

RECORD OF PROCEEDINGS

Minutes of ATHENS CITY COUNCIL (REG. SESS.)

Meeting

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

Form 6101

Held JANUARY 3, 2022

ATHENS CITY COUNCIL: REGULAR SESSION, MONDAY, JANUARY 3, 2022, 7:00 P.M.

Athens City Council met in Regular Session at the above hour with the following members present: Crawl, Grace, McCarey, Risner, Spjeldnes, Swank, and Ziff.

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

Grace moved to appoint Debra Walker to serve as Clerk of Council; Ziff seconded. Appointment was approved unanimously.

Swank moved the selection of Jeff Risner to serve as President Pro Tem; Ziff seconded. Motion was approved unanimously.

Ziff moved the selection of Sarah Grace to serve as Acting President Pro Tem; Spjeldnes seconded. Motion was approved unanimously.

Grace moved to designate Lisa Eliason to serve as Parliamentarian; Ziff seconded. Motion was approved unanimously.

DISPOSITION OF MINUTES:

Crawl moved approval of the minutes of the Regular Sessions of City Council held November 15 and December 6, and the Special Session held December 13, 2021; Ziff seconded. Minutes were approved as presented.

COMMUNICATIONS:

President Knisely announced the following:

- A letter from John Spofforth, 7 Brown Avenue, regarding runoff onto his property from Miller Avenue, indicating that the property has been sold and he has notified the new owner of the situation (see attached).
- Receipt of the following notifications from the Ohio Division of Liquor Control:
 - Transfer of a C1 permit, beer only in original sealed container for carry out only, and a C2 permit, wine and mixed beverages in sealed containers for carry out, **FROM** C A Gold, LTD, dba Dales BP, 50 North Court Street, **TO** Par Mar Oil Co.; dba Par Mar Oil at the same location. Responses must be postmarked no later than January 3, 2022.

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- A new C1 permit, beer only in original sealed container for carry out only, to Family Dollar Stores of Ohio, Inc., dba Family Dollar Store 20859, at 4 E. Carpenter Street. Responses must be postmarked no later than January 18, 2022.
- A new C1 permit, beer only in original sealed container for carry out only, to Athens Community Drive Thru, LLC, dba Athens Community Drive Thru, 750 East State Street. Responses must be postmarked no later than January 18, 2022.

President Knisely requested an update on the 750 East State Street property from the Law Director.

Law Director Eliason reported that the owner originally applied for a zoning permit for the drive-in, drive thru. A zoning permit was received for a convenience store, but not for the drive-in, drive thru. A motion was filed, by the owner to the Board of Zoning Appeals, to make an interpretation of the provision of the Athens City Code. The Board of Zoning Appeals voted in favor that the original interpretation by the Zoning Code Administrator was the correct one. An appeal was then filed in the Court of Common Pleas. Currently this business does not have a zoning permit for a drive-in, drive thru. The City has filed a complaint and motion for injunctive relief, and the Court of Common Pleas combined the two cases, the injunctive relief complaint and motion, along with the appeal. An in-person conference has been scheduled to be held in about two weeks. Briefs have not yet been written.

Given that information, Grace moved to request a hearing on this permit based on the fact that there is no zoning permit in place at this time; Risner seconded. Discussion: Swank asked the basis for the hearing.

Law Director Eliason responded that the City would object to giving the owner a liquor permit to operate a business that does not currently have a zoning permit for a drive-in, drive thru.

Crowl questioned whether, if the owner removed the drive-in, drive thru part of their business and just had the convenience store, whether they could still apply for this permit to sell alcohol from the convenience store.

Law Director Eliason agreed that they could, but this permit is in the name of the Athens Community Drive Thru, LLC. The drive thru is an integral part of the convenience store. She pointed out that the City will request a hearing on the advisability of issuing the permit to be held in the County seat.

The motion was approved by a 6/1 vote, with Ziff voting in opposition.

