

Council Members in Attendance: Butler, Crowl, Fahl, Grace, Kotses, McGee, and Risner.

Also Present: President Knisely, Mayor Patterson, Law Director Eliason, and Auditor Hecht.

Attendance by the Public: (see attached list)

President Knisely opened the Public Hearing to discuss rezoning portions of Court Street, East & West Carpenter Street, East & West State Street, and Fern Street from a B3 zone to a B2D zone.

Joan Kraynanski, Mound Street, is in opposition to this zoning change. She asked if the Council has received an answer to her question from an earlier meeting about the number of parking spaces that would no longer be required on these streets should this zoning be changed. She believes that same number of vehicles will likely be pushed into nearby neighborhoods. She also noted that currently in the B3 zone, for eating and drinking establishments, there is a 250' requirement from R-1 and R-2 zones, while in a B2D zone that requirement is reduced to 100'.

President Knisely asked the Mayor to provide the parking information requested.

Bill Dombroski, Ring Street, shares the concern about parking being pushed into the neighborhood areas, as well as an increase in noise levels from businesses in the area. This zoning change might be good for the businesses, but not for the nearby residents.

Rob Delach, Morris Avenue, supports this effort. He believes it will benefit the entire community.

Alyssa Bernstein, Fairview, believes current parking in Athens is very limited on these streets and in the near uptown area. She also expressed a concern with the B2D zone allowing taller buildings that would add to the uptown density.

Bill Safranek, Grosvenor, agrees that this change will cause business overflow parking into the neighborhoods. This zoning proposal has been defeated in the past, and he sees no changes that would suggest it is needed now. He asked the Council not to approve this request.

Councilwoman Grace read an email correspondence from Michele Papai, a former Board of Zoning Appeals member, 3rd Ward Council Member, and current member of the Affordable Housing Commission in opposition to the proposed rezoning (see attached).

Hearing no further questions or comments from the public, the hearing was adjourned at approximately 7:15 p.m.

President of Council

ATTEST:

Clerk of Council

ATHENS CITY COUNCIL: REGULAR SESSION, MONDAY, NOVEMBER 18, 2019, 7:00 P.M.

Athens City Council met in Regular Session at the above hour with the following members present: Butler, Crowl, Fahl, Grace, Kotses, McGee, and Risner.

Also present: President Knisely, Mayor Patterson, Law Director Eliason, and Auditor Hecht.

DISPOSTION OF MINUTES:

Fahl moved approval of the minutes of the Regular Session held on November 4, 2019; Risner seconded. Minutes were unanimously approved as presented.

COMMUNICATIONS:

President Knisely is in receipt of a notice from the Department of Commerce, Division of Liquor Control, that all permits to sell alcoholic beverages will expire on February 1, 2020, and every permit holder must file a renewal application.

Council Member Kotses announced that the next Athens City School Board meeting will be held on Thursday, November 21, at 6:30 p.m. in the high school auditorium.

Council Member Butler is in receipt of many emails in support of the Baileys Trail System.

REPORTS AND COMMUNICATIONS FROM OTHER ELECTED OFFICIALS:

Treasurer McClure presented the third quarter Interest Income report and Reconciliation Report (see attached). The year to date total is \$137,140.55. The projections are in the process of being adjusted.

Risner asked if there are any other financial vehicles the City should be reviewing for perhaps a better source of revenue other than CD's.

McClure responded that the City is limited by State law.

McGee asked about any limitations on the City's investments.

McClure responded that she can send him a list of her input on various investments.

Mayor Patterson appreciates the diversification of our investment portfolio.

Mayor Patterson has received 26 emails regarding the Baileys Trail System. He shared one of these letters with Council Members from Gary Sjoquist, a 2012 Mountain Bike Hall of Fame recipient (see attached).

ORDINANCES FOR THIRD READING:

0-111-19

AN ORDINANCE TO REPEAL AND REPLACE ATHENS CITY CODE TITLE 35, CABLE COMMUNICATIONS. Fahl moved for Adoption; Risner seconded. Discussion: Mayor Patterson requested City Council consider Tabling this legislation. Charter Communications has approached the Administration requesting a meeting to discuss this legislation in detail.

Fahl withdrew her motion for Adoption, then moved to Table as per the request by the Mayor; Grace seconded. Discussion: Brian Young, Charter Communications, dba Spectrum, voiced concerns that language suggested by Spectrum during an April meeting has not been included in this legislation.

Tabling was approved unanimously.

