Owen County Council
Minutes-June 12, 2023

Meeting was called to order by President Polly Chesser with Opening Prayer and Pledge of Allegiance.
Present: Polly Chesser, Verl Keith, Anton Neff, Steve Carrell, Andy Wood. Also, present auditor Sheila Reeves.
Absent: Nick Robertson and Amy Casebeer.
A motion to approve the minutes was made by Andy Wood; seconded by Anton Neff. Carried 5-1.
Copies of the LOW Monthly Financial Reports, Settlement and Supplemental Settlement Reports were provided for review. Reeves noting the General Fund Cash Balance and projected expenses versus revenue concerns to keep in mind with additional appropriation requests. Updated reports will be given at the next meeting along with preliminary 2024 budget information.

Old Business

Council Funds reimbursement for the Coroners Van of $46406.25 is still pending funding options (ARPA/Opioid/Dormant-Covid) with the Commissioners. Gary Burton offered possibly another proposal with the revenue that is still available with ARPA. They would verify with Barnes & Thornburg what options were allowable. A motion was made by Neff; seconded by Keith to have the President-Chesser go to the Commissioner with a request for a claim of lost revenue and close out pending projects. Motion carried 5-0. Another motion was also made by Neff; seconded by Wood to proceed with the Canine Project from ARPA in the amount of $18000.00. Motion carried 5-0.

Wood directly to Kerr regarding an email that had been sent stating that he could not represent both entities per code. Kerr related that his contract is with the commissioners, and he works with several departments under their direction. Wood reviewed Bryan's workload for everyone and getting things done and now he's saying he works 40-45hrs/week and not getting everything. Specifically asking him if thinks with the power of the purse he should get his $160000 and a value to the county since he is not representing them as part of his workload. Burton noted that the attorney rate hasn't changed in six years, and that Bryan wasn't able to get ordinance's done due to his workload. Wood noting that there is obviously an issue per the Kerr email. Chesser related Bryan was hired in and public outcry of $13333 and now asking for more, so that they can rely on their own legal representation, using the tax abatement as an example. Wood saying it might have been better to look at costs, Burton said communicate. Again, members are concerned about the taxpayer's money being spent. Neff read/reviewed the current contract of Kerr and specifically regarding the wording of who he represents or serves—says all departments and elected officials. Kerr disagrees that it says his contract is with the commissioners. Neff and other members agreed that the wording should be clarified of his duties and possibly lowering his contract amount to clarify; and then they would need to enter their own contracts. Agree to disagree, and appropriate funds accordingly and quit tiptoeing and put the leadership together and come up with a new plan. Wood to Burton asked if they had ever had any discussions about policies needing updated at times and so busy getting other things done and taking too much time with council. Burton said no. Burton was sure that they had had that discussion and it didn't matter because nobody listened to him. So, the bottom line is Burton says to call an executive meeting to discuss and resolve the problem and move forward. Carrell said here six months and not enough communication and or sporadic, and still no resolve on a lot of issues for the departments/elected communicate, quarterly meetings for example. Neff asked if they all can put together a list of suggestions to help the issues/concerns and share for a commitment and revisit at the July Meeting. Burton ended with that they oversee the business of the county. It will be further discussed during upcoming meetings and budget hearings.

Holiday Pay Ordinance and Maternity/Paternity Leave Policy was tabled pending legal review from the county attorney and possible drafts at the July meeting. Reeves asked the commissioners their permission to reach out to the attorney. Neff-holiday pay is dated, and we will have to catch-up and adjustments with maternity ordinance and review at their July meeting and then get together to discuss them.

Tax Abatements-
Mader Mill Inc. had submitted updated information regarding their abatement. Following members review a motion was made to rescind the previous action taken in the May meeting and allow the abatement for one more year. Motion made by Neff; seconded by Casebeer. Motion carried 3-2/Keith-Wood.
Owen Valley Winery Abatement original application was reviewed for steps needed to establish an Economic Revitalization Area (ERA) per IC6-1.1-12.1. The application seeks to obtain an abatement of personal property taxes on new equipment and invest $266,036.00. To make the designation members shall use the procedures described in section 2.5 of this chapter. A copy of a proposed Resolution was presented by Kerr declaring an ERA, approving the statement of benefits, and authorizing an abatement period for new manufacturing equipment of the Owen Valley Winery. A correction to the Parcel number was made to 60-04-14-300-190.000-016. Based on discussion and findings determined the following motions were made: (Resolution presented and read by Attorney Kerr.
Section 1-The Owen County Council hereby declares the area described below to be an Economic Revitalization Area for Parcel Number: 60-04-14-300-190.000-016 and Legal Description: SW Quarter of the SW Quarter of Section 4, AKA Tract 1. Motion made by Wood; seconded by Keith. Carried 5-0.
Second motion was declaring the project undesirable for normal development. Motion made by Wood; seconded by Keith. Carried 5-0.
Third motion was because of condition #2 with a motion from Wood; seconded by Keith. Carried 5-0.
Fourth motion was declaring it reasonable with Wood making the motion; Keith seconded. Carried 5-0.
Next motion was declaring the end date. A period of five years was proposed with a motion from Wood; seconded by Keith. Discussion was utilizing the proposed five year-declining scale presented. An amendment was made by Wood; seconded by Keith to approve the declining five-year scale proposed in the resolution. Motion carried 5-0.
A motion to have the proposed MOU approved in the resolution was made by Wood; seconded by Keith. Motion carried 5-0.

