

## **OWENSBORO BOARD OF COMMISSIONERS**

### **Regular Called Meeting**

**March 7, 2023 5:00 PM**

Owensboro City Hall

101 E. 4th Street

Owensboro, Kentucky

#### **1. CALL TO ORDER – Mayor Tom Watson**

Mayor Watson called for a moment of silence in honor of Billy Tyler. Billy was a Crew Leader with the Street Department and was recently killed during an accident while on the job. A video was played with part of the funeral procession and various pictures.

#### **2. ROLL CALL - City Clerk Beth Davis**

##### Present:

Mayor Tom Watson

Mayor Pro Tem Mark Castlen

Commissioner Larry Maglinger

Commissioner Bob Glenn

Commissioner Pam Smith-Wright

#### **3. INVOCATION & PLEDGE – Commissioner Larry Maglinger**

#### **4. PRESENTATION**

**4.A.** Mayor Watson presented the “Rare Disease Day” Proclamation in honor of King’nazir Gates, a seven (7) year old that recently passed. King’s mother, LaKeia Nard, accepted the proclamation and made brief comments.

**4.B.** Tim Lyons, OMU General Manager, presented an update (attached). He introduced the City Utility Commission in attendance: Paul Martin, Chair; Tony Cecil, Vice Chair; Dr. Tom Maddox, Secretary; Suzy Lamar; and J.T. Fulkerson. He then recognized the leadership team/staff in attendance: Brad Howton, Director of Customer & Shared Services; Lynn Holland, Director of Finance & Accounting; Austin McLimore, Director of Delivery; Chris Poynter, Director of Telecommunications; Russ Evans, Director of Production; Laura Chapman, Manager of Planning; Phytos Neophytou, Manager of Audits and Procurement; and Sonya Dixon, Public Relations and Communication Manager. Upcoming projects include: expansion of the Cavin Treatment Plant, improve pressure in the Hillcrest Tank service area, and expand internet services (fiber). Work continues on the demolition of the Elmer Smith Station. He also gave an update on the electric rate stabilization plan.

## 5. BUSINESS

**5.A.** Minutes dated February 21, 2023 were unanimously approved by motion of Mayor Watson and a second from Mayor Pro Tem Castlen.

**5.B.** The following board appointments were unanimously approved by motion of Mayor Watson and a second from Commissioner Glenn:

- **Owensboro Health Board of Directors** – Appoint Susanne Harris to a three-year term effective March 7, 2023
- **Audubon-Bon Harbor Area Neighborhood Alliance** – Appoint April Brown to a two-year term effective March 7, 2023
- **Owensboro-Daviess County Board of Ethics**– Appoint Russ Wilkey as a joint city-county appointment to a three-year term expiring March 2, 2026
- **Owensboro Housing Authority Board** – Appoint Deborah Fillman to a four-year term effective March 21, 2023
- **Owensboro Human Relations Commission** – Appoint Jennifer Vogel to fill the remainder of an unexpired term which ends October 19, 2024 (replaces Naheed Murtaza)

## 6. ORDINANCES - 2nd READING - None

## 7. ORDINANCES - 1st READING

**7.A.** Ordinance 07-2023 entitled AN ORDINANCE AMENDING SECTION 26-82 OF ARTICLE IV OF CHAPTER 26 OF THE OWENSBORO MUNICIPAL CODE, ENTITLED, “ELECTRIC UTILITY”; AND APPROVING AND ADOPTING RATES FOR ELECTRIC SERVICE FURNISHED BY THE CITY UTILITY COMMISSION OF THE CITY OF OWENSBORO, KENTUCKY, was introduced and publicly read on first reading.

