

AGENDA

OWENSBORO BOARD OF COMMISSIONERS

November 16, 2004

5:00 p.m.

INVOCATION/PLEDGE - Mayor Waymond Morris

PROCLAMATIONS:

November 14-20 - "American Education Week"
(November 17 - "National Educators Day")
November 16 - "Red Hat Day"
November 18 - "Great American Smokeout Day"
November 21-28 - "National Bible Week"
December 1 - "World Aids Day"

1. Consider approval of minutes of November 2 & 9, 2004
2. Consider appointments
3. PRESENTATION: Playground Safety Inspections
(Lelan Hancock, Facilities Maintenance Superintendent)

ORDINANCES - 1st reading

4. CONSIDER ON 1ST READING ORDINANCE NO. 36-2004, REZONING PROPERTY AT 1015 EAST 6TH STREET, 521 HATHAWAY STREET, PORTIONS OF 525 & 529 HATHAWAY STREET, AND PORTIONS OF 518, 522 & 526 BRECKENRIDGE STREET

BACKGROUND: Applicant James Gregory Wimsatt is seeking a zoning classification amendment from B-4 General Business and R-4DT Inner-City Residential to I-1 Light Industrial for

a 0.38 acre tract of land located at the addresses listed above, between East 5th Street and East 6th Street. Applicant has operated an auto body shop and car sales lot at this site for 19 years and has plans to expand the business. This area is a mixed-use area of residential, commercial and industrial. By a vote of 8-0, the Owensboro Metropolitan Planning Commission has recommended that the proposed zoning classification amendment be approved in that the proposal is in compliance with the adopted Comprehensive Plan.

RECOMMENDATION: Introduce and publicly read ordinance on first reading.

5. CONSIDER ON 1ST READING ORDINANCE NO. 37-2004, REZONING PROPERTY AT 206 WEST 17TH STREET

BACKGROUND: The Junior League of Owensboro is seeking a zoning classification amendment from R-4DT Inner-City Residential to P-1 Professional/Service for a 0.155 acre tract of land located at 206 West 17th Street. The subject property is currently used as a Hospitality House for relatives of patients in local hospitals. The intended use for the property is administrative offices for the Junior League of Owensboro. By a vote of 8-0, the Owensboro Metropolitan Planning Commission has recommended that the proposed zoning classification amendment be approved in that the proposal is in compliance with the adopted Comprehensive Plan.

RECOMMENDATION: Introduce and publicly read ordinance on first reading.

6. CONSIDER ON 1ST READING ORDINANCE NO. 38-2004, CREATING A NEW ORDINANCE THAT PROVIDES MINIMUM STANDARDS FOR THE MAINTENANCE OF ALL PROPERTY WITHIN THE CITY OF OWENSBORO, ESTABLISHING A DUE PROCESS BY WHICH PROPERTY OWNERS ARE GIVEN NOTICE OF VIOLATIONS AND AN OPPORTUNITY TO CORRECT VIOLATIONS; AND ESTABLISHING AN APPEALS PROCESS

BACKGROUND: The Community Development Department has been working on re-writing City Ordinances dealing with Property Maintenance over the past two years. This change is referred

to as the "NEW WAYS" Property Maintenance Ordinance. The proposed changes have been thoroughly reviewed by the Community Development staff and the City Attorney. The City has increased its efficiency and property maintenance compliance ratios over the past four years using internal and technological changes. In order to move beyond the advances we have achieved thus far, the City needs to overhaul its existing ordinances and take advantage of recent State Statutes that allow for more focused enforcement of property maintenance violations. The proposed changes would create the following benefits: (1) Organize all of the Property Maintenance and Nuisance Ordinances in one easy to follow Ordinance, (2) Allow the City to have first lien position after taxes for any liens filed. This will assist the City in removing dilapidated unsafe structures within a timely manner, (3) Structures can only be boarded up for a period of six months, (4) Fines would be issued for violations that are not corrected within the required time. This would add an additional incentive to the owner to correct the violation within a timely manner. This also would help offset the administrative cost associated with property maintenance and place more of the burden of such cost on violators and less on people who take care of their property, (5) Allow the City to remove inoperative motor vehicles from private property when the owner will not correct the violation, (6) Allow the City to remove trash and junk from private property when the owner will not correct the violation, (7) The City would no longer need to take property owners to court to resolve issues. Property Maintenance violations are considered minor in the eyes of the court as compared to other serious offenses. Many times a violation may drag out 1 to 2 years when it is referred to the court system, and (8) Create a new Property Maintenance Appeals Board to handle appeals and confirm the issuance of fines and liens.

