

OWENSBORO BOARD OF COMMISSIONERS
Regular Called Meeting
June 6, 2023 5:00 PM
Owensboro City Hall
101 E. 4th Street
Owensboro, Kentucky

1. CALL TO ORDER - Mayor Tom Watson

2. ROLL CALL - City Clerk Beth Davis

Present:

Mayor Tom Watson

Mayor Pro Tem Mark Castlen

Commissioner Sharon NeSmith

Commissioner Bob Glenn

Commissioner Pam Smith-Wright

3. INVOCATION & PLEDGE – Commissioner Bob Glenn

4. BUSINESS

4.A. Minutes dated May 9, 2023, May 15, 2023 and May 16, 2023 were unanimously approved by motion of Mayor Watson and second by Mayor Pro Tem Castlen.

4.B. The following board appointments were unanimously approved by motion of Commissioner Glenn and a second from Mayor Pro Tem Castlen:

- **Apollo Area Neighborhood Alliance** - Reappoint Anita Scrivner and Woody Maglinger to a two-year term effective June 16, 2023
- **City Utility Commission** - Reappoint J.T. Fulkerson to fill the remainder of an unexpired term which ends December 31, 2024

5. ORDINANCES - 2nd READING

5.A. Ordinance 13-2023 entitled AN ORDINANCE ADOPTING AND APPROVING THE ANNUAL BUDGET OF THE CITY OF OWENSBORO, KENTUCKY, FOR THE FISCAL YEAR BEGINNING JULY 1, 2023, AND ENDING JUNE 30, 2024, AND APPROPRIATING THE REVENUES TO THE VARIOUS DEPARTMENTS OF THE CITY AS SET FORTH HEREIN, was approved by a roll call vote on second reading by motion of Commissioner Smith-Wright and a second by Commissioner Glenn; Commissioner NeSmith recused herself due to not being involved when the budget was discussed at prior meetings.

The estimated revenues and fund balances set forth in the 2023-2024 Budget of the City of Owensboro are hereby appropriated to the various departments of the City of

Owensboro for the fiscal year beginning July 1, 2023, and ending June 30, 2024, in the amount of \$154,309,596, inclusive of Internal Service Funds, for the various purposes designated in the 2023-2024 Annual Budget. City Manager Pagan explained there have been no changes to the budget draft previously presented. It is a balanced budget while investing in infrastructure, public safety, and our employees.

6. ORDINANCES - 1st READING

6.A. Ordinance 14-2023 entitled AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR THE FISCAL YEAR BEGINNING JULY 1, 2022 AND ENDING JUNE 30, 2023, AND AMENDING ORDINANCE 08-2022 TO PROVIDE FUNDING FOR WAGE STUDY, MAYOR CONTINGENCY, INFORMATION TECHNOLOGY AND GARAGE EQUIPMENT NEEDS AND BEN HAWES IRRIGATION PROJECT; TO RECEIVE AND APPROPRIATE CARES ACT FUNDING FOR RENTAL ASSISTANCE AND SMALL BUSINESS RELIEF; TO PROVIDE APPROPRIATIONS AND RECEIVE REIMBURSEMENT FOR SECONDARY EMPLOYMENT SERVICES AND VARIOUS POLICE GRANTS; AND TO TRUE-UP TIF REVENUES AND APPROPRIATIONS FOR YEAR END, was introduced and publicly read on first reading.

Budget amendment #3 to provide funding for wage study, Mayor contingency, Information Technology and Garage equipment needs and Ben Hawes irrigation project; to receive and appropriate CARES Act funding for rental assistance and small business relief; to provide appropriations and receive reimbursement for secondary employment services and various police grants; and to true-up TIF revenues and appropriations for year end. City Manager explained this is a typical, end of year budget amendment like we consider prior to the end of each year. The major items in the amendment include the following: funding necessary for increased wages resulting from implementation of the compensation study for the last month of this fiscal year; an emergency IT replacement item; increased costs for auto parts for maintenance and repairs to the city fleet; receipt and expenditure of TIF funds per the approved agreements for the projects; receipt and expenditure of the additional round of CARES Act funding received by the City; and other similar passthrough items for the receipt and expenditure of funds for approved grants and reimbursed police and fire overtime.