The City Utility Commission of the City of Owensboro, Kentucky, by Resolution passed on February 17, 2023, approved, adopted and fixed rates for electric service furnished by the said Utility Commission pursuant to the Statutes of the Commonwealth of Kentucky and the Ordinances of the City of Owensboro, Kentucky. The Board of Commissioners are required by KRS 96.530 and KRS 96.535 to approve rates for electric service fixed by the City Utility Commission. City Manager Pagan explained that state law requires the Board of Commissioners to approve rate changes by the city-owned utility. Tim Lyons, General Manager, presented a proposal presentation (attached). OMU worked with internal staff and GDS Associates, Inc. for a cost of service study and rate development. Reasons given for the increase included: maintain a debt service coverage ratio; maintain targeted days of cash-on-hand; seeing a higher than anticipated inflation combined with supply chain issues; recover cost of service (last base rate adjustment was approved in

2019); and continue the electric rate stabilization plan. Jake Thomas, GDS Associates, Inc., presented the findings from the electric retail rate study (attached). Mr. Lyons returned to finish out the presentation. The financial projections and the cost of service study identified a need for a base rate revenue increase of 5.75% in FY2024 and FY2025. Reductions in the Energy Cost Adjustment (ECA) and Environmental Control Cost Adjustment (ECCA) rates partially offset the base rate increases in FY2024 and FY2025. The resulting average overall electric bill will increase in two (2) steps of 0.7% and 0.9% over the two (2) year period. The proposed ordinance change also includes adding a Residential Submetering Rider that allows OMU to provide electricity to new residential buildings such that the property owner can then provide service to individual tenants based upon electric usage recorded on sub-meters; adding an Electric Vehicle Charging Station rate; and adding a Renewable Generation Metering Service Rider.

**7.B.** Ordinance 08-2023 entitled AN ORDINANCE ESTABLISHING THE COMPENSATION OF CITY EMPLOYEES AND NON-ELECTED CITY OFFICERS IN ACCORDANCE WITH A PERSONNEL AND PAY CLASSIFICATION PLAN, AS REQUIRED BY KRS 83A.070; AND ADOPTING THE REVISED PAY GRADE AND RANGE STRUCTURES, was introduced and publicly read on first reading.

KRS 83A.070(2) directs the legislative body of each city to fix the compensation of city employees and non-elected city officers in accordance with a personnel and pay classification plan. The City recently retained JER HR Group to conduct a Classification, Compensation and Benefits study for city employees compared to similarly situated employers. The Classification, Compensation and Benefits study recommends adopting the revised Pay Grade and Range Structures to improve the City's ability to attract and retain employees. City Manager Pagan explained the City conducted a Compensation and Benefit study over the last several months. A previous briefing took place at the February Work Session and several informational meetings have taken place with the employees to explain the study and results. City employee wages were compared to similar employers and all city positions were scored based on their responsibilities. Using this information, new pay charts were developed. State law requires all cities to adopt their compensation plan by ordinance. If approved, the charts will be effective June 1 which allows staff time to migrate to the new charts and update the financial system.

**7.C.** Ordinance 09-2023 entitled AN ORDINANCE AMENDING CHAPTER 16, ARTICLE XI, SECTION 16-278 OF THE OWENSBORO MUNICIPAL CODE TO ALLOW FOR SMOKING IN CERTAIN LIMITED PUBLIC PLACES WHERE AIR PURIFICATION TECHNOLOGY IS UTILIZED IN SEGREGATED AREAS, was introduced and publicly read on first reading.

The City of Owensboro passed Ordinance 23-2014 on September 3, 2014, regulating smoking in public places such as restaurants, bars and city parks. The Board of Commissioners wishes to amend the Code of Municipal Ordinances to allow for smoking in certain limited public places where air purification technology is utilized in segregated areas. City Manager Pagan explained that in March 2022, Ellis Entertainment announced they would renovate the former JCPenney store at Towne Square Mall into a facility

offering historic horse racing machines. As subsequently announced, ownership of the project was acquired by Churchill Downs. During their development of the project, Churchill officials contacted the City and expressed concern by the potential negative impact the City's smoking ban would have on their project. Churchill explained that they believe the ability to smoke at the facility is integral to its success. In discussions about the issue, the Board of Commissioners seemed open to their request. As a result, staff began negotiating with Churchill Downs about potential changes to the smoking ordinance. This ordinance is the result of the discussions. The change would allow smoking on a limited scale for projects meeting various criteria: project must have 50,000 square feet of space and represent a capital investment of at least \$30 Million; smoking would only be allowed in a limited portion of the space which is not to exceed fifteen percent (15%) of the total space accessible to the public; smoking area must be partitioned with a full wall and a vestibule or double doors between the smoking and non-smoking areas; a separate air purification system is required; and the location must not allow patrons under the age of eighteen (18).

