

PLEASE TURN OFF YOUR CELL PHONE
DURING COMMISSION MEETING

AGENDA

OWENSBORO BOARD OF COMMISSIONERS

August 21, 2007
5:00 p.m.

INVOCATION/PLEDGE - Commissioner Cathy Armour

1. Consider approval of minutes of August 7, 9 & 14, 2007
2. **PRESENTATION:** David Hawes, Executive Director
Regional Water Resource Agency
[Combined Sewer Overflow (CSO) Consent Judgment]

ORDINANCES - 2nd reading

3. **CONSIDER ON 2ND READING ORDINANCE NO. 29-2007, CLOSING AND ABANDONING A SECTION OF RAILROAD STREET LOCATED BETWEEN EAST 20TH STREET AND BLUFF AVENUE**

BACKGROUND: The City of Owensboro is requesting the closure of a section of Railroad Street, being 25 feet in width and approximately 178 feet in length and situated between East 20th Street and Bluff Avenue. The City intends to extend an east/west running alley situated between East 19th and East 20th Streets to Bluff Avenue in order to align intersection angles and to meet the requirements of the Public Improvement Specifications. To accomplish this objective, the City has negotiated with an adjoining property owner and agreed to close a portion of Railroad Street in exchange for the property owner dedicating to the City the necessary right-of-way to extend the alley and make other street improvements in connection with the Bluff Avenue extension project. The adjoining property owner has previously given written, notarized consent to the closure of that section of Railroad Street. There were no objections to the proposed closure and no easements were required to be retained.

RECOMMENDATION: Adopt Ordinance No. 29-2007.

4. **CONSIDER ON 2ND READING ORDINANCE NO. 30-2007, AMENDING CHAPTER 18, ARTICLE II, SECTIONS 18-41, 18-42 AND 18-44 OF THE OWENSBORO MUNICIPAL CODE TO CHANGE THE DEFINITION OF "PUBLIC NUISANCE" TO INCLUDE THE ILLEGAL SALE OR POSSESSION OF ALCOHOL, AND TO ELIMINATE THE WORD "RESIDENTIAL" SO THAT ANY AND ALL PROPERTY WITHIN THE CITY SHALL BE SUBJECT TO THE PROVISIONS OF CHAPTER 18**

BACKGROUND: The citizens of Owensboro need and want to feel secure and protected in their homes and neighborhoods. Many neighborhoods contain properties, either rental or owner-occupied, where persons gather for the purpose of engaging in drug-related activities, the illegal sale or consumption of alcohol or other unlawful conduct which endangers the safety and health of the occupants, as well as neighbors and the entire community. In July of 2001, the Board of Commissioners enacted Ordinance 37-2001 (which was later codified as Chapter 18, Article II of the Owensboro Municipal Code), which provided that any residential property where the police have issued criminal citations or made arrests more than twice in a twelve (12) month period will be labeled a "public nuisance" and the owner of the property shall be notified by either certified mail or personal service and ordered to abate the nuisance after each violation occurs. If the owner refuses or is unable to abate the nuisance and no appeal is filed, the police shall issue an order closing the premises and evicting the occupants or whatever legal action is necessary to abate the nuisance, but in no event shall the police take possession or control of the property. In recent months, numerous citizens have lodged complaints against a commercial establishment in the City being a place where drugs and alcohol were being sold to under-aged patrons, but because the public nuisance ordinance specified residential property, the owner of the commercial property could not be cited and forced to abate the nuisance. The City deems it appropriate to amend Sections 18-41, 18-42 and 18-44 of the Code to provide that any and all property within the City shall be subject to the prohibitions against prostitution, controlled dangerous substances, illegal sale or possession of alcohol or gambling and the owner of record shall be cited for violation of the Owensboro Municipal Code. The Chief of Police is authorized in this section of the Code to abate the nuisance by closing and vacating the premises once the notice/due process procedures have been followed. A property owner's failure to comply with a notice to abate will result in a civil penalty from \$500 to \$5,000 and revocation of the certificate of occupancy. Penalties not paid within 20 days from issuance will result in the property being sold to satisfy a statutory lien for nonpayment of public nuisance abatement.

