

MINUTES
SEPTEMBER 24, 2018
COMMITTEE OF THE WHOLE
7:00 P.M.

Council Members in Attendance: Kent Butler
Samuel Crowl
Chris Fahl
Sarah Grace
Peter Kotses
Patrick McGee
Jeff Risner

Administrators and/or
Other Elected Officials: President Knisely
Mayor Patterson
Service-Safety Director Stone

Items Discussed:

- President Knisely announced that City Council will be moving forward with legislation next Monday that is necessary for the upcoming Halloween event, specifically street closures, noise, vending, and parking. She noted that substantive changes are not planned; the ordinances, aside from dates and times, will remain the same as last year.
- Public Rights-of-Way (Ice-Miller presentation)
 - Kotses – City is looking for better solutions for the rights-of-way uses – need, also, to consider what these changes will mean to citizens

-S-S Director Stone – recognized early in his tenure with the City that management of the variety of uses in our rights-of-way is an extreme challenge – he has expressed concern and questioned over the years whether our local laws properly control our r-o-w in a manner that is consistent with the health, safety, and welfare of the general public and, more specifically, public utilities under the PUCO – Ohio law gives the responsibility of management of the r-o-w to localities, however, Ohio law governs our ability to do so – ORC 4939 talks about public utilities registered with the PUCO – public utilities have a great deal of rights to be in the rights-of-way in order to provide electricity, gas, and telecommunications to citizens without being overly constrained by various localities – that being said, localities have the authority to regulate how the r-o-w is to operate when those public utilities run through them --- in 2016 and 2017 a working group was created to bring forward comprehensive r-o-w legislation – up until today, the initial thought was to weave the new r-o-w language into Title 35,

Cable Communications – since much of the Title 35 language needs updated, it seems like a better idea to insert a new Title into our Code, and review Title 35 updates at a later date – Small Cell is included in this legislation as well as the other elements of ORC 4939, and applicable federal laws in order to have the most appropriate local laws related to the regulation of our r-o-w that is still in compliance with state and federal laws

-Lindsay Miller of the Columbus Law Firm of Ice-Miller – provided a general overview on the changes to Management, Administration, and Control of the Use of the City's Public Rights-of-Way – as Mr. Stone mentioned ORC 4939 governs public utilities within the r-o-w – the City must also account for federal regulations, and PUCO decisions – any provider operating a system in the r-o-w will be required to follow this proposed legislation – the definition of "System" encompasses a lot, basically from the traditional utilities, to conduit and cable, and small cell facilities (forward-looking broadband components, some of which may already be present) – if a "system" is present within the r-o-w they have 120 days after enactment of this ordinance to file a "certificate of registration" to be in the City r-o-w – the intent is for this to be a one-time grant for use of the r-o-w – anytime a "system" provider wants to construct in the r-o-w, a "construction permit" will be required that details the right-of-way work – there are application fees for both of these, and potentially annual fees for the "certificate of registration" – those are in accordance with the PUCO – those costs are for granting an application and maintaining the r-o-w, and are considered actual and direct costs – this ordinance ensures that the City has all of the authority that is granted under State law – on an annual basis the "certificate of registration", provides for mapping and where facilities are located, it encourages coordination of build-out, and provides measures for a bad actor, a provider who is not acting in accordance with the r-o-w regulations

-McGee – asked for an example of a bad actor

-Miller – a provider not notifying the City of work that may impact the street, to behaving in a way that stops traffic, or impacts greater property within the area, or generally does not align with City regulations

-Stone – further explained that a double pole problem is a bad actor – power lines have highest point as they own the utility pole, and below are other communication providers on the pole – currently, if the power company replaces a pole with another pole just beside it, they cut off the top of the old pole, leaving the other communications lines on the old pole – this legislation provides authority to the City to require that the owner of the pole is responsible for removing other communication providers and removing the old pole

-Kotses – asked how the current fee structure will change, and how it will impact a citizen using the r-o-w

-Stone – City Council governs one-off uses of the r-o-w (revocable licenses), not utility systems – this new legislation would change the revocable license, approved by City Council, to be renamed a special right-of-way permit to be

approved by the Administration – the costs would be updated from \$150 for 10 years to \$50 for 7 years, plus an annual fee based on frontage

-Kotses – acknowledged that these fees will only offset current costs

-S-S Director – yes, regulations allow only capture of City's costs

-Risner – why would City Council want to give up authority to issue revocable licenses?

-Stone – the revocable license component can be adjusted to keep as only administrative review with approval process retained by City Council

-Risner – what is average size of r-o-w in the City?

-S-S Director – varies from narrow 10' (alleys) to 60' to 66' for streets – Columbus Road is 148' (acquired in 1948 for possible future 4-lane highway usage)

-Butler – how does this change make the City's process more efficient and effective?