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- HB 512, The Public Safety Modernization Act, would increase the required employer contribution rates to the Ohio Police and Firefighter Fund, from 19.5% for police and 24% for firefighters, to 26.5% for both police and fire. The Ohio Municipal League strongly urges member cities and villages to contact their state representatives to oppose HB 512, citing the significant increase in cost that will be very impactful to local government budgets. Auditor Hecht has requested that City Council consider a Resolution to be sent to our Ohio Representatives regarding this employer contribution.

The President suggested this item appear on next Monday's Council Committee Agenda for consideration.

Swank asked for clarification on the current rate.

The President noted that the current rate for OPERS employees is 14.5%, and 19.5% and 24%, respectively for police and fire, with a recommended increase up to 26.5% for both.

Swank requested the Auditor provide the dollar impact to our City budget, based on current staffing levels.

Council Member McCarey shared an invitation on behalf of Ohio University's Martin Luther King, Jr. Celebration Week Committee. During the week of January 17th the University will be sponsoring a number of events which citizens and interested persons can find by googling Ohio University MLK Celebration, or by visiting ohio.edu/diversity. He encouraged involvement.

Council Member Crowl announced that the Environment & Sustainability Commission will meet on Wednesday at 7:00 p.m. in the Council Chambers.

REPORTS AND COMMUNICATIONS FROM OTHER ELECTED OFFICIALS:

Law Director Eliason presented her 2021 Annual Report (see attached).

McCarey is familiar with some of the diversion programs our Court system has to offer, and asked if she is aware of any such programs for domestic violence.

The Law Director indicated that there are victim advocates available, but there are no diversion programs at this time.

Swank asked if there is an active search underway to fill the two unfilled positions in her office.

Law Director Eliason responded that she has someone interested in the prosecutor's position, and the search is just beginning for a secretary.

Swank noted that the City receives \$79,000 annually from the Athens County Commissioners, and asked if she expects an increase commensurate with last year's increase for 2022.

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The Law Director has not yet heard from the Athens County Commissioners.

Swank questioned whether the \$79,000 is adequate to cover the workload that comes in from the unincorporated areas.

The Law Director responded that when including benefits, it does not.

Mayor Patterson reported receiving the survey from the National League of Cities Race, Equity and Leadership Council. The survey will now go to the combination Task Force/Racial Equity Coalition for a review of the items on the questionnaire. There is an opportunity to modify some of the secondary questions, and to add questions.

ANNOUNCEMENTS & OTHER BUSINESS:

Ziff moved to accept the November, 2021 Financial Reports; McCarey seconded. The motion was approved.

Crowl moved to accept the November, 2021 Credit Card Transactions; Risner seconded. The motion was approved.

Swank moved to confirm the Mayor's appointment of Dr. Carl Ortman to the City-County Health Board; Ziff seconded. Appointment was unanimously approved.

Grace moved to confirm the Mayor's reappointment of Kelly Lawrence to the Municipal Arts Commission; Ziff seconded. Reappointment was approved unanimously.

At approximately 7:25 p.m. McCarey moved to Adjourn the meeting; Ziff seconded, and the meeting was adjourned.


President of Council

ATTEST:


Clerk of Council

Note: Debrah Walker, please put a copy of this in every member's and Mayor Patterson's P.O. Box. Thank you.

Dec. 20 '21

To: Athens City Council and Mayor Patterson
From: John Spofforth
Re: City Runoff on 6 properties since 1984.

This is to inform these City officials that I shall no longer bring this long-standing matter before you. I sold my house and property today.

The new owner may take up ~~the~~ my baton to continue anew the effort to stop the runoff and its landslide, and the payment of compensation as is due to the five property owners under the 5th Amendment to the U.S. Constitution.

I have informed the new owner of T Brown Avenue, my old house, of this situation. I encourage them to demand compensation in this matter. And to do so before Ohio's statute of limitations tolls in 2025.