RECOMMENDATION: Introduce and publicly read ordinance on first reading.

7. **CONSIDER ON 1ST READING ORDINANCE NO. 39-2004, AMENDING CHAPTER 5, ARTICLE III, DIVISION 1, SECTIONS 5-36 AND 5-37; DIVISION 3, SECTION 5-71, 5-73 AND 5-79; AND DIVISION 5, SECTION 5-106, AND REPEALING IN ITS ENTIRETY CHAPTER 5, DIVISION 4, SECTIONS 5-91 THROUGH 5-94 OF THE OWENSBORO MUNICIPAL CODE TO REFLECT THAT THE STATE WILL NOW LICENSE MASTER ELECTRICIANS, ELECTRICIANS AND ELECTRICAL CONTRACTORS**

AND THAT THE LOCAL ELECTRICAL EXAMINING BOARD IS ELIMINATED

BACKGROUND: The City of Owensboro has required electrical contractors and electricians to be licensed since the late 1940's. The City of Owensboro Electrical Ordinance established an Electrical Examining Board to oversee and set the standards for electrical licensing. In 1984 the Owensboro Metropolitan Planning Commission received the responsibility of administering the examination for the issuance of this electrical license, along with the responsibility to permit and inspect electrical work within the City of Owensboro. In 1998 the City of Owensboro and the County of Daviess by the authority of KRS 227.490 established a Joint Electrical Examining Board to then issue a combination City of Owensboro-Daviess County electrical license. During the 2004 Kentucky Legislative Session, KRS 227.490 was repealed and KRS 227A.020 was enacted in its place. One of the major revisions was the repeal of the Joint Electrical Examining Board. A second major revision required electrical contractors, master electricians and electricians working in Kentucky be licensed by the State of Kentucky. However, the Owensboro Metropolitan Planning Commission will continue to issue permits and perform inspections on electrical work in Owensboro and Daviess County.

RECOMMENDATION: Introduce and publicly read ordinance on first reading.

8. CONSIDER ON 1ST READING ORDINANCE NO. 40-2004, AMENDING THE 2004-2005 ANNUAL BUDGET FOR THE CITY OF OWENSBORO

BACKGROUND: This amendment budgets additional money for Parks' capital projects, and corrects an accounting error in the original budget of the Fleet and Facilities Fund.

RECOMMENDATION: Introduce and publicly read ordinance on first reading.

9. **CONSIDER ON 1ST READING ORDINANCE NO. 41-2004, ACCEPTING FOR MAINTENANCE INTO THE CITY STREET SYSTEM AND DEDICATING IN PERPETUITY A 0.112 MILE PORTION OF BITTEL ROAD, A 0.347 MILE PORTION OF WEST FIFTH STREET ROAD, AND A 0.25 MILE PORTION OF EAST 24TH STREET**

BACKGROUND: The Kentucky Transportation Cabinet conducted an inventory of roads within the State's highway system in order to identify highways/roads that primarily serve local traffic. The State now wants to transfer ownership and maintenance responsibilities for segments of certain roads, to the City of Owensboro. On April 12, 2004, Edward H. Merryman, Chief District Engineer of the Transportation Cabinet, submitted a letter to Mayor Morris regarding three sections of state roads located within the city limits of Owensboro requesting the City to accept ownership and maintenance responsibilities for them and dedicate them in perpetuity as part of our street system. Those sections of streets/roads are as follows: (1) Bittel Road beginning in the east margin of the Bypass and extending eastward 746 feet or 0.112 of a mile; (2) West Fifth Street Road beginning in the east margin of the Bypass and extending eastward 1,984 feet or 0.347 of a mile; and (3) East 24th Street extending from Veach Road to Breckenridge Street which is a distance of 1,345 feet or 0.25 of a mile. By dedication of this State right-of-way, the City accepts total responsibility and liability for the roads/streets in question.

RECOMMENDATION: Introduce and publicly read ordinance on first reading.

10. **CONSIDER ON 1ST READING ORDINANCE NO. 42-2004, ANNEXING PHASES #2 AND #3 OF SUMMER WIND OF HEARTLAND SUBDIVISION**

BACKGROUND: There is an annexation incentive agreement related to this development. Phases #2 and #3 consist of 9.148 acres.

RECOMMENDATION: Introduce and publicly read ordinance on first reading.

11. **CONSIDER ON 1ST READING ORDINANCE NO. 43-2004, ANNEXING PHASES #1 AND #2 OF THE HIGHLANDS OF HEARTLAND SUBDIVISION**

BACKGROUND: There is an annexation incentive agreement related to this development. Phases #1 and #2 consist of 19.717 acres.

