

ATHENS CITY COUNCIL: REGULAR SESSION, MONDAY, DECEMBER 21, 2020, 7:00 P.M.

Athens City Council met in Regular Session at the above hour. Due to concerns with COVID-19 the following members met via videoconference: Clodfelter, Crowl, Fahl, Kotses, Grace, and Risner.

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

Crowl moved to Amend the Agenda to include Ordinance 161-20; Fahl seconded. Amendment was approved unanimously.

DISPOSITION OF MINUTES:

Risner moved approval of the Regular Sessions of City Council held November 16 and December 7, 2020, and the Special Session held December 14, 2020; Grace seconded. Minutes were unanimously approved as presented.

COMMUNICATIONS:

President Knisely is in receipt of a notice from the Department of Liquor Control of a new D-3 liquor permit for El Tenampa Mexican Grill, Inc., 21 S. Court Street. This permit allows on-premises liquor consumption until 1:00 a.m. Responses must be postmarked no later than January 4, 2020.

A letter has been received from John Spofforth announcing his intent to file a court action against the City in the Court of Common Pleas regarding the water runoff problem on his property. She then read into the minutes his letter as attached.

Council Member Kotses is in receipt of a couple of communications requesting a rollback of any type of COVID-19 legislation that is currently present in the City, wanting their freedoms back. Kotses views the actions taken by City Council not as an "Us vs Them" but as an "Us vs the Virus."

Risner has also received a similar letter. His research indicates that while the letter looks authentic with a legitimate address, the constituent is fictitious. Evidently these letters are being generated by some sort of list serve.

REPORTS AND COMMUNICATIONS FROM OTHER ELECTED OFFICIALS:

President Knisely noted that while Treasurer McClure is not in attendance this evening she has submitted her 3rd quarter interest report to the Council Members (see attached).

Mayor Patterson reported the following:

- Has been informed by Administrator Jack Pepper of the City-County Health Department that they have received their first allotment of the Moderna COVID-19 vaccine and are working through the normal protocol of those eligible to receive it. Also, Ohio Health O'Bleness Hospital received the Pfizer vaccine mid-week and are administering the vaccine to the most vulnerable as per protocol. This is a turning point for our community, across the nation and around the globe.
- The Racial Equity Coalition held a meeting last Tuesday with over 90 people engaging in that issue. Prior to and following that meeting he has been engaging with the Coalition regarding the development of a Task Force being formed by President Knisely, Interim Service-Safety Director Pyle, and Karen Bailey with the Division of Diversity and Inclusion at Ohio University.

ORDINANCES FOR THIRD READING:

0-144-20

AN ORDINANCE ADOPTING THE 2040 COMPREHENSIVE PLAN FOR THE CITY OF ATHENS AND REPEALING ALL ORDINANCES INCONSISTENT THEREWITH. Fahl moved for Adoption; Clodfelter seconded. Adoption was approved unanimously.

0-145-20

AN ORDINANCE AUTHORIZING THE MAYOR TO SUBMIT AN APPLICATION TO PARTICIPATE IN THE APPALACHIA REGIONAL COMMISSION/GOVERNOR'S OFFICE OF APPALACHIA PROGRAMS; AND TO EXECUTE CONTRACTS AS REQUIRED. Kotses moved for Adoption; Risner seconded. Discussion: This legislation will allow the City to apply for grant funding needed for the Herrold Avenue connector project. If successful, this project could be underway in 2022 the same year slated for the Union Street improvements. If not, other funding channels will be sought and the connector project will happen at a later time.

Adoption was approved unanimously.

0-147-20

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ENTER INTO A CONTRACT WITH THE EMPLOYEE BENEFIT SERVICE CENTER TO SERVE AS THE CITY'S THIRD PARTY HEALTH INSURANCE ADMINISTRATOR (TPA); AND DECLARING AN EMERGENCY. Crowl moved for Adoption; Kotses seconded. Adoption was approved unanimously.

0-148-20

AN ORDINANCE AUTHORIZING A STOP-LOSS MEDICAL INSURANCE CONTRACT; AND DECLARING AN EMERGENCY. Crowl moved for Adoption; Clodfelter seconded. Adoption was approved unanimously.