## **8. MUNICIPAL ORDERS**

**8.A.** Municipal Order 13-2023 entitled A MUNICIPAL ORDER DECLARING THE PROPERTY LOCATED AT 1602 EAST 18TH STREET AS SURPLUS PROPERTY AND AUTHORIZING THE MAYOR TO EXECUTE A REAL ESTATE PURCHASE AGREEMENT AND DEED CONVEYING THE PROPERTY, was introduced and publicly read for approval on one reading by motion of Mayor Watson and second from Commissioner Smith-Wright; motion carried unanimously.

The City of Owensboro owns certain real property located at 1602 East 18<sup>th</sup> Street and now desires to declare the property to be surplus property, so it can be transferred to L & S Homes, LLC. City Manager Pagan stated the property was previously acquired for improvements to Bluff Avenue (map attached). The project is complete and the property is no longer needed. L & S Homes, LLC, adjacent property owner bid on the property.

**8.B.** Municipal Order 14-2023 entitled A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE A DEED CONVEYING PROPERTY LOCATED AT 200 WILLIAMSBURG SQUARE TO REGIONAL WATER RESOURCE AGENCY (RWRA), ON WHICH RWRA HAS BUILT A PUBLICLY OWNED PUMP STATION FOR ITS OPERATIONS, was introduced and publicly read for approval on one reading by motion of Mayor Watson and second from Mayor Pro Tem Castlen; motion carried unanimously.

The City of Owensboro owns property located at 200 Williamsburg Square on which an RWRA pump station is located. RWRA has requested that the City of Owensboro execute a deed of conveyance of the property located at 200 Williamsburg Square. City Manager Pagan explained that all of RWRA's properties are owned and titled by them because the utility owns, operates and ensures their infrastructure. However, a pump station at Williamsburg Square is still in the City's name (map attached). This does not include the pond located on the property.

**8.C.** Municipal Order 15-2023 entitled A MUNICIPAL ORDER AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A FIRST AMENDMENT TO AGREEMENT BETWEEN THE CITY OF OWENSBORO AND ELLIS ENTERTAINMENT, LLC BY WHICH THE COMPANY SHALL MEET CERTAIN PAYROLL REQUIREMENTS IN ORDER TO EARN THE INCENTIVE PROVIDED FOR IN THE PARTIES' AGREEMENT DATED APRIL 20, 2022, was introduced and publicly read for approval on one reading by motion of Mayor Watson and second from Commissioner Maglinger; motion carried unanimously.

The City of Owensboro and Ellis Entertainment, LLC entered into an Agreement dated April 20, 2022, whereby the City agreed to incentivize the Company for its job creation initiative in our community, which Agreement was approved by Municipal Order 13-2022. The City and Ellis Entertainment, LLC desire to amend the Agreement to require the Company to meet annual payroll requirements to earn the incentive provided in the Agreement. City Manager Pagan stated that in April 2022, the Board of Commissioners approved an incentive agreement for a historic horse racing facility planned for the former JCPenney store at Towne Square Mall. The incentive provided a five (5) year, fifty percent (50%) General Fund Occupational tax rebate to the company. Through negotiations regarding smoking, the incentive agreement was reconsidered. The Order approves an amendment to the incentive agreement by inserting a required payroll amount for the first several years of operation. If aggregate payroll of the facility fails to meet the required amount, the company would forfeit their incentive for the year. This was done to help ensure the project has a sizeable employment and economic impact on the community.

## **9. CITY MANAGER ITEMS**

**9.A.** The following personnel appointments were unanimously approved by motion of Mayor Watson and second by Commissioner Glenn.