6.B. Ordinance 15-2023 entitled AN ORDINANCE CLOSING AN ALLEY RIGHT-OF-WAY ADJACENT TO 1624 PARRISH COURT, 1625 CARY COURT AND 1617 CARY COURT IN THE CITY OF OWENSBORO, KENTUCKY, was introduced and publicly read on first reading.

Jordan Maddox has petitioned the City of Owensboro pursuant to KRS 82.405(2) to close an alley right-of-way adjacent to 1624 Parrish Court, 1625 Cary Court and 1617 Cary Court. Adjoining and abutting property owners have given their written consents to the closing. An easement will be retained for Owensboro Municipal Utilities and Regional Water Resource Agency within the alley (map attached).

6.C. Ordinance 16-2023 entitled AN ORDINANCE CLOSING AN ALLEY RIGHT-OF-WAY ADJACENT TO 1627 MAYO AVENUE IN THE CITY OF OWENSBORO, KENTUCKY, was introduced and publicly read on first reading.

Janet Brown has petitioned the City of Owensboro pursuant to KRS 82.405(2) to close an alley right-of-way adjacent to 1627 Mayo Avenue. Adjoining and abutting property owners have given their written consents to the closing. An easement will be retained for Owensboro Municipal Utilities and Spectrum Cable within the alley (map attached).

6.D. Ordinance 17-2023 entitled AN ORDINANCE OF THE CITY OF OWENSBORO, KENTUCKY, PROVIDING FOR THE CREATION AND SALE OF A FRANCHISE FOR THE PRIVILEGE OF CONSTRUCTING, TRANSPORTING, OPERATING, MAINTAINING AND DISTRIBUTING NATURAL GAS ALONG AND UNDER PUBLIC RIGHT-OF-WAY WITHIN THE CITY OF OWENSBORO, KENTUCKY, FOR A TERM OF TWENTY (20) YEARS, IN CONSIDERATION FOR WHICH, THE SUCCESSFUL FRANCHISEE SHALL PAY TO THE CITY AN ANNUAL SUM EQUAL TO A MINIMUM OF THREE PERCENT (3%) OF THE GROSS REVENUES DERIVED FROM THE FRANCHISE AWARDED HEREIN; AND FURTHER ESTABLISHING A PROCESS BY WHICH THE SUCCESSFUL FRANCHISEE SHALL BE PERMITTED TO DISTURB AND EXCAVATE PUBLIC RIGHT-OF-WAY WITHIN THE CITY IN ORDER TO CONSTRUCT, INSTALL, MAINTAIN AND/OR REPAIR ITS GAS FACILITIES, FIXTURES AND OTHER INFRASTRUCTURE ON TERMS AND CONDITIONS SET FORTH HEREIN; AND FURTHER ESTABLISHING A BID PROCEDURE FOR THE AWARD OF SAID FRANCHISE TO THE SUCCESSFUL BIDDER, was introduced and publicly read on first reading.

The existing natural gas franchise between the City of Owensboro, Kentucky, and Atmos Energy Corporation expired on May 6, 2023. The Constitution of the Commonwealth of Kentucky and the Kentucky Revised Statutes, authorize municipal corporations to require public utilities to operate under franchise agreements and to grant utilities the right to use public right-of-way on such terms and conditions as are deemed reasonable and necessary. The Board of Commissioners has determined that the construction, operation, maintenance and utilization of a natural gas franchise over, across or under public right-of-way in the City of Owensboro, benefits said utility and the customers it serves. City Manager added that the State constitution authorizes the City to have franchise agreements with companies who use city right-of-way for their business. The City's current natural gas franchise began in 2013, had a two percent (2%) fee and a ten (10) year term, so it expires this year. This ordinance creates a new natural gas franchise, which will be advertised, and after receiving bids, will be brought back to a future Board of Commissioners meeting to be awarded. On a practical level, Atmos Energy is the only reasonable bidder since they own the natural gas infrastructure in our community, but we are required to satisfy the state requirements for the process.

For the new franchise, the City proposes a twenty (20) year term with a three percent (3%) fee. One percent (1%) of the three percent (3%) fee will go to the General Fund, and the remaining two percent (2%) will go the Economic Development Fund, and be restricted to use for the purpose of economic development. Riverport Director, Brian Wright, also serves as vice-chair of the Economic Development Corporation (EDC). In a recent article, Brian shared that the EDC has engaged a site consultant to evaluate sites for future economic development – Mr. Pagan is participating in the process. The hope and expectation of the consultant is to identify sites to be acquired and marketed to future

prospects and projects, and the two percent (2%) of the franchise fee dedicated to economic development will be the primary source of funding to acquire these sites.