RECOMMENDATION: Adopt Ordinance No. 30-2007.

5. **CONSIDER ON 2ND READING ORDINANCE NO. 31-2007, AMENDING THE 2007-2008 ANNUAL BUDGET FOR THE CITY OF OWENSBORO**

BACKGROUND: This amendment corrects all beginning Fund balances and rolls over all outstanding encumbrances and Capital Projects.

RECOMMENDATION: Adopt Ordinance No. 31-2007.

6. **CONSIDER ON 2ND READING ORDINANCE NO. 32-2007, CREATING A TAX INCREMENT FINANCE DEVELOPMENT AREA KNOWN AS GATEWAY COMMONS, AND AUTHORIZING EXECUTION OF THE DEVELOPMENT AGREEMENT AND THE LOCAL PARTICIPATION AGREEMENT BETWEEN THE CITY, GULFSTREAM ENTERPRISES, AND OWENSBORO MUNICIPAL IMPROVEMENT CORPORATION FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE TAX INCREMENT FINANCING PROGRAM**

BACKGROUND: House Bill 549 enacted by the General Assembly in the 2007 Session and signed into law by the Governor on March 23, 2007, allows cities in Kentucky to create a "development area" wherein certain taxes may be released to a designated agency as an inducement to promote economic development and improvement within a development area, which increases property values, employment opportunities and economic activity in and around the development area. Gulfstream Enterprises, LLC, is proposing to construct a project known as "Gateway Commons" that will cost in excess of \$200 million and will include an arena, convention center, convention center hotel, retail, entertainment and hospitality complex, office space, residential rental housing and condominium units. As provided in Section 5 of the Tax Increment Financing Act, the City must make certain findings with respect to the area that Gulfstream is proposing to develop. Gulfstream has presented evidence to the City that the development area has inadequate public improvements and infrastructure and that the economic development and improvement of the development area would not be possible without the public support of both the City and the State. Owensboro Municipal Improvement Corporation is an existing agency that was created by the City of Owensboro many years ago to serve as a financing arm of city government. It has been determined that OMIC shall serve as the designated agency to administer the Tax Increment Finance Program and to create a special fund into which all incremental revenues shall be deposited. To evidence this designation of OMIC, a Local Participation Agreement and a Development Agreement must be executed by Gulfstream Enterprises, LLC, the City of Owensboro and OMIC and those agreements shall be attached as exhibits and become a part of the subject ordinance. It is recommended that the Board of Commissioners enact Ordinance 32-2007 authorizing the creation of a Tax Increment Finance Development Area and authorizing Owensboro Municipal Improvement Corporation as the agency to administer the Tax Increment Finance Program on behalf of the City.

RECOMMENDATION: Adopt Ordinance No. 32-2007.

7. **CONSIDER ON 2ND READING ORDINANCE NO. 33-2007, ANNEXING PROPERTY LOCATED ON KENTUCKY HIGHWAY 54, U.S. 60 BY-PASS AND PLEASANT VALLEY ROAD AND KNOWN AS THE GATEWAY COMMONS DEVELOPMENT - 263.018 ACRES**

BACKGROUND: This is a TIF Bond project, with a combination of public and private infrastructure. Security/Bond for the public improvements will be posted as a requirement of the final plat approval.

RECOMMENDATION: Adopt Ordinance No. 33-2007.