In granting this designation and deductions the Owen County Council incorporates Indiana Code § 6-1.1-12.1-12 and also expressly exercises the power set forth in Indiana Code § 6-1.1-12.1-2(i)(6) to impose additional, reasonable conditions on the rehabilitation or redevelopment beyond those listed in the Statement of Benefits, and authorizes the negotiation of a Memorandum of Understanding with Owen Valley Winery, LLC, specifying substantial compliance terms and consequences and remedies for noncompliance. In particular, failure to make reasonable efforts to comply with the following conditions is an additional reason for the Owen County Council to rescind this designation and deduction:
a. the capital investment of at least $266,036 for new manufacturing equipment;
b. the land and improvements shall be used in a manner that complies with local code;
c. the new manufacturing equipment shall be installed and put in use before or within six (6) months of the completion date as listed on the application; and,
d. Owen Valley Winery, LLC, will comply with all compliance reporting requirements in the manner described by the Memorandum of Understanding.

A motion to approve Resolution 2023-006 in its entirety with correction noted on parcel number was made by Wood; seconded by Carrell. Motion carried 5-0.

The Resolution shall be published pursuant the provision of IC § 5-3-1 and a copy of this Resolution shall be provided to the County Assessor's Office for inspection therein. The Application is available for review in the Auditors Office. A public hearing shall be held at the time set forth in the public notice notifying the passage of this Resolution at which time the Owen County Council shall receive and hear all remonstrances and objections; determine whether are not the qualifications for an economic revitalization area have been met; and take final action upon this Resolution.
The public notice of listed above and a statement containing substantially the same information as a statement of benefits filed with the Owen County Council, at least ten (10) days before the hearing required by SECTION 7, shall be filed with each taxing unit that has authority to fix budgets, tax rates, and levy property taxes in the geographic area where the Economic Revitalization Area is located.
A motion to hold an ERA Public Hearing for the Owen Valley Winery Abatement will be held on July 12, 2023 at 6:00pm in the Meeting Room-2nd Floor Courthouse. Motion made by Neff; seconded by Wood. Carried 5-0.

Public Hearing for Additional Appropriations was opened by Chesser at 8:20pm. A motion was made by Neff; seconded Carrell to approve the May meeting list that was approved for advertising.
Correctional Fund 1233-Cash $75000.00 to Maintenance 1233-30700
Riverboat Fund 1191-Cash $4068.00 to Copy Machine 1191-34300
Court Reform Grant Fund 1000-Cash $9177.00 to Supplies 1000-232-20100
EMS Fund 1151-Cash $1514.00 to Supplies 1151-20100
Health Fund 1159-Cash $5313.00 to Insurance 1159-39000
PSAP Fund 1235-Cash $13.00 to Supplies 1235-20100
911 Dispatch Fund 1222-Cash $42.00 to Registration & Conference 1222-39100
Reassessment Fund 1188-Cash $5425.00 to Registration & Conference 1188-39100
Recorders Perpetuation Fund 1189-Cash $399.00 to Part time 1189-12500
Motion carried 5-0. Chesser closed the Hearing at 8:23.
New Business
Recorder Loretta Foster presented information requesting t be able to start accepting credit card payments via PayGov.US. A motion to approve the request was made by Neff; seconded by Wood. Carried 5-0.

