City	4	Shawnee	15
Arkansas City	18	Kiowa	16	Spring Hill	16
Atchison	30	Lake Quivira	17	St. John	16
Atwood	16	Lansing	12	Topeka	26
Augusta	7	Lawrence	34	Troy	15
Baldwin City	9	Leavenworth	18	Udall	2
Bel Aire	16	Leawood	16	Valley Center	17
Beloit	35	Lenexa	24	Valley Falls	17
Blue Rapids	30	Liberal	29	Wakeeney	23
Bonner Springs	26	Lindsborg	27	Waterville	35
Burlingame	1	Louisburg	15	Westwood	24
Burlington	19	Lyons	7	Westwood Hills	15
Chanute	33	Lyndon	11	Wichita	26
Chapman	4	Maize	14	Windom	19
Clay Center	36	Manhattan	35	Winfield	32
Clyde	10	Marquette	17		
Colby	9	Marysville	32		
Council Grove	16	McConnell AFB	18		
De Soto	10	McPherson	34		
Derby	19	Merriam	27		
Dodge City	36	Mission	10		
Effingham	17	Mission Hills	20		
El Dorado	19	Morrill	7		
Emporia	26	Mount Hope	6		
Fairway	27	Mulvane	21		
Formoso	27	Newton	36		
Ft. Riley	25	Olathe	29		
Garden City	34	Osage City	21		
Gardner	9	Osawatomie	7		
Goodland	33	Oskaloosa	17		
Great Bend	29	Oswego	22		
Greensburg	4	Ottawa	13		
Halstead	34	Overland Park	33		
Harper	15	Paola	8		
Haven	32	Park City	13		
Hays	33	Parsons	23		
Haysville	12	Phillipsburg	25		
Herington	23	Pittsburg	7		
Hesston	27	Prairie Village	15		
Hiawatha	12	Roeland Park	19		
Hutchinson	18	Rose Hill	8		
		Russell	26		
		Salina	22		

Tree Line USA

Westar Energy 13

Campus Line USA

Baker University 2



“Kansas Communities Celebrating Trees”

**TREE CITY USA
RECOGNITION DAY**

March 27 & 28, 2012
City Hall - Derby, KS

TREE CITY USA

KANSAS FOREST SERVICE

KANSAS COMMUNITY FORESTRY



STAFF AGENDA MEMORANDUM

DATE OF MEETING: March 8, 2012

AGENDA ITEM: **Community Fisheries Assistance Program**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: Last week, we received a letter from the Kansas Department of Wildlife, Parks and Tourism (KDWPT) requesting our full participation in the Communities Fisheries Assistance Program. We currently have 24 acres of water enrolled in the program between City Lake and Beaver Lake. However, we participate at the “Basic” level, which allows us to continue to charge permits for fishing the lake. KDWPT is requesting our participation at the “Enhanced” level which would allow the City to receive an annual lease payment of \$1,030. The City would also receive greater priority for competitive grant funding.

To participate at the “Enhanced” level, the City would have to waive all local fishing permits and open the lakes to the general public. In 2010, the City collected \$744.50 in fishing permits and \$966.00 in 2011.

I have attached two letters I have received from the Department’s District Fisheries Biologist, Andrew Jansen.

COUNCIL ACTION NEEDED: Review, discuss and provide direction to staff.

STAFF RECOMMENDATION TO COUNCIL: Approve the request and direct staff to draft the necessary documents for inclusion in the program.

Kansas City District Office
8304 Hedge Lane Terr.
Shawnee, KS 66227



Phone: 913-422-1314
Fax: 913-422-1439
www.kdwpt.state.ks.us

Robin Jennison, Secretary

Sam Brownback, Governor

February 28, 2012

Don Cawby
P.O. Box 37
Osawatomie, KS 66064

Mr Cawby:

The City of Osawatomie currently has 24 acres of water enrolled in Kansas Department of Wildlife, Parks & Tourism's (KDWPT) Basic Community Fisheries Assistance Program. Under this program, KDWPT assists the city of Osawatomie with fisheries management of Osawatomie City Lake and Beaver Lake, but the city still charges a city fishing permit for anglers to fish these waters. Due to the required city fishing permit, these lakes receive less priority for fisheries management activities, grant consideration, and fish stocking by KDWPT. We are hoping that you will consider upgrading your involvement from a Basic program cooperator to an Enhanced program cooperator.