As a parting shot to the City, I say this City's government has been since 1984, and continues today, perpetuating its criminal act wantonly malbeasantly.

P.S. The 9 City members currently in office should resign. A new City Council and Mayor should be elected to fill their seats. All of you should be censured.

behavior in this matter, without due care at all.

Even though several City members have personally inspected the 7 Brown Avenue, and its adjacent neighboring properties that have suffered damages and losses from this same runoff, the City has wrongly chosen to ignore the obvious remedy.

After 37 years of having the runoff, and the City's approval of continuing it, I became so depressed that I became suicidal because I no longer could live with it. And with the several losses I suffered from it. And because of it, the income, and improvements of my property that I would have received since 1984.

I am disgusted with all of the City officials who participated in this behavior. Of the many, there was Steve Patterson, Carol Knisley, Paul Wiehl, Scott Hunter, and other officials. All of you just did not care to act and uphold your oath of office. And duty to act.

Shame on all of you! Nobody is above the law!

☒ Goodbye. John Snoffarth, VA Medical Center, 17273 State Route 104, Building 210 AB, Room 109, Chillicothe, OH 45601.

JANUARY 3, 2022
LAW DIRECTOR'S REPORT OF BUSINESS FROM
JANUARY 1, 2021 TO DECEMBER 31, 2021

I. Introduction

The Law Director is the chief legal officer of the city. The responsibilities of the Law Director are outlined in Revised Code (R.C. 733.49) et seq. and Athens City Code (ACC) 3.03.23 through 3.03.35. Athens City Council has classified the Law Director as a three-quarter time position requiring a minimum of 30 hours a week to be devoted to the position.

The Law Director is responsible for overseeing the Department of Law and three fulltime city prosecutors. The prosecutors are Chief City Prosecutor Tracy Meek and Prosecutor Kaitlyn Spahr. The third prosecutor's position is unfilled at this time. There are two legal secretaries, Joyce Apperson and the second position is unfilled at this time.

The office prosecutes misdemeanor offenses that occur in the City of Athens and on Ohio University property. By way of a mandate in R.C. 1901.34(A), and agreement with the Athens County Commissioners, the office also prosecutes the misdemeanor offenses which occur in the unincorporated areas of the county. R.C. 1901.34(C) states the City shall receive for such services additional compensation as the Board of County Commissioners prescribes. The cases are prosecuted in the Athens County Municipal Court.

In 2021, there were 7,350 criminal, traffic, and OVI cases filed in Athens County Municipal Court. In 2020, there were 6,299. Approximately seventy-seven percent of those cases filed in 2021 waived court appearance, pled at arraignment, entered diversion, or were prosecuted by another jurisdiction (such as Nelsonville). In 2021, approximately 379 defendants entered diversion for driving under suspension, substance abuse, offenses involving alcohol, and by selection for cases such as theft. The remaining cases were prosecuted

by this office. The Athens City Prosecutors have direct involvement with the remaining cases from pre-trial conference to jury trial and thereafter for restitution.

The office prosecutes misdemeanors on behalf of the Athens City Police, Athens City Code Office, Athens City Auditor, Athens County Sheriff's Office, Ohio State Highway Patrol, Ohio University Police Department, Ohio Department of Public Safety (Liquor Control), Athens County Dog Warden, Ohio Department of Natural Resources, and various other state agencies.

The Law Director provides legal advice to city officials, represents the city in legal proceedings and approves contracts and bonds involving the City. The Law Director keeps Council apprised of the progress regarding litigation to which the City is a party and is required by R.C. 733.62 to present this annual report on the Law Director's Office at the first council meeting in January.

The Law Director serves by appointment of the mayor on the contract negotiations team for the negotiation of labor contracts with the City's organized bargaining units.

Pursuant to R.C. 3313.25, the Law Director also serves as attorney, without additional compensation, for the Athens City School District.