0-149-20

AN ORDINANCE AMENDING ATHENS CITY CODE, TITLE 17, MUNICIPAL INCOME TAX, TO ADD SECTION 17.01.96, WORK DEEMED PERFORMED BY AN EMPLOYEE WITHIN THE CITY OF ATHENS DURING THE COVID-19 DECLARATION OF EMERGENCY; AND HEREBY DECLARING THIS ORDINANCE AN EMERGENCY MEASURE. Crowl moved for Adoption; Kotses seconded. Adoption was approved unanimously.

0-151-20

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO PROVIDE FINANCIAL SUPPORT FOR THE OPERATION OF THE ATHENS COUNTY CONVENTION AND VISITORS BUREAU; AND DECLARING AN EMERGENCY. Crowl moved for Adoption; Grace seconded. Adoption was approved unanimously.

0-152-20

AN ORDINANCE AFFIRMING THE MAYOR'S EXECUTION OF AN AGREEMENT WITH THE ATHENS CITY FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC., AND THE CITY OF ATHENS PATROL OFFICERS AND LIEUTENANTS, CONCERNING WAGES AND WORKING CONDITIONS. Crowl moved for Adoption; Risner seconded. Discussion:

Damon Krane, Hudson Avenue, Athens County Cop Watch, pointed out the rushed ratification of these FOP contracts in just two weeks, half the usual time, allowing less time for media coverage and public comment. President Knisely informed him that this is simply part of Council's normal end of the year process. Since June of this year Council has known about increased community concern for matters of racial justice and police accountability, and since at least the beginning of October has known about increased community concerns specifically for these contracts. In October alone, contract concerns were expressed through a demonstration on the Courthouse steps, five public comments delivered at Council's October 5 meeting, two public comments delivered at Council's October 19 meeting, at least five local new articles, and 350 petition signatures gathered in a single week all demanding Council not ratify any new police union contracts until first conducting a racial equity review pledged by Council in June. The Athens County Cop Watch investigation found that the Athens Police Department (APD) uses force against black people at 2.6 times the rate APD uses force against white people, while APD also disproportionately arrests and pulls over black people. He urged the Council not to approve these FOP contracts until after conducting the racial equity review, responds to Cop Watch's findings, allows adequate time for public input, and written contract terms that reflect all of this.

Brendan Moran, West State Street, Athens County Cop Watch, asked about the disciplinary file section in the Union contract. In a previous meeting, Interim Service-Safety Director Pyle indicated that disciplinary records are not destroyed and that once a police officer requests a disciplinary action be removed from his/her personal file, it's then transferred to an inactive disciplinary file maintained by the Human Resources Department. Pyle further stated that these records are maintained throughout the employees' tenure with the City, and are open to a public information request. Yet, in a conversation with Human Resources Director Ron Lucas on September 15, Mr. Lucas stated that he was withholding a disciplinary record of Captain Harvey's due to the fact that the infraction had occurred over 12 months prior, and that Captain Harvey had requested that the document be removed from his personnel file. By withholding this disciplinary file upon request, Mr. Lucas is implying that this record is no longer considered to be public information even though, as per a list of active officers provided by APD, Captain Harvey is still an active City employee. He questioned that the Human Resources Director is contradicting the statement made by Interim Service-Safety Director that these records are maintained and open to inspection by the public.

Adoption was approved unanimously.

0-153-20

AN ORDINANCE AFFIRMING THE MAYOR'S EXECUTION OF AN AGREEMENT WITH THE ATHENS CITY FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, AND THE CITY OF ATHENS COMMUNICATION OFFICERS, CONCERNING WAGES AND WORKING CONDITIONS. Council Member Smedley joined the meeting. Crawl moved for Adoption; Kotses seconded. Discussion: Damon Krane reiterated the rushing through of these contracts despite the many local concerns that have been raised. The Council has failed to address these concerns, and failed to come to contract terms that would reflect, "the racial equity lens" that is a part of the Council's June 22 resolution.