-Miller – first and foremost is compliance with federal and state laws – this legislation ensures that the City of Athens exercises its authority to the greatest extent that it can in accordance with those laws – it is likely that in the future there will be more and more entities requesting to use the City's r-o-w – this legislation provides a process, and a fee recovery mechanism, as well as records retention for existing and future entities within the r-o-w – it ensures that the City can monitor what is in the r-o-w, the condition of the r-o-w, and whether or not there is adequate space to accommodate the facilities – it ensures that the City is protecting local health, safety and welfare from these facilities, and where they may be placed – also ensures that the entities using the r-o-w do so in accordance with the City's requirements

-Mayor – believes this legislation has accelerated due to the small cell facilities

-Crowl – asked if Ice-Miller has crafted r-o-w legislation for other similar sized communities

-Miller – currently working with approximately 20 municipalities across the state that range in size – generally speaking, in southeast Ohio, small cell facilities and wireless support structures are not going to be put in place in the next few years, but it is important to note that the City of Athens is different due to the presence of Ohio University and is much more likely to see this infrastructure to provide additional wireless service

-Crowl – are telecommunication companies looking at r-o-w legislation and finding problems with them, and taking legal action?

-Miller – that was all taken into consideration when crafting this ordinance – the companies have had a lot of opportunities for comment

-McGee – questioned tree trimming regulations that might affect some citizens, and asked about insurance and bonds

-Miller – there are bonding requirements, including bonds for construction and removal

-Stone – trees are challenging as they relate to electric lines and maintenance trimming – the City works with an ODNR urban forester, and attempts to get utility companies to follow best management practices for trimming – he believes this legislation gives the City more authority

-Fahl – it may seem small that Council is doing due diligence by looking at r-o-w's through the Council process – there is some concern about City Council giving up its authority – even the Council has had a lot of differences when voting on approving r-o-w uses – the Council process allows for more transparency and sunshine – would like to work together on these r-o-w issues that have both visual and sight impacts in our neighborhoods – Administration's change and having City Council overview is a good idea – City Council should continue to approve use of the r-o-w, with the Administration then handling annual renewals – would like Council to have a voice for the citizens

-Stone – will work Council approval into the special r-o-w permits provision – would be most concerned if Council wanted to retain the right as it relates to the registrants that have operating systems in the r-o-w due to state and federal imposed response time frames, and getting ordinances approved in time to meet those deadlines

-Rob Delach, Morris Avenue – asked about potential renter bike and scooter shares – can City regulate that within the r-o-w?

-Stone – provisions in other parts of the City Code would govern

-Miller – clarified, this ordinance was intended for less mobile facilities

- Farmers Market Project

-Leslie Schaller, Appalachian Center for Economic Networks (ACEnet) Director of Programs – provided an update on Farmers Market (see attached)

-Fahl – this process, as noted, is in the beginning – there will be ample time for public input – we currently have an amazing market – this process will help identify opportunities for the Farmers Market, as well as prospects for the space (not only a Farmers Market but a festival space) using a more comprehensive approach

-Kotses – asked about a timeline for feedback to the Council?

-Schaller – early 2019

-Crowl – asked about site needs – understands, when talking about use of the recreation campus, that it would border from the most eastern side of the campus and travel west to the dog park

-Schaller – amenities would include access to public restrooms, water, sewer, and wireless connectivity – added, many patrons would like to bike/walk to the

market and there is a lot of interest in having the market on the bike path side of East State

-Mayor – in 2014-15 the Athens Foundation and the Voinovich School surveyed and assessed Farmers Market patron's needs, wants and desires – site locations were also assessed – affordability was an issue, along with size and utilities

-Schaller – the Market has a great resilience; it is a beloved institution within our region and has great support – Athens is well known as a community that acknowledges all entrepreneurial opportunities

-Risner – asked if any part of this project might be restricted by the 100-year floodplain regulations