In 2021, the budget for the Office of the Law Director and City Prosecutors was \$608,740.00

The City received \$79,000.00 from the Athens County Commissioners for the prosecution of misdemeanor offenses in the unincorporated areas of the county. That amount was an increase of \$9,000 from 2020.

II. Services provided by the Prosecutors in 2021 (See Appendix A for details, current as of December 31, 2021)

A. Prosecution of defendants without attorney representation: 503

B. Prosecution of defendants with attorney representation: 1,085

C. Miscellaneous carryover from 2020	175
D. Total prosecution of defendants in 2021	1,763
E. Additional Services by Prosecutors:	
Victim letters written, calls, emails	1,500 (est)
Bad check letters written	1
Driving privileges reviewed and signed	270
Applications reviewed for sealing of records	161
Letters written regarding criminal matters	35 (est)
Court appearances	950 (est)
Jury trials	6
Bench trials	15
Motion hearings	16
Appellate cases	3
Letters written on behalf of Code Enforcement	19
Open cases for court ordered restitution collected monthly	233
Small claims actions to collect debts owed to the City of Athens	3
Condemnation actions with Code Enforcement	0
Letter on behalf of Utilities Billing	2
Letters on behalf of APD for Alarm Fees	0
Letters on behalf of City auditor for taxes	66
Animal Forfeiture	3
Collection of restitution for victims of crime	\$21,265.61

F. Legal Services provided to Law Enforcement:

Provided legal advice to law enforcement at all times of day and night

Provided training to Athens Police Department

III. Services provided by the Law Director in 2021:

A. General duties:

Updated the traffic and criminal provisions of the Athens City Code

Provided training to the Athens City Police

Administered office and supervised prosecutors

Met weekly with prosecutors and staff to discuss resolution of cases

Provided legal advice to elected officials, department heads and boards/commissions

Attended council meetings, special sessions, and served as parliamentarian

Provided council training on the Sunshine Law and Ethics

Attended executive sessions of council

Reviewed ordinances prior to council meetings

Reviewed resolutions prior to council meetings

Administered oaths of office

Reviewed agreements, contracts, and bonds

Attended meetings and conference with elected officials and departments heads

Compiled public records requests

Met with outside counsel on civil matters involving the city

Met with various boards and commissions to provide training

Filed application for tax exempt status on property owned by the City of Athens

Filed counter complaints as to valuation for Athens City School District

Served on the collective bargaining team and provided legal advice

Filed proof of claims forms in bankruptcy cases

Provided three formal written opinions as requested

Reviewed and drafted easements and land use agreements

Filed participation agreements in two opioid lawsuits

Filed proof of claim form for bankruptcy case

B. Civil Litigation in Common Pleas Court:

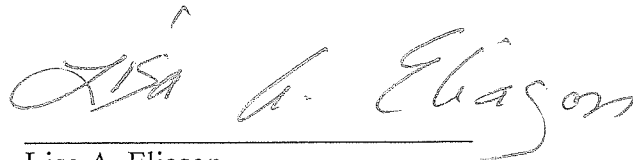
1 case completed in 2021

3 cases filed during 2021 and pending at the end of 2021

2 BZA Appeals filed in 2021 in which City Board of Zoning Appeals is Appellee

1 complaint and motion for injunction relief filed by City

Respectfully submitted,

A handwritten signature in cursive script, reading "Lisa A. Eliason". The signature is written in dark ink and is positioned above a horizontal line.