7. MUNICIPAL ORDERS

7.A. Municipal Order 25-2023 entitled A MUNICIPAL ORDER AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A DEED OF EASEMENT FOR THE ACQUISITION OF TEMPORARY AND PERMANENT EASEMENTS OVER AND ACROSS PROPERTY LOCATED AT 2160 GRIFFITH AVENUE, was read for approval on one reading and unanimously approved by motion of Mayor Pro Tem Castlen and a second from Commissioner Glenn.

The City is engaged in the York Ditch Stormwater Project. As part of the project, it is necessary to acquire temporary and permanent easements to install and maintain a storm sewer pipe and related facilities on property located at 2160 Griffith Avenue owned by the Saint John Methodist Church of Owensboro, Kentucky, Inc. This Order authorizes the execution of a *Deed of Easement* for that purpose. City Manager Pagan stated the Order approves an easement with the Saint John Methodist Church at the location on Griffith Avenue which is needed as part of the work for the York Ditch drainage basin. A storm sewer pipe will run from Bittel Road to Griffith Avenue on the church's property, and this agreement provides legal authorization to do so.

7.B. Municipal Order 26-2023 entitled A MUNICIPAL ORDER AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE REAL ESTATE PURCHASE AGREEMENTS FOR THE ACQUISITION OF PROPERTIES LOCATED AT 915 CEDAR STREET AND 917 CEDAR STREET, was read for approval on one reading and unanimously approved by motion of Mayor Watson and a second from Mayor Pro Tem Castlen.

The property owners of 915 Cedar Street and 917 Cedar Street desire to sell their real properties. The City seeks to acquire said properties for expansion of the Fire Station No. 1 located at 512 West 9th Street. City Manager Pagan further stated that *Operation Firehouse* is the City's plan to invest in almost all fire facilities over multiple years. The City recently completed an expansion and renovation of Station 2 on Highway 54 last year and is currently constructing a new fire training center at the corner of Parrish Avenue and J.R. Miller Boulevard. A replacement Station 3 is currently in design, and after that, Station 1 will be replaced.

To continue with these investments, this Municipal Order authorizes the purchase of 915 and 917 Cedar Street, which are contiguous on the southwest side of Station 1. These acquisitions will provide much needed space to build a modern and appropriately sized headquarters station. The cost for the two properties is \$235,000, and funding for this acquisition was included in a budget amendment earlier this year in which we accounted for the receipt and expenditure of bond funds for various projects.

7.C. Municipal Order 27-2023 entitled A MUNICIPAL ORDER AUTHORIZING THE SALE OF THE CITY OF OWENSBORO'S ONE-THIRD (1/3) INTEREST IN PROPERTY CONTAINING APPROXIMATELY 20.00 ACRES LOCATED IN THE MIDAMERICA AIRPARK AND AUTHORIZING THE MAYOR TO EXECUTE A REAL ESTATE OPTION, PURCHASE AGREEMENT AND DEED CONVEYING THE PROPERTY TO KENERGY

CORP, was read for approval on one reading and unanimously approved by motion of Mayor Watson and a second from Commissioner NeSmith.

The City of Owensboro owns an undivided one-third (1/3) interest in 83.454 acres of vacant real property located in the MidAmerica Airpark in Owensboro, Kentucky, which is jointly owned by Economic Development Properties, Inc. (EDP). Kenergy Corp. desires to obtain an option to purchase the City's interest in approximately 20.00 acres of the 83.454 acre tract and relocate to relocate its offices presently located at 3111 Fairview Drive. City Manager Pagan explained that this Order authorizes an option and sale of the City's interest in land in the Airpark to Kenergy. Most land in the Airpark was or is owned by Economic Development Partners (EDP), a partnership between the City, County, and Industrial Foundation. But for some parcels, especially on the south end of the Airpark, the City's one-third (1/3) interest is held separately outside the EDP. As a result, the Board of Commissioners must approve the sale. The EDP has already approved the sale of their remaining two-thirds (2/3) interest in the subject property. It is the understanding of City Manager Pagan that the company plans to relocate their operation currently on Fairview Drive to the Airpark because traffic and congestion on the Highway 54 corridor is difficult for their trucks and equipment. The sales price is \$40,000 per acre, which was the asking price when negotiations with Kenergy began a couple of years ago.