As an Enhanced program cooperator, you will receive an annual lease payment from KDWPT to remove your fishing fees and allow public fishing access. The lease payment amount is based upon the current revenue generated from your city fishing permit or a calculated rate based upon surface acreage of your waters. The minimum annual lease payment you would receive would be \$1,030. In addition to the annual lease payment, you would receive more priority for fisheries management activities such as fish population sampling, habitat management, and fish stocking. You would also receive more priority for KDWPT's competitive grant funding. For example, in 1997 KDWPT partnered with the City on a \$7500 project that resulted in the fishing pier at Osawatomie City Lake. We believe the benefits of the Enhanced Community Fisheries Assistance Program far outweigh the revenue generated from the city fishing permits.

We hope that you will consider upgrading your involvement in the Community Fisheries Assistance Program. We would like the opportunity to discuss this endeavor with you further. Please feel free to contact me at anytime to set up an appointment.

Thank you for your consideration and we look forward to hearing from you.

Sincerely,

A handwritten signature in cursive script that reads "Andrew C. Jansen".

Andrew C. Jansen
Kansas City District Fisheries Biologist
Kansas Department of Wildlife, Parks & Tourism
8304 Hedge Lane Terrace
Shawnee, KS 66227
913-422-1314 ext. 111
andrew.jansen@ksoutdoors.com

Kansas City District Office
8304 Hedge Lane Terr.
Shawnee, KS 66227



Phone: 913-422-1314
Fax: 913-422-1439
www.kdwpt.state.ks.us

Robin Jemison, Secretary

Sam Brownback, Governor

March 5, 2012

Don Cawby
P.O. Box 37
Osawatomie, KS 66064

Mr Cawby:

RE: Community Fisheries Assistance Program

Thank you for getting back to me in regards to the Community Fisheries Assistance Program (CFAP). I hope that we can work together to upgrade the City of Osawatomie's involvement in the CFAP program.

You mentioned that there may be some concern in regards to a small group that is trying to establish a swimming beach at Osawatomie City Lake. The City's involvement in CFAP would have no impact on establishment of a swimming beach. CFAP only leases the fishing rights to the property; development of the property around the lake is up to your discretion. If you would like insight from a fisheries perspective on the establishment of a swimming beach at Osawatomie City Lake, we would be happy to discuss our suggestions with you.

The other concern about the CFAP program was control of the water usage. The City of Osawatomie would maintain control of the water usage despite involvement in CFAP. The only potential problem with water use would be if the lake water level was drained to the point where it could no longer support a fishery. Regular water level fluctuations in regards to golf course management are acceptable.

Thank you for your consideration and if you have any additional questions or concerns, please feel free to contact me at anytime.

Sincerely,

Andrew C. Jansen
Kansas City District Fisheries Biologist
Kansas Department of Wildlife, Parks & Tourism
8304 Hedge Lane Terrace
Shawnee, KS 66227
913-422-1314 ext. 111
andrew.jansen@ksoutdoors.com



MEMORANDUM

To: Mayor and City Council
From: Don Cawby, City Manager
Re: **Projects & Issues Update**
Date: March 8, 2012

Projects

Mold Abatement. We have received a proposal from American Metropolitan Environmental, Inc., a mold inspection company from Wichita. We are currently evaluating the proposal and the price. If we think it is reasonable, we will move forward. If not, we will look into other options.

Street Rating. The street rating is completed and I plan to start CIP and street discussions in April. At the next meeting, I plan to have a spreadsheet for you with the basic rating information.

Grass and Leaves Disposal and Recycling Changes. I will get a press release out tomorrow or the next day about the changes in the grass and leaves disposal and the move to Monday only recycling. I signed an addendum to the contract with L&K late last week to implement these changes.

Storm water. Today I attended a web/phone conference in Lawrence hosted by BG Consulting. They discussed the current storm water regulations and the changes that may be coming. I found it very educational and it will help me as we plan our budget and future projects.

Issues

Golf Course Lease-Purchase Refinancing. I bumped this issue back to the next meeting so we can make sure we get the paperwork right on our end.

CIP Plan/2013 Budget. At the next meeting I will present a budget calendar for this year, so you can plan around the discussions and process for getting everything done by early August.

Auditors. The auditors will be in the office next week and I hear that they work out of my office. So I want to offer all of you fair warning that I probably will be finding other places to work or try to get out of the office a little more next week.

Reorganization. Although I don't have an organization chart ready for you yet, we have made significant strides in trying to reorganize to accommodate the planned operational changes. One of those changes is the retirement of Dennis Davey from the sewer plant. Dennis will have a reception next Thursday and his last day will be Friday the 16th. For the short term, Bruce Hurt will be in charge of the plant since he is the only licensed operator we have. As part of our reorganization, Stewart Kasper

will move over the sewer plant three days a week and Johnny Rayl will assist Bruce at the plant the other two days. Stewart will be taking the classes and tests to get his Wastewater Operator 3 license within the next year. We also may seek some level of licensure for Johnny as a backup as well.