Lisa A. Eliason
Athens City Law Director

APPENDIX A

Prosecution of defendants
without attorney
representation: 503

0 Aggravated Menacing
0 Approaching Safety Veh
2 Assault
8 Assured Clear Distance
0 Axel Overload
1 Bad Check
1 Booster Seat violation
0 CDL
1 Code
0 Criminal Damaging
2 Criminal Mischief
1 Criminal Tools
0 Criminal Trespass
21 Disorderly Conduct
17 Distracted Driving
5 Domestic Violence
61 Driving Under Suspension
0 Dog At Large
11 Dog Registration
1 Expired Tags
0 Eye Protection violation
4 Fail to Yield
0 Fail to Yield to Pedestrian
33 Fail to Control Vehicle
11 Failure to Signal
4 False ID
1 Falsification
1 Following too close
6 FRA
7 Furnishing to Underage
4 Gross Overload
0 Income Tax

Prosecution of defendants with
attorney representation: 1,085

0 Animal At Large
1 Arson
10 Aggravated Menacing
39 Assault
4 Assured Clear Distance
0 Axel Overload
0 Carry Concealed Weapon
9 Child Endangering
0 Closed Road
1 Contributing
26 Criminal Damaging
20 Criminal Mischief
0 Criminal Simulation
2 Criminal Tools
2 Cruelty to Animals
1 Discharging Firearm
34 Disorderly Conduct
7 Disorderly Conduct Persistent
28 Distracted Driving
0 Drug Abuse
82 Driving Under Suspension
79 Domestic Violence
2 Expired Registration
57 Failure to Control Vehicle
2 Failure to Comply
0 Failure to Display License
1 Failure to Register Sex Offender
6 Failure to Reinstate License
1 Failure to Register Dog
2 Fail to Yield
34 False ID
2 False Report
7 Fictitious Tags
2 Firearm in Motor Vehicle
1 Fleeing and Eluding
1 Follow too Close

3 Improper Lane
 4 Improper Plate
 2 Intoxicated Pedestrian
 0 Leave Scene
 2 Limitation on Backing
 19 Marijuana
 1 Passing on Right
 11 Marked Lanes
 1 Menacing
 17 No Operator's License
 1 Obstruction
 11 OV I
 4 Paraphernalia
 2 Parking on Yellow Curb
 4 Pass School Bus
 5 Plates Violation
 2 Possession of Drugs
 0 Public Indecency
 3 Receiving Stolen Property
 2 Reckless Operation
 1 Red Light
 2 Rental Fees
 4 Rental Permits
 2 Resisting Arrest
 2 Right of Way Violation
 22 Seatbelt
 294 Speed
 1 Squealing Tires
 12 Stop Sign
 9 Tax Violation
 1 Trash
 2 Traffic Control
 0 Trespass
 6 Theft
 0 Unauthorized Use
 6 Underage Consumption
 3 Unsafe Vehicle
 12 Vending without a Permit
 1 Violation of a TPO
 1 Wildlife Violations

17 Furnishing Alcohol to underage
 5 Headlights Violation
 3 Hit-Skip
 0 Illegal Sale of Alcohol
 5 Improper Plates
 1 Improper Start/Backing
 1 Interference with Custody
 0 Keeper of the Place
 8 Leaving the Scene
 16 Left of Center
 1 Littering
 48 Marked Lanes Violation
 0 Matters Harmful to Juveniles
 13 Menacing
 1 Misconduct at an emergency
 12 No Operator's License
 0 Nuisance Property
 15 Obstruction of Official Business
 1 ODOH Violations
 4 Open Container
 3 Passing Bad Checks
 283 Operating Under Influence
 0 Operate with Willful Disregard
 8 Park on Highway
 2 Physical Control
 11 Plates of Another
 18 Poss. of Drug Paraphernalia
 2 Possession of Drug Instrument
 5 Possession of Hashish
 14 Possession of Marijuana
 1 Public Indecency
 11 Resisting Arrest

2 Receiving Stolen Property
1 Right of Way
10 Seatbelt
3 Sexual Imposition
288 Speed
5 Stopping After Accident
0 Stop for School Bus
6 Taillight Violations
2 Telecommunications Harassment
0 Temporary Permit
85 Theft
6 Traffic Device
29 Trespass
7 Turn signal
3 Unauthorized Use
0 Vehicular Manslaughter
10 Violation of a Protection Order
1 Voyeurism
2 Weapon While Intoxicated
0 Wildlife violations
2 Wrong Way