-Schaller – is always a concern, depends on kind of structures being pursued

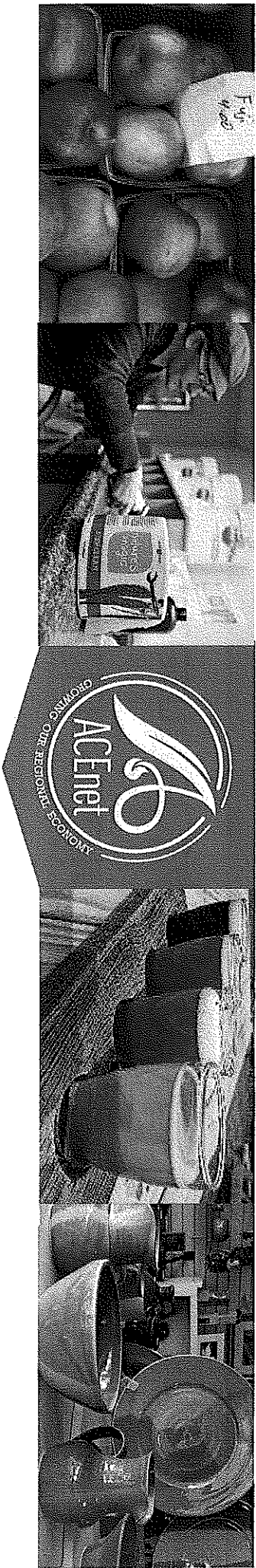
-Parker Smith, West State Street, Off-Campus Commissioner for Ohio University Student Senate – worked as a research assistant at the Voinovich School with the social enterprise eco system, and encouraged reaching out to the School again

Update on City of Athens & ACEnet Public Market Analysis

Leslie Schaller: ACEnet-Director of Programs

September 24, 2018





The Appalachian Center for Economic Networks is a regional entrepreneurship and economic development organization located in Athens, Ohio.

Our Mission: ACEnet grows the regional economy by supporting entrepreneurs and strengthening economic sectors.

Our Vision: We envision a resilient economy in which all people have the resources and opportunities to prosper.

2018 Partnership Goals

Late 2017 ACEnet secured a 2 year USDA Farmer Market Promotion Program funding to prepare an analysis of the City to provide public space development for market & other public uses

3 Primary Goals:

1. Work with the City administration and the Arts, Park and Recreation Department to determine if a site could be developed on the Athens Community Center Campus
2. Secure support from national consultants to determine the feasibility of site development & financial viability
3. Provide support to the Athens Farmers Market Association to strengthen the leadership capacity and create a detailed market and business plan

USDA funding supports

National consultants to assist with the feasibility analysis

1. The Project for Public Spaces www.pps.org
2. Darlene Wolnick of the Farmers Market Coalition www.farmersmarketcoalition.org



The USDA will also support an architectural & site review as site selection and a business plan is completed

Activities

1. Planning meetings: between all partners
2. Spring site visit from project staff of PPD
3. ACEnet & AFM meetings on market & business planning
4. Survey data collected at Saturdays AFM throughout the summer – which will continue in late 2018 & early 2019
5. Identification of funding resources
6. September 5th meeting with FENA leadership members
7. Site needs provided by AFM to consultants & city
8. Planning conversations on public forum schedule & agenda

MINUTES
CITY & SAFETY SERVICES COMMITTEE
SEPTEMBER 24, 2018
7:00 p.m.

Members in Attendance: Kent Butler, Chair
Peter Kotses, Vice-Chair
Chris Fahl, Member

Administrators and/or
Other Elected Officials: President Knisely
Mayor Patterson

ITEMS DISCUSSED:

- Fire Headquarters (grant to replace diesel exhaust/ventilation system)
 - Butler – our Fire Chief was successful in receiving a \$51,000 Assistance to Firefighter grant, specifically to remove diesel exhaust from the building where our firefighters operate and reside, eat, and sleep – this is essential to the safety and well-being of our employees – Station 2 on Richland Avenue was successful last year in receiving a similar grant for the same equipment – additionally, any residual grant monies can be used to purchase an updated and more utilitarian, better built boat trailer to enhance the Fire Department's water rescue efforts – this would help first responders do their job more safely and efficiently – this trailer would be a double-stacking foldable trailer – cost of the new trailer is approximately \$11,000
 - Mayor – sees the need for this updated boat trailer as a real health and safety issue – acknowledged that this same exhaust system installed at Station 2 last year has mitigated the health concern of the diesel exhaust
 - Butler – indicated that the City's grant match is 10%
 - Kotses – asked if the exhaust is more an issue today with the larger sized trucks
 - Stone – noted that cities are paying closer attention to this environmental risk and the safety of employees

MINUTES
FINANCE & PERSONNEL COMMITTEE
SEPTEMBER 24, 2018
7:00 p.m.

