

## AGENDA

### OWENSBORO BOARD OF COMMISSIONERS

November 21, 2006

5:00 p.m.

INVOCATION/PLEDGE - Mayor Tom Watson

#### PROCLAMATION:

November - "National Home Care Month"

1. Consider approval of minutes of November 7 & 14, 2006
2. Consider appointments

#### ORDINANCES - 1<sup>st</sup> reading

3. CONSIDER ON 1<sup>ST</sup> READING ORDINANCE NO. 45-2006, REPEALING SECTION 24-1 OF THE OWENSBORO MUNICIPAL CODE ENTITLED "SIDEWALK REPAIRS; NOTICE, TIME OF COMMENCEMENT AND COST TO ABUTTING PROPERTY OWNER." THE CITY NOW HAS A "SIDEWALK POLICY AND CONSTRUCTION AND MAINTENANCE PLAN" BY WHICH THE CITY MAINTAINS AND REPAIRS ALL SIDEWALKS WITHIN THE CITY

**BACKGROUND:** For over 50 years, the City of Owensboro required property owners, by ordinance, to maintain and repair sidewalks located on their property. That policy was codified in Chapter 24 of the Owensboro Municipal Code. If the property owner(s) failed or refused to make needed repairs, the City would complete the work and attempt to recover the cost of repairs from the property owner. It was extremely unpopular and difficult to enforce the provisions of the ordinance. Many people felt this was double taxation since they already paid taxes for public amenities like sidewalks. This policy was eventually abandoned in favor of a compromise arrangement in which the City offered to pay for the concrete if the adjoining property owner requesting sidewalk repairs would pay a qualified contractor to do the work. In September of 2003, the City Commission decided that the City should assume responsibility for, and management of, all public sidewalks within the corporate limits and directed the City Engineer to create a policy covering the construction of new sidewalks and the repair of existing sidewalks that are dedicated and accepted by the City for public use. The new policy was completed and became effective January 26, 2005. The "Sidewalk Policy and Construction and Maintenance Plan" provides for an annual

appropriation of funds to build and repair sidewalks, creates a Sidewalk Committee to oversee the sidewalk program established in the new policy, and provides criteria for the efficient and orderly implementation of the sidewalk maintenance plan. Since the newly created "Sidewalk Policy and Construction and Maintenance Plan" provides the criteria by which the City now constructs, maintains and repairs all public sidewalks, Section 24-1 of the Owensboro Municipal Code is obsolete and under the provisions of Ordinance 45-2006, it is hereby repealed in its entirety.

**RECOMMENDATION:** Introduce and publicly read ordinance on first reading.

4. **CONSIDER ON 1<sup>ST</sup> READING ORDINANCE NO. 46-2006, REPEALING SECTION 17-10 OF THE OWENSBORO MUNICIPAL CODE AND ADOPTING IN ITS PLACE A NEW SECTION 17-10 THAT PROHIBITS ANY PERSON FROM INTENTIONALLY DAMAGING OR DEFACING ANY PUBLIC OR PRIVATELY-OWNED PROPERTY, AND FURTHER PROVIDING THAT ANY PERSON IN VIOLATION SHALL BE FINED NOT LESS THAN \$50 NOR MORE THAN \$500, AND/OR INCARCERATED FOR UP TO 90 DAYS, OR BOTH**

**BACKGROUND:** Within the corporate limits of the City of Owensboro, there are approximately 250 miles of concrete sidewalks. The Engineering Department repairs or replaces approximately 1,000 linear feet of sidewalk per year which is costing the City approximately \$75,000 to \$100,000 annually. Sidewalks throughout the City are routinely damaged in a variety of ways. The most common offenders are tree removal contractors who drive large trucks and heavy equipment across sidewalks to gain access to private property for tree trimming and removal services. Building and service contractors frequently drive large trucks, tractors and excavation equipment across public sidewalks that adjoin building sites and construction areas with little or no regard for the damage to public infrastructure caused by them. At present, Section 17-10 of the Owensboro Municipal Code, dealing with destruction of public or private property, contains no language prohibiting the damage or destruction of street curbs, ramps or sidewalks. In addition, the current penalty provision in this section includes restitution and a fine of \$25 to \$500, which fine may be waived after restitution is made to the City. While the City may, by ordinance, establish a fine and a term of incarceration if a person is found guilty of violating the ordinance, only a Daviess District Court Judge has authority to require a contractor/defendant to make restitution to the City for damages caused by him. The penalty provision is being amended in Ordinance 46-2006 to make violation of this ordinance, a Class B misdemeanor, punishable by a fine not to exceed five hundred dollars (\$500.00) and/or imprisonment for a term not to exceed ninety (90) days. Enforcement of this ordinance will depend, in large part, on the cooperation of the general public. Eyewitness testimony is generally required to obtain criminal summons or a warrant for criminal prosecution by the County Attorney's Office. The public should be encouraged to first report known offenders to the City Engineering Department. Engineering will inspect the property in question, effect repair when necessary and seek reimbursement for damages to public or private property. If the person or persons responsible for the damage fail to

respond or make restitution as agreed, the matter will be turned over to the Daviess County Attorney for prosecution, if appropriate.