ORDINANCE - 1st reading

8. CONSIDER ON 1ST READING ORDINANCE NO. 34-2007, ANNEXING KEENELAND TRACE SUBDIVISION

BACKGROUND: Keeneland Trace Subdivision is a 114.70 acre development with 428 residential lots. This development has seven proposed detention basins that will be maintained by the City. A preliminary subdivision/final development plan has been approved by the Owensboro Metropolitan Planning Commission. Security/bond for the public improvements will be posted as a requirement of the final plat approval. The State and the City have entered into a verbal agreement to repair and maintain any problems that occur in the big ditch along Carter Road. The annexation incentive agreement related to this development is Item No. 11 on the agenda.

RECOMMENDATION: Introduce and publicly read ordinance on first reading.

MUNICIPAL ORDERS - one reading

9. CONSIDER MUNICIPAL ORDER NO. 28-2007, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT BETWEEN THE KENTUCKY TRANSPORTATION CABINET, OFFICE OF SPECIAL PROGRAMS, AND THE CITY, UNDER THE TERMS OF WHICH THE STATE WILL REIMBURSE THE CITY UP TO \$218,330 OF "SAFE ROUTES TO SCHOOL" GRANT FUNDS FOR THE CONSTRUCTION OF SIDEWALKS ALONG THE SOUTH SIDE OF BOOTH AVENUE

BACKGROUND: In March of 2007, the City of Owensboro applied for a \$248,630 grant from the Safe Routes to School (SRTS) Program to assist with the removal of 16 trees and the construction of six-foot sidewalks along the south side of Booth Avenue from Lewis Lane to Frederica Street in areas where sidewalks do not currently exist. The City was awarded \$218,330 in grant funds from the Department of Transportation, which funds do not require matching funds from the City. The new sidewalks will be utilized by approximately 1,600 students, including those with disabilities, who are walking or bicycling to Owensboro Middle School, Owensboro 5-6 Center, Sutton Elementary School and Owensboro Catholic Middle School.

RECOMMENDATION: Adopt Municipal Order No. 28-2007.

10. CONSIDER MUNICIPAL ORDER NO. 29-2007, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE KENTUCKY TRANSPORTATION CABINET, UNDER THE TERMS OF WHICH THE STATE SHALL REIMBURSE THE CITY IN AN AMOUNT NOT TO EXCEED \$500,000 FOR CONCRETE SURFACE REPAIRS TO CITY STREETS

BACKGROUND: The Kentucky Transportation Cabinet, acting by and through the Department of Governmental Relations, has agreed to grant the City \$500,000 from Municipal Road Aid bond funding to be used for concrete surface repairs to Fargo Street, Stockton Drive, West Third Street and Standish Place.

RECOMMENDATION: Adopt Municipal Order No. 29-2007.

11. CONSIDER MUNICIPAL ORDER NO. 30-2007, AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A MEMORANDUM OF AGREEMENT WITH THOMPSON HOMES, INC., PROVIDING FOR THE CONSENSUAL ANNEXATION OF KEENELAND TRACE SUBDIVISION IN EXCHANGE FOR REIMBURSEMENT OF THE COST OF CERTAIN PUBLIC FACILITIES DEDICATED TO PUBLIC USE OVER A FIVE-YEAR PERIOD

BACKGROUND: Thompson Homes, Inc., is the owner of a 114.70 acre tract of property known as "Keeneland Trace," which is located between Carter Road and Todd Bridge Road in Daviess County, Kentucky. When the Developer purchased the property, it was zoned A-R Agricultural Rural, and on October 19, 2006, the Daviess County Fiscal Court approved the rezoning of the property to R-1C Single-Family Residential. As an inducement to Thompson Homes, Inc., to consensually annex the subject property, this agreement requires the City to reimburse them for the actual cost of construction of various defined public facilities dedicated to public use for the annexed development, in an amount not to exceed the total ad valorem (excluding school tax) tax revenues derived from the annexed property over a five-year period, commencing upon receipt of a written request for same by Thompson Homes, Inc., to the City of Owensboro, but no later than two years from the date of execution of the Memorandum of Agreement, whichever occurs first.

RECOMMENDATION: Adopt Municipal Order No. 30-2007.