7.D. Municipal Order 28-2023 entitled A MUNICIPAL ORDER AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF OWENSBORO AND KENERGY CORP. BY WHICH THE CORPORATION SHALL RELOCATE ITS OFFICES PRESENTLY LOCATED AT 3111 FAIRVIEW DRIVE TO THE MIDAMERICA AIRPARK IN THE CITY OF OWENSBORO IN EXCHANGE FOR CERTAIN FINANCIAL INCENTIVES FROM THE CITY, INCLUDING A REBATE OF FIFTY PERCENT (50%) OF THE AD VALOREM REAL PROPERTY TAXES AND GENERAL FUND OCCUPATIONAL FEES ON GROSS WAGES FOR EIGHT (8) YEARS, was read for approval on one reading and unanimously approved by motion of Mayor Watson and a second from Commissioner Glenn.

Kenergy Corp. desires to relocate its offices presently located at 3111 Fairview Drive to the MidAmerica Airpark in the City of Owensboro, Kentucky which will create jobs and further stimulate local commerce. The City recognizes the economic impact of the Corporation's facility in Owensboro and hereby agrees to incentivize the Corporation for its relocation to the City. City Manager Pagan stated this item is related to the previous Order and it approves an incentive agreement with Kenergy for the Airpark property just considered. The company will invest approximately \$20 Million in the Airpark and locate approximately eighty-two (82) employees there, as well as annex their Fairview Drive property prior to its sale. In exchange, the City will extend Airpark Drive south to serve the Kenergy site, provide a \$5,000 per acre rebate on the land sale, and provide an eight (8) year, fifty percent (50%) general fund tax rebate for new taxes generated by the project. This is a great project and we appreciate the company's investment in the City.

8. CITY MANAGER ITEMS

8.A. The following personnel appointments were unanimously approved upon motion by Commissioner Smith-Wright and second by Mayor Pro Tem Castlen.

NEW HIRE/PROBATIONARY STATUS:

- **James Bryce Hamm** – Probationary, full-time, non-civil service appointment to Laborer/Maintenance Helper with the Public Works Street/Stormwater Department, effective June 19, 2023
- **Richard R. Main** – Probationary, full-time, non-civil service appointment to Bus Driver with the Public Works Transit Department, effective June 19, 2023
- **Shelley H. Shepherd** – Probationary, full-time, non-civil service appointment to Human Resources Assistant with the Personnel Department, effective July 3, 2023
- **Tanner J. Townes** – Probationary, full-time, non-civil service appointment to Firefighter with the Fire Department, effective July 3, 2023

PROMOTIONAL/PROBATIONARY STATUS:

- **Dustin D. Hamm** – Probationary, full-time, non-civil service, promotional appointment to Maintenance Equipment Operator with the Public Works Street Department, effective June 19, 2023
- **Zachary L. Brown** – Probationary, full-time, non-civil service, promotional appointment to Maintenance Equipment Operator with the Public Works Street Department, effective June 19, 2023

8.B. City Manager Comments – City Manager Pagan introduced a summer intern in the audience, Isabelle Velez. She is a senior at Grand Canyon University, studying communications.

9. COMMUNICATIONS FROM ELECTED OFFICIALS

Members of the Commission discussed the events they recently attended.

Tim Ross, Public Events Director, stated the recent Drone Show was an idea from the City and Visit Owensboro (Dave Kirk). It worked out well to showcase the show on “City Night” at Friday After 5 and while the Kentucky Tourism Industry Association conference was in town. The drone company provided a large sponsorship, along with city funds, German American Bank and Visit Owensboro.

10. OPEN PUBLIC FORUM

Tim Byers (2626 Epworth Lane) spoke against changing the smoking ordinance to accommodate the Churchill Downs facility.

Clay Horton (Green River Health Department) discouraged the Board of Commissioners from loosening the smoking ordinance.

Dr. Don Neal (313 Links Cove) spoke against changing the smoking ordinance.

Mark Kenney (328 W. Legion Boulevard) spoke in favor of changing the smoking ordinance to allow Churchill Downs to move forward with their project.

11. ADJOURNMENT

There being no further business to discuss, the meeting adjourned at 5:35 p.m. by motion of Mayor Watson and a second by Mayor Pro Tem Castlen.

Thomas H. Watson, Mayor

ATTEST:

Beth Davis, City Clerk