EMA Director Job Description-Attorney Kerr had requested to be on the agenda on behalf of the Commissioners. An email had been sent with information and was discussed by Kerr with members. Kerr related that when EMAC requested clarification on the responsibilities and line of authority for the EMA Director, he looked into his job description. In the "VI. Other" section I discovered something very unusual. In researching the history of the job description, he found the source of the anomaly. In 2020 it appears that job descriptions were created/revised. Last year, on June 13, 2022, the EMA Director job description was changed, adding the unusual language. The previous attorney had used Ordinance 1994-9 for making the change and brought this to the Council for approval. Unfortunately, the previous attorney was unaware that Ordinance 2004-17 repealed Ordinance 1994-9 in its entirety and defers to Indiana Code regarding the EMA Director. The change in the EMA Director job description is based on a repealed ordinance. Therefore, the job description for the EMA Director should revert back to what it was prior to last year's erroneous change.
Here is the 2020 version of the VI. Other section:
The Director position is an appointive position of the County Commissioners on the recommendation of the EMA Board. Specific job duties and job requirements are established at the discretion of the County Commissioners. A person appointed to the Director position serves at the pleasure of the County Commissioners and may be terminated by the County Commissioners at any time.
Here is the 2022 erroneous version:

The Director position is an appointive position of the County Commissioners on the recommendation of the EMA Board. Specific job duties and job requirements are established at the discretion of the County Commissioners. Pursuant to Owen County Ordinance 1994-9 the appointment of the Director shall be permanent unless the EMA Council determines the Director to be inadequate to fulfill his/her responsibilities because of dereliction of duties including failure to provide the State Emergency Management Agency required reports and documentation, malfeasance in office, incompetence, insubordination or deliberate disregard of the directives of superior county or state authorities, or physical or mental incapacity to perform duties.
There is no other job description that I could locate that made a position permanent. I am surprised that other employees have not sought to have their positions made permanent as well,
Ordinance 2004-17 in Section 1 repeals Ordinance 1994-9 in its entirety. Section 4 states that the EMA Director is given the duties and responsibilities as prescribed by Indiana law. Indiana Code 10-14-3-17(d)(2) states that the county emergency management advisory council shall:
(2) Select or cause to be selected, with the approval of the county executive, a county emergency management and disaster director who: (A) has direct responsibility for the organization, administration, and operation of the emergency management program in the county; and (B) is responsible to the chairman of the county emergency management advisory council.
Current Indiana law does NOT make the EMA Director position permanent. I have not located the previous law on the EMA Director, but my assumption is that the unusual language was in the law in the mid-1990s and the State Legislature determined it was not good practice and removed such language. I found some older ordinances of other counties had this language, but those that have been updated do not.
The 2020 EMA Director job description, the 2022 job description (date wasn't changed in 2022), Ordinance 1994-9, Ordinance 2004-17 that repealed 1994-9, and the current statute regarding the EMA Director.
Attached was the job description for the EMA Director as approved by the Commissioners on May 17th.
Following several comments regarding the position, the interpretation of the Code and concern for requested changes a motion was made to *Not* approve the revision as presented in the May 17th description. Motion carried 4-0-1abstention.
Redevelopment-In the absence of Craig Coffman, Commissioner Burton reviewed the request for funds to assist in re-writing the County Ordinances for Building-Planning & Zoning. Kerr related several concerns with being outdated. A motion was made by Neff, seconded by Carrell, to approve the request in the amount of $45,750.00 to be paid from the LIT Fund 1112. Motion carried 5-0.

Additional Appropriation Requests were presented for:
Correctional Facility Fund#1170-Cash $6350.00 to 1170-20700 Equipment (Flock Safety System)
Cum Cap Fund#1138-Cash $6 0000.00 to 1138-37000 Contract Services (Multiple Building Projects)
Prosecutors User Fund#2500-Cash $6500.00 to 2500-20700 Equipment (Flock Safety System)
Court Interpreter Grant Fund#1000-Cash $75.00 to 1000-232-38000 Interpreter
Covid Reimbursement Fund#9165-Cash $60000.00 to 4911-37000 Contract Services & other negative line items. Reeves asked for the motion to include working with the Health Department in determining the needed amount for advertising accordingly. A motion for the cameras from the Sheriff and Prosecutors was made by Neff; seconded by Wood. Motion carried 5-0. Court Grant, Covid Fund and Cum Cap were approved with motions made by Neff; seconded by Carrell. Carried 5-0.
A motion to allow Chesser to sign the Salary Confirmation Summaries was made. Carried 5-0.
Elected Officials-
A copy of the new proposed Health Department Funding was provided for review. Also noted that there are upcoming state webinars to explain the new options prior to hearings in August.

Coroner presented information about the case pool funding system currently in place and the need for a change. Further review will be made and presented.
Public-Sam Hobbs related he agreed with the Flock Camera System.
Auditor presented copies of an upcoming Annual State Called Conference on June 24th.
Council-Reeves related that their July meeting was on opening night of the Fair and wanted to make sure they would have a quorum as some members were part of it. It was agreed to keep the date as July 10th.
A motion to adjourn was made by Wood.