### **REGULAR STATUS:**

- **Nicholas R. Flake** – Regular, full-time, non-civil service appointment to Police Officer with the Police Department, effective March 13, 2023
- **Jonathon Pearl** – Regular, full-time, non-civil service appointment to Police Officer with the Police Department, effective March 13, 2023
- **Rachel F. Frederick** – Regular, full-time, non-civil service appointment to Firefighter with the Fire Department, effective March 13, 2023
- **Curtis R. Johnson** – Regular, full-time, non-civil service appointment to Firefighter with the Fire Department, effective March 27, 2023

**9.B. City Manager Comments** – City Manager Pagan announced that a community meeting for the new flood insurance rate maps will take place on March 14 in the Blandford Hall at the Owensboro Community & Technical College.

## **10. COMMUNICATIONS FROM ELECTED OFFICIALS**

Members of the Commission discussed the events they recently attended.

Commissioner Smith-Wright announced the Tuskegee Airmen Commemoration Day on March 23 at the airport.

Mayor Pro Tem Castlen thanked the Owensboro Leadership Class of 2022 for putting on the Moneta Sleet Jr. Festival.

Commissioner Glenn stated that Owensboro/Daviess County will have two (2) additional voting centers, the Sportscenter and H.L. Neblett Center. He recognized the Public Works Department.

## **11. OPEN PUBLIC FORUM**

Katherine Crowe (3301 Spring Ridge Parkway) spoke against the drag shows and presented a petition of 1,685 names requesting the RiverPark Center's Board of Directors cease all future endeavors involving drag queen shows and any other such events being planned at the RiverPark Center or GhostLight Lounge (attached). Failing that, they request the Owensboro City Commission and Daviess County Commission to withhold all future funding of the RiverPark Center until they cease all drag shows. The RiverPark Center and GhostLight Lounge lease a building owned by the City of Owensboro, meaning the citizens of Owensboro. Further, the RiverPark Center relies upon city and county grants (tax dollars) to keep its doors open. The group rejects the progressive gender ideology behind the drag shows as well as attempts to access, groom and isolate the children. The group does not want the drag shows to be held in the same location as where children will be.

Jerry Chapman, Chairman for Daviess County Citizens for Decency (2601 Elwood Court) spoke against drag shows being held at the GhostLight Lounge at the RiverPark Center. Also noting that the GhostLight Lounge is losing money.

Terry Modl (1731 McCulloch Avenue), Pastor for Immanuel Baptist Church spoke against drag shows being held at the GhostLight Lounge at the RiverPark Center and within the community. He noted that the children attending events at the RiverPark Center are coming into contact with the drag show participants. He also requested defunding the RiverPark Center.

Phoebe James (1800 Parrish Plaza Drive, Apt. E) explained that her son was involved in a very bad motorcycle accident at W. Fourth Street and Ewing Road. She requests that the City install "No Right Turn" signs at the corner since cars are turning right on the one-

way of W. Fourth Street to cross over to Jed Place. City Manager Pagan will evaluate the situation.

Mike Hamlett (6160 Sutter Loop West) – spoke against the drag shows being held in the downtown area. He would rather see funds be spent on roads than GhostLight Lounge. Rich Jorn, Executive Director of the RiverPark Center (RPC), stated he hears the comments and he assured everyone that there are no children around when the [drag] shows are taking place once a month. He thanked the city staff and Commissioners that have visited the event to check it out. He is available via phone, via email at [rjorn@riverparkcenter.org](mailto:rjorn@riverparkcenter.org) and he would be happy to discuss what is actually going on at the RPC. The drag shows are taking the light away from all the wonderful things that take place at the RPC.

Andy Gamblin (2920 Yale Place) – spoke against drag shows being held at the RiverPark Center. At the end of the three (3) minute mark, Chief Ealum escorted Mr. Gamblin away from the podium.

## **12. ADJOURNMENT**

There being no further business to discuss, the meeting adjourned at 6:31 p.m. by motion of Mayor Watson and a second by Mayor Pro Tem Castlen.

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Thomas H. Watson, Mayor

ATTEST:

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Beth Davis, City Clerk