

OWENSBORO BOARD OF COMMISSIONERS
Regular Meeting
December 3, 2024 - 5:00 PM
Owensboro City Hall
101 E. 4th Street
Owensboro, Kentucky

1. CALL TO ORDER - Mayor Tom Watson

2. ROLL CALL – Beth Davis, City Clerk

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. City Manager Pagan stated that in chapter 91A of the Kentucky Revised Statutes, the City is required to be audited each year. The audit is conducted to provide both the Board of Commissioners and the public accountability, transparency, and assurance that the City's financial affairs are handled appropriately. The City's audit firm is ATA PLLC, and Malcolm "Mac" Neel III is a managing partner at the firm and serves our lead auditor. Mr. Neel gave a presentation on the FY 2023-2024 Audit Report (attached). There were no significant findings to report. Motion was made by Mayor Watson to accept the report, second was made by Commissioner Smith-Wright and carried unanimously.

4.B. Minutes dated November 19, 2024 were unanimously approved by motion of Mayor Watson and a second from Commissioner NeSmith.

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

- **Owensboro Parks and Recreation Advisory Board** – Appoint Reggie Helm to a two-year term expiring November 2, 2026
- **Owensboro Human Relations Commission** – Appoint Christopher Johnson and Anthony Cobb to a three-year term effective December 3, 2027
- **Audubon Area Community Services Board of Directors** – Reappoint Chief James Howard to serve as the Mayor's designee to a four-year term effective January 1, 2025

- **GRADD Regional Transportation Committee** – Reappoint Kevin Collignon to a one-year term effective January 1, 2025
- **Green River District Board of Health** – Reappoint Brent Kelley to a two-year term effective January 1, 2025
- **Owensboro Area Shelter and Information Services (OASIS) Board** – Reappoint Deputy Chief J.D. Winkler to a three-year term effective January 1, 2025
- **Owensboro Metropolitan Board of Adjustment** – Reappoint Ruth Ann Mason to a four-year term effective January 1, 2025
- **Owensboro Tourist and Convention Commission** – Appoint Angela Waninger to fill the remainder of an unexpired term which ends December 31, 2026 (replacing Whitney McFarland)

5. ORDINANCES – 2nd READING

5.A. Ordinance 18-2024 entitled AN ORDINANCE AMENDING CHAPTER 3, ARTICLE I, SECTION 3-8 OF THE OWENSBORO MUNICIPAL CODE TO EXPAND THE SALE OF ALCOHOLIC BEVERAGES ON ST. PATRICK'S DAY WHEN THAT HOLIDAY FALLS ON A SUNDAY, FROM 6:00 A.M. UNTIL 2:00 A.M. THE FOLLOWING DAY; AMENDING ARTICLE II, SECTION 3-29 TO INCLUDE PAYMENT OF TRANSIENT ROOM TAX AS A CONDITION FOR ISSUING OR RENEWING A LICENSE; AMENDING ARTICLE II, SECTION 3-31 TO ALLOW FOR THE ISSUANCE OF A LIMITED GOLF COURSE LICENSE AND TO ELIMINATE REFERENCES TO LICENSE FEES CHARGED FOR PRIOR YEARS; AND AMENDING VARIOUS OTHER SECTIONS OF THE ALCOHOLIC BEVERAGE CONTROL ORDINANCE TO MAKE CORRECTIONS AND REVISIONS TO STATUTORY REFERENCES was unanimously approved by a roll call vote; motion by Mayor Watson and a second from Mayor Pro Tem Castlen.

Various amendments are needed to be made to Chapter 3, Article I, as it relates to the Alcoholic Beverage Control Ordinance, including: expanding sales on St. Patrick's Day when it falls on a Sunday, license issuance and renewal as it relates to timely payments of city assessed taxes, issuance of limited golf course license and other corrections and revisions to statutory references. City Manager Pagan explained that the ordinance has two primary changes: one change is to allow expanded hours for alcohol sales when St. Patrick's Day is on a Sunday and the second meaningful change is to create a limited golf license for golf courses only. It is a newly created license in state law that has not been added to the City's ordinance. It will be utilized at Ben Hawes and Hillcrest.