In order to implement full changes, I have asked our staff to look at what automation we can do at the water plant to eliminate some on-site staffing hours at the water plant. There are varying degrees of automation, so we will look at numerous options and see what we can do to free up resources at the plant to improve our efficiency.

Also, we have moved Eric Draper from the golf course to become the Parks Supervisor under the Parks and Recreation Department. Eric will be in charge of all the City's parks and will operate a large mowing crew this summer which will be over most of the City's mowing responsibilities. We hope that by bringing some contract mowing in house, along with using 8-10 temporary positions with the City this summer for mowing and some street work, we will be maximizing our workload during the time when we need bodies.

Key Account-Energy Consulting Agreement. For the next meeting, I will be bringing in Scott Shreve, and possibly his partner, Greg Wright, from EMG, Inc. Scott's background was 16 years with Westar Energy where he managed wholesale municipal accounts in the southern half of Kansas and he has negotiated several new contracts for municipals in Kansas. Greg worked for Westar for 17 years in the retail key account program and with the main utility negotiator with large industrial customers.

As an electric utility provider we have three primary responsibilities to our customers. First, we must have reliable, affordable and efficient power. This includes operating our utility so that we are making the necessary improvements for the long-term viability of the utility. Two, we must work to minimize our expenses and maximize our efficiency to be competitive in the market place. Three, we must do our best to help our customers to reduce their energy usage and to reduce the amount of power we all buy.

With EMG's help, I believe we will have an educated voice to represent the City's interest at all EMP1 (Power Pool) meetings and to make sure we are getting the best deal possible for Osawatomie. Also, EMG can help us to evaluate the Sawvel study and assist us in the "business" decisions regarding the improvements that are recommended in the study. Finally, EMG will be able to help us work with some of our larger customers to find ways to manage loads and possibly reduce usage or demand charges. Called key account management in the industry, this is a service that is offered by most large utility providers but is also a service that EMG provides on a private basis to companies as well.

I have asked EMG to come meet with us on March 14 to do a walkthrough of our facilities and to meet with our staff. Without going into any more detail, I would like the Council to discuss an agreement with EMG and have provided a draft copy of that agreement tonight for your review in advance of the next meeting.

Recognition

Tree Board. Included in the packet is information on the City's designation for the 7th straight year as a Tree City USA. Our thanks go out to all the community volunteers and City staff that have worked for this designation.

Upcoming Meetings/Dates

March 14 Planning Commission Meeting and Training (7:00)
March 15 Dennis Davey Retirement Reception (1:00 – 3:00)
March 22 City Council Meeting/Work Session
April 12 City Council Meeting
April 26 City Council Meeting/Work Session

Manager's Out-of-town Schedule

March 19-21 Vacation (I hope!)

**KEY ACCOUNT AND ENERGY CONSULTING
AGREEMENT**

This Agreement entered into this ____ day of _____, 2012, by and between the CITY OF OSAWATOMIE ("City") and EMG ("EMG"):

WITNESSETH:

WHEREAS, the City of Osawatomie, hereinafter referred to as City, and EMG, hereinafter referred to as EMG, wish to document a consulting agreement by which EMG will provide certain services to City; and

WHEREAS, the City owns and operates a municipal electric and/or other municipal utility system and purchases electrical power from other utilities under contract and is in need of a consultant to advise the City on various utility issues plus assist the City in evaluating and optimizing their wholesale electric generation asset options; and

WHEREAS, the City owns and operates a municipal electric and/or other municipal utility system and provides these services to their retail customers and is in need of developing and implementing a Key Account program to advise the City on the terms of said relationships and to assist the City in finding new revenue sources; and

WHEREAS, EMG has experience in this area and has agreed to provide these services under the following terms and conditions:

1. Length of Agreement. The initial term of this Agreement shall be for a one (1) year period and then continue from year to year unless cancelled by either party with written notice prior one hundred twenty (120) days before the expiration of any term.
2. Scope of Services. EMG will use its best efforts to assist in the optimization of all City utilities. EMG will provide assistance in determining the cost of producing electricity from each City generating unit; review and summarize the City's load profile and the use of various scheduled energy resources; develop and implement Key Account strategies; support Supply Side management issues; provide energy audit support; and assist the organization and implementation of any "EMP 1" work.

The effort at the City power plant will encompass several aspects of the plant. One will be working with City personnel to determine the cost per mWh of each generator during the first hour, "full" run cycle, and last hour of operation. Lastly, EMG will collect data to determine load profile and review the scheduling pattern of the City's outside resources, and summarize the findings in a report to City personnel.