12. CONSIDER MUNICIPAL ORDER NO. 31-2007, APPROVING CHANGES TO ARTICLES III AND IV OF THE BYLAWS OF OWENSBORO MEDICAL HEALTH SYSTEM

BACKGROUND: The Bylaws of Owensboro Medical Health System require that every three (3) years, the Community Needs and Accountability Committee review the Bylaws and make recommendations to the OMHS Board of Directors when amendments are necessary and appropriate. Also included in the Bylaws is a requirement that if certain sections are amended by the OMHS Board, the changes are subject to approval by the City and County. The Committee recently completed its review of the Bylaws, submitted its recommended changes to the Board, and on June 25, 2007, the OMHS Board approved the proposed amendments. Four of the changes are being recommended to specific sections of the Bylaws that require City and County approval. The Owensboro Board of Commissioners, by this Municipal Order, is being requested to grant approval to the following changes to the OMHS Bylaws: (1) An amendment to preclude an individual from serving on the Board while employed by OMHS; (2) An amendment to clarify that all board members, including those serving at the time OMHS was created, cannot serve more than nine consecutive years beginning November 1, 2003; (2) An amendment to change "the" to "a" to indicate that both the City and County have more than one appointee to the Board; and (4) An amendment to indicate that the Treasurer of the Board is being replaced by the Chair of the Finance Committee, on the Executive Committee; and the name of the Hospital Services Committee is being changed to "Quality and Safety Committee."

RECOMMENDATION: Adopt Municipal Order No. 31-2007.

13. CONSIDER MUNICIPAL ORDER NO. 32-2007, REQUESTING THAT THE KENTUCKY ECONOMIC DEVELOPMENT FINANCE AUTHORITY ADOPT A RESOLUTION PROVIDING FOR THE ISSUANCE OF REVENUE BONDS IN THE AMOUNT OF \$18,000,000 TO REFINANCE THE ACQUISITION, CONSTRUCTION AND EQUIPMENT OF CERTAIN HEALTH FACILITIES OWNED AND OPERATED BY CHRISTIAN CARE COMMUNITIES, INC.

BACKGROUND: This Municipal Order is a formal request to the Kentucky Economic Development Finance Authority (KEDFA) to issue a series of bonds to refund a 1998 series of bonds, also issued by KEDFA, for the same borrower. In 1998, the borrower's name was Christian Church Homes of Kentucky, Inc. In Owensboro, the bond proceeds are being used to refinance a community of homes for older adults. Just as with the 1998 bond issue (Owensboro Municipal Order 10-98), the only involvement of the City of Owensboro in 2007 is to adopt the new Municipal Order. The City is not taking on any obligations with regard to payment of these bonds, nor will the bonds have any impact whatsoever on the City's ability to issue other obligations.

RECOMMENDATION: Adopt Municipal Order No. 32-2007.

14. City Manager's items:

- A. Consider the probationary full-time non-Civil Service promotional appointments of Randal Boling to Sergeant, effective August 26, and James Faith, Jr., to Police Officer, Police Department, effective August 27, and Roger Howard, Jr., to Captain, Donald Beard to Lieutenant and Steve Zoglmann to Driver/Engineer, Fire Department, effective August 26; the probationary full-time non-Civil Service appointment of Philip Walling to Police Officer, Police Department, effective August 27; and the probationary full-time Civil Service appointments of Charles King to Refuse Truck Driver, Sanitation Department, and Steven Schroeder to Stormwater Laborer/Maintenance Helper, Street/Stormwater Department, effective August 27.
- B. Consider the retirement resignations of Greg Baxter, Police Officer, Police Department, effective August 31, after 5 years of service; and Patsy Phillips, Clerk Typist, Police Department, effective September 28, after 15 years of service.
- C. Consider the financial report for the period ended July 31, 2007.
- D. City Manager's comments.

15. 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.
--

16. COMMUNICATIONS FROM ELECTED OFFICIALS

17. Adjournment