0-112-19

AN ORDINANCE AUTHORIZING AMENDING ORDINANCE 100-18, CONSTRUCTION AND CONSTRUCTION ENGINEERING SERVICES FOR THE RICHLAND BRIDGE OVER COATES RUN PROJECT (#321). Kotses moved for Adoption; Crawl seconded. Adoption was approved unanimously.

0-113-19

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ENTER INTO AN LPA/STATE PROJECT AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR A BRIDGE REPAIR PROJECT WITHIN THE CORPORATION BOUNDARY ON STATE ROUTE 56 (PID 99578); AND DECLARING AN EMERGENCY. Kotses moved for Adoption; Butler seconded. Adoption was approved unanimously.

0-114-19

AN ORDINANCE REPEALING ORDINANCE 25-19; AMENDING ATHENS CITY CODE, TITLE 17, CHAPTER 17.01, MUNICIPAL INCOME TAX, TO ADD SECTION 17.01.066, ELECTION TO BE SUBJECT TO OHIO REVISED CODE SECTIONS 718.80 THROUGH 718.95; AND REPLACING IT TO INCORPORATE THE OHIO REVISED CODE SECTIONS BY REFERENCE. Risner moved for Adoption; Fahl seconded. Adoption was approved unanimously.

0-115-19

AN ORDINANCE AMENDING ATHENS CITY CODE, TITLE 17, CHAPTER 17.01, MUNICIPAL INCOME TAX, SECTION 17.01.03, DEFINITIONS. Risner moved for Adoption; Fahl seconded. Adoption was approved unanimously.

0-116-19

AN ORDINANCE AMENDING THE 2019 APPROPRIATIONS ORDINANCE. Risner moved for Adoption; Fahl seconded. Adoption was approved unanimously.

0-117-19

AN ORDINANCE AUTHORIZING THE AUDITOR TO REDUCE 2019 YEAR-END APPROPRIATIONS. Risner moved for Adoption; Fahl seconded. Adoption was approved unanimously.

0-118-19

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ENTER INTO CONTRACT WITH FINLEY FIRE EQUIPMENT CO., INC., TO PURCHASE A FIRE PUMPER TRUCK; AND DECLARING AN EMERGENCY. Risner moved for Adoption; Fahl seconded. Discussion: Fahl asked if the agreement is still in place with Ohio University to partner on this expense.

The Mayor believes there is two years left on the current agreement, and he is engaging President Nellis in conversation about extending it. He would like to reach a longer term agreement.

Adoption was approved unanimously.

0-119-19

AN ORDINANCE AUTHORIZING DISPOSAL OF A 1997 FIRE PUMPER TRUCK NO LONGER NEEDED FOR A MUNICIPAL PURPOSE. Butler moved for Adoption; Risner seconded. Adoption was approved unanimously.

ORDINANCES FOR SECOND READING:

0-120-19

AN ORDINANCE AMENDING ATHENS CITY CODE TITLE 7, CHAPTER 7.05, PARKING REGULATIONS.

0-121-19

AN ORDINANCE REZONING PORTIONS OF COURT, STATE, CARPENTER, AND FERN STREETS FROM A B3 ZONE TO A B2D ZONE.

0-122-19

AN ORDINANCE AMENDING THE 2019 APPROPRIATION ORDINANCE.

0-123-19

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF \$150,000 OF NOTES BY THE CITY OF ATHENS, OHIO, IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF RENEWING NOTES ISSUED FOR THE PURPOSE OF PAYING PART OF THE COSTS OF DESIGN ENGINEERING OF THE WATER TREATMENT PLANT FACILITIES IMPROVEMENTS, PROJECT #307; AND DECLARING AN EMERGENCY. Risner moved for Suspension of the Rules as the notes mature on December 6; Kotses seconded. Suspension of the Rules was approved unanimously. Risner moved for Adoption; Fahl seconded. Adoption was approved unanimously.

0-124-19

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF \$170,000 OF NOTES BY THE CITY OF ATHENS, OHIO, IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF RENEWING NOTES PREVIOUSLY ISSUED TO PAY PART OF THE COSTS OF IMPROVEMENTS TO THIS MUNICIPALITY'S WASTEWATER TREATMENT PLANT; AND DECLARING AN EMERGENCY. Risner moved for Suspension of the Rules as the notes mature on December 6; Fahl seconded. Suspension of the Rules was approved unanimously. Risner moved for Adoption; Fahl seconded. Adoption was approved unanimously.

0-125-19

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO HIRE A WATER LABOR SUPERVISOR AT A PAY RATE OF UP TO 40% THROUGH THE ASSIGNED PAY GRADE. Risner moved for Suspension of the Rules in order to pay the promoted employee, who has taken on the duties of the higher paying position, at a lower rate of pay; Fahl seconded. Suspension of the Rules was approved unanimously. Risner moved for Adoption; Adoption was approved unanimously.