**RECOMMENDATION:** Introduce and publicly read ordinance on first reading.

5. **CONSIDER ON 1<sup>ST</sup> READING ORDINANCE NO. 47-2006, AUTHORIZING THE RETENTION OF 1% OF ALL OCCUPATIONAL LICENSE FEES DUE AND PAYABLE TO THE CITY FROM SALARIES, WAGES AND OTHER COMPENSATION PAID TO NEW EMPLOYEES HIRED BY STATGROUP, LLC, UNDER THE KENTUCKY JOBS DEVELOPMENT ACT**

**BACKGROUND:** StatGroup, LLC has requested that the Board of Commissioners approve an ordinance in support of the City's participation in a Kentucky Economic Jobs Development tax credit program to provide incentives for StatGroup, LLC, to relocate its operations from Dallas, Texas, to Owensboro. Specifically, the City is being asked to forfeit one percent (1%) of the 1.33% occupational tax on gross employee wages for employees hired by StatGroup, LLC, for a 10-year period beginning upon activation of the program. StatGroup, LLC, is a Texas company that was formed in 2000 by David Nation, an Owensboro resident who owns and operates ten (10) Nation's Medicines pharmacy stores. The company began its operations in Dallas, Texas, but because of the high cost of business operations, Mr. Nation and his partners decided to move the company to Owensboro, Kentucky. In April of 2006, they opened their business in Daviess County, but during the summer, moved into the second floor of the old Coca-Cola building at Second and Crittenden Streets which Terry Woodward, owner of the property, rehabilitated for StatGroup's offices and retail shops. The company currently employs sixteen (16) health care professional personnel who accept temporary placement for thirteen (13) weeks at hospitals, mobile clinics and other medical facilities throughout all fifty (50) states. Some placements eventually turn into permanent positions. When medical facilities experience a shortage of health care professionals due to retirements, vacations, maternity leaves, or other reasons, StatGroup can have an employee on site and ready to work in a week to ten (10) days. Mr. Nation anticipates employment will rise to thirty (30) and possibly more medically trained people within the next few years. The lowest hourly wage currently proposed is \$11.50 per hour for unskilled workers and the highest hourly wage is \$20.00 per hour for technical employees, exclusive of benefits, bonuses and other non-guaranteed income. StatGroup, LLC, anticipates that it will grow and prosper in Owensboro. By participating in this incentive program, the City will be investing in quality jobs that will bring in additional tax revenues over the long term.

**RECOMMENDATION:** Introduce and publicly read ordinance on first reading.

6. **CONSIDER ON 1<sup>ST</sup> READING ORDINANCE NO. 48-2006, AMENDING THE 2006-2007 ANNUAL BUDGET FOR THE CITY OF OWENSBORO**

**BACKGROUND:** This proposed amendment corrects beginning fund balance and rolls over all encumbrances and capital projects in the Capital Projects Fund; budgets General Fund transfer for Munday Center, Art Museum and Area Museum; corrects carry over in Your Community Vision Fund; and budgets for a fire truck in the Fleet and Facilities Replacement Fund.

**RECOMMENDATION:** Introduce and publicly read ordinance on first reading.

7. **CONSIDER ON 1<sup>ST</sup> READING ORDINANCE NO. 49-2006, ANNEXING SECTION 1, UNIT 1, AND FUTURE SECTION 2 OF HARBOR HILLS SUBDIVISION**

**BACKGROUND:** Section 1, Unit 1, contains 12.340 acres, and future Section 2 contains 10.229 acres for a total of 22.569 acres. Section 1, Unit 1 is a residential development with 16 lots and one retention basin. There is an annexation incentive agreement related to this development.

**RECOMMENDATION:** Introduce and publicly read ordinance on first reading.

8. **CONSIDER ON 1<sup>ST</sup> READING ORDINANCE NO. 50-2006, ANNEXING THE REAR PORTION OF 4450 MEDLEY ROAD - 0.136 ACRE**

**BACKGROUND:** This industrial lot is zone A-U Urban Agriculture. There are no public improvements and no annexation incentive agreement related to this site.

**RECOMMENDATION:** Introduce and publicly read ordinance on first reading.

9. **CONSIDER ON 1<sup>ST</sup> READING ORDINANCE NO. 51-2006, ANNEXING 3020 HIGHLAND POINTE DRIVE - 1.225 ACRES**

**BACKGROUND:** There are no public improvements related to this site. There is an annexation incentive agreement for Highland Pointe Development, which will be amended to include this additional acreage when the property is finally annexed.

**RECOMMENDATION:** Introduce and publicly read ordinance on first reading.

10. **City Manager's items:**

A. **Consider the financial report for the period ended October 31, 2006**

B. **Consider the audit report for the Fiscal Year ended June 30, 2006**

**RECOMMENDATION:** Motion to adopt report.

C. Consider the probationary full-time Civil Service appointments of James Rhoades to Road Worker, Street Department, effective November 27, and Johnny Phillips to Refuse Truck Driver, Sanitation Department, effective November 27; the probationary full-time non-Civil Service promotional appointment of Joycelin Hall to Secretary, Police Department, effective November 27; the regular full-time non-Civil Service promotional appointments of Ronald Darren Peach to Assistant Fire Chief, Christopher Luttrell to Lieutenant, and Matthew Purcell to Captain, Fire Department, effective December 11, 2006.

D. City Manager's comments.

11. 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.

12. 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.

13. Adjournment