Genesis Vaughn (she, her, they them), United Lane in Athens Township, and Member of Athens County Cop Watch, shares Mr. Krane's concerns. As a black resident in this City he is disappointed and finds it very disrespectful to approve a resolution citing that racism is a public health concern, but then not addressing it. He asked that the Council vote in opposition to this contract.

Adoption was approved unanimously.

0-154-20

AN ORDINANCE AMENDING ATHENS CITY CODE TITLE 1, GENERAL PROVISIONS, CHAPTER 1.03, CODE FEES ESTABLISHED, SECTION 5.04.08, SEWER RATES; AND DECLARING AN EMERGENCY. Grace moved for Adoption; Fahl seconded. Discussion: Risner asked for assurance from the

Administration that no stone has been left unturned in looking for other available funds that could mitigate raising the rates at this time.

Mayor Patterson assured him that this is the best path forward to ensure that there are adequate funds available to meet the City's obligations and to maintain fiscal integrity.

Grace reiterated that a 4% increase in the Sewer Fund would still have left a deficit. This legislation will mitigate that deficit by increasing the rate by 6% along with the Administration's agreement to lower the water rate increase from 3% to only 1%. This offset will allow for a healthier Sewer Fund.

Adoption was approved unanimously.

0-155-20

AN ORDINANCE AMENDING ATHENS CITY CODE TITLE 1, GENERAL PROVISIONS, CHAPTER 1.03, CODE FEES ESTABLISHED, SECTIONS 5.03.04, WATER RATES, AND 5.04.05, WASTEWATER DISCHARGERS, TO INCREASE RATES. Grace moved for Adoption; Fahl seconded. Adoption was approved unanimously.

0-156-20

AN ORDINANCE AMENDING ATHENS CITY CODE TITLE 1, GENERAL PROVISIONS, CHAPTER 1.03, CODE FEES ESTABLISHED, TO INCREASE THE CITY'S STORM WATER SERVICE CHARGE, SECTION 5.04.08, SEWER RATES; AND DECLARING AN EMERGENCY. Grace moved for Adoption; Crowl seconded. Adoption was approved unanimously.

0-157-20

AN ORDINANCE AUTHORIZING THE AUDITOR TO REDUCE 2020 YEAR-END APPROPRIATIONS. Crowl moved for Adoption; Fahl seconded. Adoption was approved unanimously.

ORDINANCES FOR SECOND READING:

0-141-20

AN ORDINANCE AUTHORIZING 2021 STAFFING LEVELS AND NON-UNION COMPENSATION; REPEALING ALL ORDINANCES INCONSISTENT THEREWITH; AND DECLARING AN EMERGENCY. Crowl moved for Suspension of the Rules in order to be in effect by January 1; Kotses seconded. Suspension of the Rules was approved unanimously. Crowl moved for Adoption; Grace seconded. Adoption was approved unanimously.

0-146-20

AN ORDINANCE AMENDING ORDINANCE 20-15, ATHENS CITY CODE, TITLE 7, PARKING REGULATIONS, CHAPTER 7.05.26, REGULATION OF CITY PARKING LOTS; AND DECLARING AN EMERGENCY. Kotses moved for Suspension of the Rules in order to be in effect by January 1; Crowl seconded. Suspension of the Rules was approved unanimously. Kotses moved for

Adoption; Grace seconded. Discussion: Kotses explained that these increased rates are needed to cover the cost of the recent renovations.

Grace added that these increases will provide a boost to the Parking Fund needed to cover a shortfall in revenue due to the pandemic.

Kotses clarified that there will be no increase in the meter rates.

Adoption was approved unanimously.

0-159-20

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A SETTLEMENT AGREEMENT WITH THE FRATERNAL ORDER OF POLICE, OHIO LABOR COUNCIL, INC. Crawl moved for Suspension of the Rules in order that the effective date coincides with the approval of the FOP contracts; Kotses seconded. Suspension of the Rules was approved unanimously. Crawl moved for Adoption; Grace seconded. Discussion: Crawl explained that the Police Department filed a grievance over emergency pay as outlined in the current contract. The City Administration and the Ohio Labor Council negotiated a settlement.