ORDINANCES FOR FIRST READING:**0-126-19**

AN ORDINANCE AMENDING ATHENS CITY CODE, TITLE 7, CHAPTER 7.05 PARKING REGULATIONS, TO ADD SECTION 7.05.03.1, RESIDENTIAL PARKING PERMIT. Discussion: Kotses reported that the pilot program ends in December and the Council has expressed an interest in offering it on a permanent basis. The streets will remain the same, but the annual application fee will be increased from \$25.00 to \$35.00.

Butler recognized the citizen input associated with this program.

Grace asked if there had been any requests to include additional streets to the program.

Kotses noted that the selected streets in the pilot program have little to no off-street parking, identifying a specific need.

Joan Kraynanski, Mound Street, expressed appreciation from the participating residents.

0-127-19

AN ORDINANCE REPEALING ATHENS CITY CODE, TITLE 7, TRAFFIC CODE, CHAPTER 7.06, TOW TRUCK REGULATIONS; AND AMENDING TO REMOVE CHAPTER 7.05, PARKING REGULATIONS, SECTIONS 7.05.32 THROUGH 7.05.35, AND 7.09.99 (T)(1) AND (2), PENALTIES. Discussion: Kotses explained that the Public Utilities Commission (PUCO) sets the fees for private towing services. The Athens City Code currently includes a fee of \$50.00 set in 2003, that is unenforceable and should be removed according to a legal opinion from the City's Law Director.

McGee does not believe the State and PUCO can preempt our local City Code. Ohio University Student Senate has petitioned City Council on the matter of fees charged, asking that it be a reasonable rate, recommending \$75.00. This legislation will emasculate any option the City has at controlling the rate. In larger cities the higher fee set by the PUCO could be justified due to the increased mileage of the tow. If the City sets a lower fee, it would be up to the court system to determine whether the PUCO fee would apply should a civil suit be filed. Again, this legislation will undermine the opportunity for citizens to argue that it should be a lesser fee.

Law Director Eliason was requested by President Knisely to issue a legal opinion on tow truck charges (see attached). Also, the Police Chief has indicated that the City's Tow Truck Regulations have not been enforced since 2004, suggesting that they be repealed. Any dispute regarding towing charges is between the towing company and the individual whose vehicle is being towed through a civil suit filed in the Court of Small Claims.

Crowl is concerned about Home Rule. He believes the City should have the ability to set these charges.

Risner doesn't see this as a Home Rule issue, but simply correcting a charge that is set by the PUCO and has been in place for several years.

McGee would like the City to set the charge for predatory towing. He understands this would ultimately have to be determined by the Court.

0-128-19

AN ORDINANCE AUTHORIZING THE MAYOR TO PARTICIPATE IN THE UPTOWN SPECIAL IMPROVEMENT DISTRICT (SID). Discussion: The Mayor would like to use the Athens Enhancement Fund to pay the cost per linear foot. Again, State facilities, municipalities and churches in the SID area are exempt, noting that both the University and City are opting-in to be partners in this endeavor.

ANNOUNCEMENTS & OTHER BUSINESS:

Crowl moved to Appoint Abbey Rodjom to serve in the student position on the Environment & Sustainability Commission; Fahl seconded. Appointment was approved unanimously.

Risner moved to Accept the Auditor's October, 2019, Financial Reports; McGee seconded. Motion was approved unanimously.

Fahl moved to Accept the October, 2019, Credit Card Transactions; Crowl seconded. Motion was approved unanimously.

Risner moved to Remove 0-110-19 from the Table; Crowl seconded. Discussion: Risner explained that his reason for tabling the ordinance was to seek advice from an independent financial analyst, which the Mayor has done and is ready to report to Council.

Mayor Patterson does not have a physical report, however, he did reach out to Nick Zingale, CPA with Novogradac & Company, LLP, Cleveland Ohio, recommended by former City Prosecutor Jessica Branner. Mr. Zingale has reviewed the information provided by Seth Brown of Quantified Ventures, a summary of the project along with visitation and economic impact expected from the Baileys Trail System. Mr. Zingale reported that the financial side is straight forward for debt service, nothing looked unusual or out of the ordinary. He did note that his firm does not look at impact development projects for outdoor recreation, and he was unable to comment on that. The Mayor feels strongly that the City should move forward with financing a portion of the Baileys. He has walked the developed portion of the trail and found it impressive. He added, there is an adaptive trail feature for those with disabilities. The Mayor finds it compelling that there is in excess of \$4 million already garnered for this trail system. The City's investment of \$1.2 million over a number of years is something he really feels strongly about. He understands this isn't the full report that Council was expecting, but in looking at the decreasing student enrollment at Ohio University and how that impacts our local economy, the City needs to look forward and to think about other economic development opportunities for our community and the County. We need to diversify our economy and expand our revenue.