EMG will become involved with the City's retail rates and fuel adjustment calculations to verify the City's revenue requirements are being met on a monthly and yearly basis. Along the way, the Key Account effort will, in concert with City, enhance the existing marketing program to solidify City/customer relationships prior to deregulation of any certificated territory changes, increase the City's revenue base while improving their annual system load factor, and establish communication mechanisms to help streamline access to the City.

The Supply Side management work will include attracting and evaluating various short-term and long-term wholesale electrical power agreements capable of transmitting energy to the City of Osawatomie. EMG will review and analyze all proposals received by the City, whether EMG generates the proposals or not. The supply side support will also include reviewing the current suppliers monthly bills, marketing any of the City's excess generating resources, optimize current agreements, and help manage any power pool activities the City has involvement. EMG will support the City's natural gas management, both for operation of the City's generating plants and for the City's other customers.

EMG can perform energy audits on City customer(s) facilities to determine source of high-energy use equipment plus evaluate State sales tax exemption status for all qualified City customers. EMG will investigate the opportunities to increase the City's annual load factor by suggesting incentives to particular groups of customers that will benefit both the customer and the City. EMG will organize the "one point" of contact for the specific class of customers.

EMG is required under this agreement to disclose to the City if EMG has any ownership or other interest in any of the contracts that EMG either brings to the City or is asked to review on behalf of the City. Also, if a seller of either electricity or natural gas is paying any additional compensation to EMG, then EMG needs to disclose that arrangement to the City as part of the contract analysis.

3. Compensation for Services. Base fee for services for EMG will be the sum of \$1,000 a month. For this monthly retainer, EMG will perform all contract analysis, phone conferences with City staff, and provide each month, up to ten hours of work, at the City of Osawatomie or at another site on behalf of the City. If during the course of the month EMG performs more work than described above, then additional compensation will be paid by the City if authorized by the City on an hourly basis of \$120 per hour. In addition, mileage will be billed at the current Federal approved rate per mile for travel that is conducted solely for the benefit of City business.

4. Payment. The City shall process EMG's invoices for payment on a timely basis, which in a normal course of the City's business would be no more than 30 days.

Financial obligations incurred hereunder shall be paid from revenues derived from the electric and/or gas systems.

5. Termination and/or Default. An occurrence of any of the following events or conditions shall constitute an "Event of Default" providing for termination of the Agreement by either party:

(a) Failure of the City to pay or perform any obligation as required in this Agreement in a timely manner.

(b) Failure of EMG to perform any requested service within a reasonable period of time upon request by the City. It shall be deemed reasonable that the EMG can schedule a meeting or perform analysis of the contract within two (2) weeks of the requested analysis or scheduling of the meeting.

(c) Filing by EMG or City of a voluntary petition or any answer seeking a reorganization, arrangement, readjustment of its debts or for any other relief under any applicable bankruptcy law, act or insolvency action, now or hereafter existing.

(d) Filing of an involuntary petition against EMG or City in bankruptcy or seeking reorganization, arrangement or readjustment of its debts or for any other relief under any applicable bankruptcy law, act or insolvency action, now or hereafter existing.

6. Indemnification and Notice. EMG shall indemnify and hold City harmless for and against, and pay or reimburse City for any and all losses which are actually sustained or incurred as a result of and breach or non-performance of any obligation by EMG hereunder.

City shall indemnify and hold EMG harmless for and against, and pay or reimburse EMG for any and all losses, which are actually sustained or incurred as a result of and breach or non-performance of any obligation by City hereunder.

7. Waiver. A waiver by either party of any one or more defaults by the other hereunder shall not operate as a waiver of any other existing or future default or defaults, whether of a like or of a different character.

8. Assignment. This Agreement shall be binding upon and inure to the benefit of the successors, assigns and legal representatives of the parties hereto.

Neither party may assign its rights nor delegate its obligations under this Agreement without the prior written consent of the other party.

9. Notices. Except as herein otherwise provided, (specifically including Section 7.3) any notice, request, demand, statement, bill or payment provided for in this Agreement shall be deemed given when deposited in the United States mail, postage prepaid, directed to the post office address of the parties as follows:

To the City: City of Osawatomie
439 Main Street
Osawatomie, KS 66064
Attn: Don Cawby

To EMG: EMG
420 NE Lyman
Topeka, Kansas 66608
Attn: Scott S. Shreve

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

CITY OF OSAWATOMIE, KANSAS

By: _____
Mayor

ATTEST:

City Clerk

EMG, Inc.

By: _____
Member

ATTEST:

Secretary