6. ORDINANCES - 1st READING

6.A. Ordinance 19-2024 entitled AN ORDINANCE CREATING NEW SECTIONS OF CHAPTER 16, ARTICLE III, DIVISION 4 OF THE OWENSBORO MUNICIPAL CODE ENTITLED "TRANSIENT ROOM TAX" TO ESTABLISH DEFINITIONS AND TO CLARIFY THE REGISTRATION REQUIREMENT; AMENDING SECTION 16-70.35 TO ACCURATELY STATE THE TYPES OF OCCUPANCY SUBJECT TO THE TRANSIENT

ROOM TAX; AMENDING SECTION 16-70.38 TO SET FORTH USES OF TRANSIENT ROOM TAX; AMENDING SECTION 16-70.39 TO ESTABLISH THAT PARTY RECEIVING RENT MUST PAY THE TRANSIENT ROOM TAX AND COMPLY WITH THE ORDINANCE; AND AMENDING SECTIONS 16-70.40 AND 16-70.41 TO IMPROVE LEGIBILITY AND ESTABLISH A DEADLINE FOR COMPLIANCE was introduced and publicly read on first reading.

Chapter 16, Article III, Division 4 of the Owensboro Municipal Code entitled “Transient Room Tax” was established on August 16, 2022. In order to ensure efficient collection and enforcement of the transient room tax, revisions are necessary, including defining the terms “Broker”, “Host” and “Rent”, and making the person or entity receiving rent responsible for paying the transient room tax and complying with the ordinance. Various other amendments are needed to clarify the registration requirement, to accurately state the types of occupancy subject to the tax, to establish a deadline for compliance and to improve legibility. City Manager Pagan stated that for approximately two years, the City has been collecting transient room taxes, sometimes called a bed tax or hotel/motel tax. Transient room tax is assessed on renters of hotels and similar lodgings, including short-term rentals brokered online, such as through Airbnb and VRBO. The changes to our transient room tax ordinance are based on lessons learned since the City began collecting the tax. In particular, changes are driven by the continued failure of Airbnb to remit the tax, which presents an inequity compared to other entities which comply with the ordinance and remit as required. City Attorney Mark Pfeifer and Director of Finance and Support Services Angela Waninger explained the changes and made a presentation (attached). City Attorney Pfeifer explained that charges such as rent, cleaning fees, pet fees, damage and cancellation fees and any similar fees are considered rent. The party receiving the rent is responsible for collection and remittance of the tax to the City; whether this is a broker or host. Ms. Waninger further explained that registration is required for all hosts and the deadline to register is March 1, 2025. Failure to comply can result in fines up to \$500, and the registration form will be available at owensboro.org. Monthly reports are required to be submitted. Currently, Airbnb is the larger company that is not complying. Therefore, homes rented through Airbnb do not have the taxes being paid as required. There was discussion on clarifications for the process.

6.B. Ordinance 20-2024 entitled AN ORDINANCE CLOSING ALLEY RIGHTS-OF-WAY BETWEEN 165 EWING ROAD AND 2519 PARDON AVENUE AND BETWEEN 183 EWING ROAD AND 2518 PARDON AVENUE IN THE CITY OF OWENSBORO, KENTUCKY was introduced and publicly read on first reading.

Christopher T. Phelps and Marta Phelps have petitioned the City to close alley rights-of-way located between 165 Ewing Road and 2519 Pardon Avenue and between 183 Ewing Road and 2518 Pardon Avenue. All adjoining and abutting property owners have provided written consent for the closure. City Manager Pagan stated the ordinance closes an alley at the end of Pardon Avenue and behind 165 and 183 Ewing Road. The particular alley was never constructed, so it appears to be part of the neighboring yards. All contiguous property owners have provided written consent for the closure (map attached).

7. MUNICIPAL ORDERS

7.A. Municipal Order 34-2024 entitled A MUNICIPAL ORDER APPROVING A 2.5% COST-OF-LIVING INCREASE FOR ALL ELIGIBLE PENSION ANNUITANTS UNDER THE (CLOSED) CITY EMPLOYEES' PENSION FUND was unanimously approved on one reading by motion of Mayor Watson and a second from Commissioner Smith-Wright.

The Board of Trustees of the (closed) City Employees' Pension Fund met in special session on November 20, 2024 and approved to recommend to the Owensboro Board of Commissioners that eligible annuitants receive a 2.5% cost-of-living increase effective with pension checks received in January 2025. City Manager Pagan explained the order authorizes a 2.5% cost of living adjustment for pensioners of the closed City Employees' Pension Plan. It is a closed, legacy retirement plan, not the County Employee Retirement System, in which current or recently retired city employees participate. The 2.5% COLA was recommended by the Board of Trustees of the plan at their meeting last month. Last year, a 3.2% adjustment was provided. The plan has ten (10) remaining members, down from thirteen (13) at this time last year. The plan is financially sound, meaning funds provided to the members come from investments in the plan.