Members in Attendance: Jeff Risner, Chair
Kent Butler, Vice-Chair
Sam Crowl, Member

Administrators and/or
Other Elected Officials: President Knisely
Mayor Patterson
Service-Safety Director Stone
Auditor Hecht

ITEMS DISCUSSED:

- Credit Card Policy
 - Risner – Council needs to approve a City-wide credit card policy
 - Auditor – updated Council on the process – feedback has been received from some City departments as to use of their City credit card – a State Bill was signed into law by Governor Kasich on August 2nd – February 2nd is the effective date – would like to have legislation in place by January 1st
- Fire Pumper Truck (note renewal)
 - Risner – the City would like to pay down \$100,000, and renew the note for one year in the principal amount of \$323,411 at 1.69% interest
 - Auditor – City will match Ohio University's \$50,000
- Appropriations/Transfers
 - Risner – the City has been awarded a NOPEC Energized Community (NEC) grant, on a reimbursement basis
 - Auditor – will require an appropriation of \$9,200 to the Transportation Fund
 - S-S Director – grant will be used to purchase six (6) Bus Shelter Solar Panel Lighting Kits at a cost of \$11,250 – three (3) of these kits will be used for the bus shelters that will be installed along East State Street this fall/winter – the kits will be shipped 6-8 weeks after placing the order – once the invoice has been received a disbursement check for \$11,250 will be requested from NOPEC, and the money will be returned to the appropriate Transportation Fund line

-Risner – asked about specific locations for the shelters
-S-S Director – he will provide that information to the Council

-Auditor – interfund transfer is needed from Parking Fund to Parking Garage Debt Fund to pay the note due on October 19th – outstanding principal on the renovations is about \$1.5 million – owe a scheduled bond payment in the amount of \$125,000 principal and \$38,000 plus, for interest – requested suspension at second reading

ITEMS NEEDED ON THE NEXT CITY COUNCIL AGENDA:

1. Fire Pumper Truck Note Renewal
2. Appropriations/Transfers

MINUTES
PLANNING & DEVELOPMENT COMMITTEE
SEPTEMBER 24, 2018
7:00 p.m.

Members in Attendance: Chris Fahl, Chair
Jeff Risner, Vice-Chair
Sarah Grace, Member
Patrick McGee, Member

Administrators and/or
Other Elected Officials: President Knisely
Mayor Patterson
Service-Safety Director Stone

Items Discussed:

- Revocable License Request (Devil's Kettle Brewing, 97 Columbus Road)
 - Fahl – the City Planning Commission voted 4-0 to recommend City Council approval of a revocable license for use of the public right-of-way, and as part of the review process, the Administrative Departments have all signed off on the 10-year Revocable License Application
 - Stone – explained that this is an existing patio and it was discovered to be in the right-of-way when reviewing an outdoor food operation – noted that this is an example of the legislation proposed earlier that would modify the approval process, and instead of City Council approval, would be handled administratively as a special right-of-way permit – he has no issue with this request – the use is for an approximately 20' x 24' concrete pad that is part of an existing larger zoning approved patio – it does not interfere with the public right-of-way
 - Risner – acknowledged that this isn't the only business that may be encroaching on the City right-of-way
 - Stone – if one should become a problem, it can be revoked – they are in the right-of-way by permission, not by an easement that may give them over-arching rights

-McGee – asked whether the r-o-w extends beyond the width of the sidewalk

-Stone – again, there are varying widths – sometimes the r-o-w will go a couple of feet past the sidewalk, and in some instances the r-o-w extends much further than the sidewalk, almost to the fronts of buildings

- Request for Signage (26 East Park Drive)

-Fahl – noted that the requested sign would be in the area of the municipal pool – Nicholas Bittner is requesting authorization to install a sign on City property – sign would be for multiple businesses

-Nicholas Bittner, Canterbury Drive – acknowledged that this would be a monument sign on City property (see attached) – he believes the sign would be on the East State Street r-o-w, at the southeast corner of the intersection of East State and East Park Drive, approximately 5' from the sidewalk – sign would not be illuminated

-Fahl – this multi-business signage could be a good model for East State – has more flexibility – will need to establish whether it is on the r-o-w

-Grace – asked if the faceplate of the sign could be changed easily

-Bittner – the actual sign itself is painted aluminum, with an applied vinyl used for various entities that could be easily added or removed over time

-Stone – questioned whether the sign location is in the r-o-w, or on the Community Center parcel

-Bittner – used the survey work done by the Buckley Group for the East State Street project – it appeared that the sign would be primarily in the r-o-w

-Stone – indicated that City Council will need to approve it either way

-Fahl – it will need to be established whether it is fully on the r-o-w, or partially on City property before moving forward

-Grace – asked why the sign would be on the east side of East Park Drive as opposed to the west side where most of the businesses are located

-Bittner – there is not enough space on the west side

-Mayor – asked if there would be any reflective elements on the sign

-Bittner – is proposing that the applied vinyl be reflective, but not the sign itself

-Mayor – concerned that reflective material may impede motorists' line of sight

-Bittner – it is not critical that it be reflective – could be a matt finish

- Mayor – asked about liability if a motorist should hit the sign
- Fahl – the application for a revocable license includes the need for liability coverage by the applicant

ITEMS NEEDED ON THE NEXT CITY COUNCIL AGENDA:

1. Devil's Kettle