Removing Ordinance 110-19 from the Table was approved unanimously.

0-110-19

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO PROVIDE FINANCIAL SUPPORT FROM THE CITY'S TRANSIENT GUEST TAX TO THE OUTDOOR RECREATION COUNCIL OF APPALACHIA (ORCA) FOR FUNDING THE BAILEY'S TRAIL SYSTEM ALONG WITH OTHER RECREATIONAL ACTIVITIES.

Risner moved to Amend as follows:

Section I: add after the word "activities" PROVIDED THAT THE PROCEEDS OF SUCH TAX ARE SUFFICIENT, LEGALLY AVAILABLE, AND LAWFULLY APPROPRIATED FOR THE PURPOSE.

Add a new SECTION II: SHOULD THE PORT AUTHORITY BOARD, OR ANY OTHER ENTITY, SHOW A WILLINGNESS TO ISSUE BONDS FOR LOANS FOR THE FIXED INVESTMENT AMOUNT BEING CONSIDERED, THEN THE MAYOR, AS AN ORCA BOARD MEMBER, WOULD BE REQUIRED TO SEEK ADDITIONAL LEGISLATIVE APPROVAL.

Agreement: add under "City Agrees" 2) after "Furthermore" to include FIVE YEARS AFTER THE EFFECTIVE DATE OF THIS AGREEMENT, and after "measures" to add, APPROVED BY CITY COUNCIL...

He believes these amendments will tighten the City Council's control over funding; Fahl seconded. Discussion: Fahl understands that eco-tourism projects are a gem from a tourism and economic development perspective, but continues to struggle with a 20-year payment by the City. To have this come back for legislative approval should a bond or loan be requested, along with no performance payments until after five years helps satisfy some of her concerns.

McGee is supportive of the amendments, but he still has concerns with the overall agreement that states it can be terminated in accordance with Section IV, Exhibit A. He would like additional clarification on this complex issue.

Grace shares Member McGee's concern about termination. While the City can terminate the agreement, it does not remove the City from ORCA who is underwriting the bond. She would like to know what happens to the City's and ORCA's financial commitment if the worst case scenario happens and the trail is not successful. How does that work out with any bond obligation? It has not been effectively communicated how that totally alleviates the City's financial obligation in this endeavor.

Seth Brown, Quantified Ventures, Washington, D.C., believes the amendments add clarity to the contract that will be supporting the revenue that goes to ORCA and the financing of which that revenue is being underwritten for

the financing. From these amendments, it is his understanding that if there ever was a scenario in which the financing was requiring some change to the way the City is providing money to ORCA, such as a bond, additional City Council approval would be required. And, after five (5) years, the outside performance measure criteria will be evaluated by City Council prior to any additional funding amount. These amendments provide better oversight and transparency by City Council into what will be paid to ORCA.

Risner questioned, any worst case scenario, what financial obligation does the City still have toward ORCA, or any other agency.

Brown responded, the City would continue to pay \$90,000 annually until the Council decides to leave ORCA.

Risner further questioned if the City withdrew from ORCA, whether the City's financial obligation would end, the City would not owe another payment, and the City could not be sued.

Brown believes that would be the case as it is currently written.

Fahl asked about the Law Director's review of the documents.

Law Director Eliason recognizes that Section 4, Exhibit "A" of the Agreement states that the City can withdraw, and she believes that the amended Section II is needed to address any private financing, loan or bond that ORCA may seek. There is an increased City obligation if there is financing, which is the concern of Council, and thus the need to return for Council approval.

Auditor Hecht believes the amendments are very important.

Butler wished to clarify that it is the Transient Guest Tax that is paying for the trail; it is not income tax dollars.

Grace noted that the City's portion of the Transient Guest Tax is currently part of the General Fund, dollars that we are currently using to pay other expenses in the City. To continue the same level of support to the General Fund, the City will have to add revenue from another stream. It isn't a pot of money that is currently sitting unused.

Auditor Hecht responded that Member Grace is correct. We are required by the Ohio Revised Code to put 50% of the Transient Guest Tax into the General Fund for general obligations. Funding this trail will account for at \$90,000 less in the City's general fund revenue. The City plans to change the income tax reallocation by reducing the Street Fund by 1% (about \$129,000) and increasing the General Fund by 1% to replace the funds proposed for the Baileys Trail System, up to \$125,000. The Street Fund will be receiving additional dollars through the State's increased gasoline tax (approximately \$187,000 in new revenue).