7.B. Municipal Order 35-2024 entitled A MUNICIPAL ORDER APPROVING A 2.5% COST-OF-LIVING INCREASE FOR ELIGIBLE ANNUITANTS OF THE OWENSBORO POLICE AND FIREFIGHTERS' RETIREMENT FUND (CLOSED) was unanimously approved on one reading by motion of Mayor Watson and a second from Mayor Pro Tem Castlen.

The Board of Trustees of the Police and Firefighters' Retirement Fund (closed) met on November 20, 2024 and voted unanimously to recommend a 2.5% cost of living increase effective with pension checks received in January 2025. City Manager Pagan added that the order provides the annual cost of living increase for a closed, legacy pension plan. However, this is for the closed Police and Firefighters' Pension Plan, and it also provides a 2.5% cost of living adjustment for members. This closed pension plan has no assets, so the City funds the cost each year from the General Fund. Twenty (20) members remain in the legacy Police and Firefighters' Pension Plan, down from twenty-six (26) last year.

7.C. Municipal Order 36-2024 entitled A MUNICIPAL ORDER AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A GOVERNMENT RESOURCES ACCELERATING NEEDED TRANSFORMATION (GRANT) PROGRAM OF 2024 PROJECT APPLICATION FOR UP TO \$450,000 WITH THE CABINET FOR ECONOMIC DEVELOPMENT ("CED") FOR USE BY OWENSBORO MUNICIPAL UTILITIES (OMU) IN THE MIZKAN, INC. EXPANSION PROJECT was unanimously approved on one reading by motion of Mayor Watson and a second from Commissioner NeSmith.

The City of Owensboro is submitting an application for up to \$450,000.00 in funds from the Public Works & Economic Adjustment Assistance program, with the intent to access federal grant resources for the construction of an OMU waterline to serve the expansion of Mizkan, Inc's food processing facility. The City will act as a conduit for obtaining the funds and disbursing them to OMU or Mizkan, Inc. for use on the construction of a waterline on the expansion project. City Manager Pagan explained that in July of 2024,

Mizkan announced a \$156 Million expansion of their local operation on Ragu Drive. As part of the project, Mizkan needs to increase the water supply to their facility. This Municipal Order approves a grant application for OMU on Mizkan's behalf, which if successful, would provide 50% of the cost of the water line project. The City is just a pass-through for the grant, and there are no other city obligations for the project.

8. CITY MANAGER ITEMS

8.A. The financial report for the period ending October 31, 2024, was presented by Angela Waninger, Finance & Support Services Director (attached). Motion was made by Mayor Watson and seconded by Commissioner Glenn to file the report for audit; motion carried unanimously.

8.B. The following Personnel Appointments were unanimously approved by motion of Mayor Watson and a second by Commissioner Smith-Wright.

NEW HIRE/PROBATIONARY STATUS:

- **Ashley R. Agada** – Probationary, full-time, non-civil service appointment to Administrative Aide with Finance and Support Services, effective December 17, 2024
- **Sarah D. Henry** – Probationary, full-time, non-civil service appointment to Laborer/Maintenance Helper with the Public Works Grounds Department, effective December 9, 2024

PROMOTIONAL/PROBATIONARY STATUS:

- **Aaron M. Brown** – Probationary, full-time, non-civil service, promotional appointment to Maintenance Equipment Operator with the Public Works Street Department, effective December 15, 2024

REGULAR STATUS:

- **Rodney J. Roberts** – Regular, full-time, non-civil service appointment to Property Maintenance Inspector with the Public Works Property Maintenance Department, effective December 17, 2024

8.C. City Manager Comments – None

9. COMMUNICATIONS FROM ELECTED OFFICIALS

Members of the Commission discussed the events they recently attended and recognized the passing of Father Ed Bradley and Charlie Kamuf.

10. OPEN PUBLIC FORUM – None

11. There being no further business to discuss, a motion was made by Mayor Watson to adjourn the meeting at 5:56 p.m., Mayor Pro Tem Castlen seconded the motion and it carried unanimously.

Thomas H. Watson, Mayor

ATTEST:

Beth Davis, City Clerk