RECOMMENDATION: Introduce and publicly read ordinance on first reading.

12. CONSIDER ON 1ST READING ORDINANCE NO. 44-2004, ANNEXING 4224 MEDLEY ROAD AND 968 DEER HAVEN DRIVE

BACKGROUND: There is an annexation incentive agreement related to this development. 4224 Medley Road contains 7.366 acres and is an industrial/agriculture lot with no public improvements. 968 Deer Haven Drive contains 0.423 of an acre and is a residential lot with no public improvements. This proposed annexation totals 7.789 acres.

RECOMMENDATION: Introduce and publicly read ordinance on first reading.

13. CONSIDER ON 1ST READING ORDINANCE NO. 45-2004, CLOSING A PORTION OF AN ALLEY RUNNING EAST/WEST ALONG THE REAR OF 1412 EAST 4TH STREET

BACKGROUND: Edward and Shadley Boehman own all the property immediately adjacent to the proposed closure. No objections were noted to the closing and no easements are required to be retained. The three remaining property owners on said alley have given written, notarized consent to the proposed closure.

RECOMMENDATION: Introduce and publicly read ordinance on first reading.

MUNICIPAL ORDER - one reading

14. **CONSIDER MUNICIPAL ORDER NO. 19-2004, AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO A LEASE AGREEMENT WITH JAGOE DEVELOPMENT, LLC, FOR A 25-FOOT STRIP OF LAND IN HEARTLAND SUBDIVISION FOR THE GREENBELT TRAIL**

BACKGROUND: Jagoe Development Corporation is the developer of Heartland Subdivision, a 203 acre subdivision lying between Highway 54 and Old Hartford Road. In March of 1997 when Heartland Subdivision was annexed into the City of Owensboro, Jagoe agreed to lease to the City a 25-foot strip of land immediately adjacent to and east of Byers Avenue, with the understanding that the City would construct and maintain a dedicated pedestrian walkway/bikeway running parallel to East Byers Avenue, and Jagoe reserved the right to place advertising flags, banners and signs on the land to market residential properties in the subdivision. That lease was executed on January 30, 1998, for a term of 99 years and the construction of the Greenbelt in that area is now complete. Due to the rapid development and sale of properties in Heartland Subdivision, Jagoe has recently determined that it is no longer necessary to place advertising signs on the leased property and has requested that the term of the 99-year lease be reduced to 7 years, commencing October 1, 2004, and terminating September 30, 2011. This municipal order authorizes the execution of an "Amendment to Lease" which reflects the reduced term and also indicates that the 25-foot strip of property shall be conveyed by Jagoe to the City for no additional consideration at the end of the 7-year term.

RECOMMENDATION: Adopt Municipal Order No. 19-2004.

15. **Consider a motion to refer the Text Amendment to the Owensboro Metropolitan Zoning Ordinance regarding Central Business Overlay Districts/Veterans Boulevard Overlay District back to the Planning Commission for its further review and consideration and adoption of Findings of Fact**
16. **City Manager's items:**

- A. Consider the financial report for the month ended October 31, 2004.

(RECOMMENDATION: File for Audit)

- B. Consider the Comprehensive Annual Financial Report (Audit) for the fiscal year ended June 30, 2004

(RECOMMENDATION: Adopt the Report)

- C. Consider the regular full-time Civil Service appointments of Gene Hamilton to Crew Leader, Street/Stormwater Department, effective December 8, Lelan Hancock to Facilities Maintenance Superintendent, Facilities Maintenance Department, effective December 3, and Louis Lindsay to Transit Manager, Transit Department, effective December 3; and the probationary full-time Civil Service promotional appointment of Janet Thompson to Bus Driver/Dispatcher, Transit Department, effective November 8.

(RECOMMENDATION: Approve Appointments)

- D. City Manager's comments.

17. OPEN PUBLIC FORUM

Members of the audience are invited to address the City Commission on any subject not on tonight's agenda. Speakers must come to the podium, state their name and address for the Clerk's record, and limit their remarks to under five (5) minutes. As an unagendized item, no response is required from City staff or the Commission, and no action can be taken; however, the Commission may instruct the City Manager to agendize the item for a future meeting.

18. COMMUNICATIONS FROM ELECTED OFFICIALS

The elected officials will answer questions previously received from the general public and they will announce special events or activities of public interest occurring within the City.

19. Consider a closed session to discuss a personnel matter under KRS 61.810(1)(f) regarding an appointment to a position in the Fire Department

20. Adjournment