The Mayor pointed out that the City would still be able to maintain and possibly exceed annual street paving. Both funds will remain stable.

Auditor Hecht is comfortable with this arrangement.

Fahl asked if the State Gasoline Tax has a sunset clause.
Mayor responded, not to his knowledge.

Amendment was approved unanimously.

Rory Robinson, resident of Northeast Ohio and 41-year employee of the National Park Service [see attached email and Economic (and other) Benefits of Trails, Greenways and Open Space].

Amy Renner, Council Member and Mayor Elect for the Village of Chauncey, thanked City Council for its consideration of this funding. It means a lot to the residents of Chauncey. Chauncey's children attend Athens City Schools and the residents shop, dine, and some work in the City of Athens. Chauncey does not have the means, without some sort of intervention, to address their aging infrastructure. This trail is providing that important intervention, to provide hope to the Chauncey residents. This trail will offer economic development to neighboring communities that will have serious implications for positive change. She hopes City Council will support the Baileys Trail System that will encourage countywide economic growth.

Michael Owen, Pomeroy, Ohio resident and Director of Southeastern Ohio Trail Runners, a non-profit organization based in Athens and in existence since 2014, shared his voice for a different user group of the trail. Trail runners will add to the participation of using the Baileys Trail on par with the number of mountain bikers. Let's use our natural resources for something positive.

Athens County Commissioner Chmiel, understands this is a very complicated matter, but it will be good for Athens County and he is pleased that the City and County are working together. Tourism is where we can be competitive, and this trail will have a positive economic impact on Chauncey, Buchtel and Nelsonville. He noted that the Commissioners are waiting to take action after the Council, and believes they are supportive.

Todd Swearingen, Guysville, questioned the accuracy of the numbers anticipated in revenue generation, number of users, the distance those users are traveling to use the trail, and the number of nights they will stay. He also believes there is no reason not to pursue carbon offset, except that it may be inconvenient. Carbon debt needs to be addressed with this project.

Geoff Morgan, Edgewood Court, believes this is an investment for people (see attached email).

Scott Krebs, representing Hocking College, presented City Council with the attached Proclamation.

Danny Twilley, Graham Drive, encouraged the Council to ask questions in order that they may be adequately answered in order to make an informed decision.

Dawn McCarthy, representing the Wayne National Forest, has provided a summary of the project (see attached), and she invited Council Members to view the Baileys. She would be happy to schedule a field trip.

Seth Brown, Quantified Ventures (QV), added that all funds raised have been through non-profits and governments, and QV does not have a financial stake in the outcome of this transaction. Funding large scale, innovative projects in rural America is not easy, and they work only through the collaboration of many partners. He believes this project is fundamentally impactful; outdoor recreation can improve communities.

OPPORTUNITY FOR CITIZENS TO SPEAK ON LEGISLATIVE ITEMS AND CITY SERVICES NOT COVERED ON THE AGENDA:

Stephanie Goldsberry, N. May Avenue, is pleased that progress has been made on the Cable Lane issue. She is concerned about the short-term rental concept (STR) in R-1 neighborhoods and asked who will oversee that STR regulations are being met, as control is important. She believes parking for these STR's could present a problem. There are R-1 areas that do not have excess on-street parking. She also questioned whether they will be allowed in all R-1 zones, or only certain R-1 areas.

President Knisely announced that there is a public hearing scheduled on Short-Term Rental regulations and guidelines tomorrow evening at 6:30 p.m. at the Community Center.

Jack Stauffer, Elmwood, believes STRs will reduce property rights and affect the quality of life in R-1 zones. He and many others are opposed to such legislation in R-1 zones. He noted the illegal STR at 30 Utah Place that has been reported several times to the City since September, 2017. There has been no enforcement or citations issued to the property owner. It has been reported that 12,654 people have visited this address, aka, the Zenner House, since 2016 in this R-1 neighborhood. Stress on the neighborhood through excessive noise, traffic, parking, and litter is a concern. He also expressed his frustration with trying to get information from a public records request issued on October 14th.

He is, again, submitting the attached request to City Council that he submitted on September 11th and October 14th, hoping to get answers to these simple, common sense questions. He fears transparency is lacking.

Brandon Thompson, Eden Place, asked about any metrics City Council uses for street closures in the uptown area.

At approximately 9:30 p.m., Fahl moved to Adjourn the meeting; McGee seconded, and the meeting was adjourned.

President of Council

ATTEST:

Clerk of Council