Brendan Moran asked for clarification that this is the emergency pay clause allowing double pay for officers during a declared emergency, and whether the settlement is to receive back pay or for pay moving forward.

Law Director Eliason confirmed that this settlement is related to the emergency pay and that it is back pay, not for pay moving forward. She also noted that the new contract adopted during this meeting amended the declaration of the state of emergency.

Damon Krane clarified yet again that this, too, is being rushed through the process.

President Knisley responded that this settlement has been discussed in both an executive session and committee meeting, and the reason for suspension is necessary for alignment with the approved contracts.

Adoptions was approved unanimously.

0-161-20

AN ORDINANCE AMENDING ORDINANCE 150-20, APPROPRIATIONS. Crawl moved for Suspension of the Rules in order to be in compliance with the CARES Act year-end funding deadline; Clodfelter seconded. Crawl moved for Adoption; Clodfelter seconded. Discussion: Brendan Moran understands that this is CARES Act funding allocated to the City to back pay officers and other first responders for the double pay they would get during a declared emergency. He finds it odd that they are receiving additional pay for a hazardous emergency, and he doesn't believe their actions speak to that.

President Knisely responded that she understands that this is an appropriate use of the CARES Act funding, as approved by the Ohio Office of Budget and Management (OMB), but it requires very specific language to be in compliance with the allocation regulations.

Crowl clarified that this Ordinance is not specifically addressing the back pay discussed regarding the settlement, but about safety services in general.

Adoption was approved unanimously.

ANNOUNCEMENTS & OTHER BUSINESS:

Clodfelter moved to Accept the November Financial reports; Grace seconded. Motion was approved unanimously.

Kotses moved to appoint Roxanne Male-Brune to a two-year term on the Shade Tree Commission; Fahl seconded. Appointment was approved unanimously.

Smedley moved to appoint Lindsey Swank Meili to a three-year term as an Alternate on the Housing Appeals Board; Kotses seconded. Appointment was approved unanimously.

Grace moved to reappointment Michele Papai and Joyce Lewis to an additional three-year term on the Affordable Housing; Clodfelter seconded. Reappointments were approved unanimously.

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

Brendan Moran, speaking on behalf of Athens County Cop Watch, implored the Council to review and revise the Athens Police Department's use of force policy that allows officers to shoot at unarmed civilians, even when they're running away. Nowhere in this policy does it require officers to document when they draw and aim their firearms on civilians, because it is not considered deadly force. He believes this unaccountability by our officers is unacceptable. While the City maintains several mutual aid agreements with other jurisdictions, it does not maintain any list of these outside officers. There is no vetting system in place to prevent officers with histories of excessive use of force from policing our streets. This, too, is unacceptable. Also, APD is included in the Athens County Sheriff's Office Special Response Team (SRT) a paramilitary force composed of local law enforcement agencies that has conducted 53 separate operations since 2015, with 64% of those operations being simple drug search warrants. The City should not be a part of a paramilitary force to conduct such warrants. This is an unnecessary escalation that will inevitably lead to a tragic shooting in our City if it remains unchecked. The City should refuse to allow APD officers to participate in any SRT operations unless there is an active shooter. Using it to conduct routine drug search warrants is a reckless and dangerous trend. There is no reason to send police officers with assault rifles into the homes of your constituents for simple drug possession or drug trafficking charges.

Damon Krane pointed out that Athens County Cop Watch has been raising concerns about local racial injustice and police accountability since early July. It has obtained hundreds if not thousands of pages of public records used for the basis of its investigations. During this time the group has been publicly recognized by this fall's candidates for the Ohio House, the Ohio Senate, and the U.S. House of Representatives, and its work has been covered in at least 10 different local news articles, and its social media posts shared tens of thousands of times, but by far the one most widely shared being the one resulting in the resignation of a former Nelsonville police officer. The group was commended by the Nelsonville Chief of Police. Yet, when it comes to Athens City officials the contrast could not be starker. He wished to reiterate that Cop Watch is very interested in participating in the City's racial equity coalition.

At approximately 8:25 p.m., Grace moved to Adjourn; Crowl seconded. Adjournment was approved unanimously.

President of Council

ATTEST:

Clerk of Council