

ATHENS CITY COUNCIL: REGULAR SESSION, MONDAY, MARCH 4, 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, Auditor Hecht, and Income Tax Administrator Timberman.

DISPOSITION OF MINUTES

Risner moved approval of the minutes of the Regular Session held February 18, 2019; Fahl seconded. Minutes were unanimously approved as presented.

COMMUNICATION:

President Knisely and Council are in receipt of the following:

- 2018 Annual Report from Code Enforcement – upon review, she highlighted the following: department has an all-electric vehicle fleet; the rental inspection cycle is 18-24 months, and all were inspected within a year; more complaints have been received and handled through the City's Public Stuff app with a 96% correction rate within 24 hours; and all Code Inspectors are now working with iPads, allowing full access to electronic documents.
- 2018 Annual Report from Fire Department – was received this evening.
- A letter was received from the Finance Fund (based in Columbus, Ohio) to apprise the Council of plans to be the general partner of a residential rental development located at 19 East Carpenter Street for a substantial renovation to Carpenter Hall, built in 1983. (see attached).
- **Council Member Kotses** announced the Athens City School Board will be meeting on Thursday, March 28, at 6:30 p.m. in the high school auditorium.

REPORTS AND COMMUNICATIONS FROM OTHER ELECTED OFFICIALS

Mayor Patterson reported the following:

- Receipt of two letters from Ohio University Graduate Student Senate, the first in opposition to HB 565, the "Heartbeat Bill", and the second is an open letter to the Department of Education regarding proposed changes to Title IX.

- Will meet on Friday with the Athens County Tax Incentive Review Council to discuss the use of funds held within the City's Tax Incremental Fund (TIF) for improvements on East State Street.
- 2018 APD Officer of the Year is Tucker Johnson.

Income Tax Administrator Timberman updated Council on the Income Tax Legislation and Lawsuit (see attached). On February 27, 2018, she reported that Frost Brown Todd (FBT), Attorneys, filed an appeal, asking for an immediate stay in the current law. The stay was not granted and the appeals case was heard on October 17, 2018, and the decision was 2-1 in favor of the State issued on January 29, 2019. On February 8, 2019, FBT filed for reconsideration of the decision by the Court of Appeals. Once the Court of Appeals accepts or denies the request (up to 45 days), FBT will request for the case to be heard by the Ohio Supreme Court which could take an additional 1 – 1 ½ years. In the meantime, Athens has not given the State of Ohio the authority to collect our taxes by amending our Income Tax Code to come into compliance with ORC 718. It is her opinion that City Council should adopt the changes, under protest, to reduce any risk of losing our income tax distributions.

There are additional issues involving the State's collection of estimated payments that has caused 128 municipalities to be in a negative status, and over 400 to receive negative distributions, which includes Athens. It is expected that problems will continue to arise, with the possibility of further litigation.

Council Member Risner questioned whether the City is complying with the State even though the Athens City Code has not yet been amended to come into compliance.

Timberman acknowledged that the City is complying with the State.

Council Member Grace asked for clarification on the 400 municipalities receiving negative distributions.

Timberman explained that with the State centralized collection, each month the City gets a payment from the State, but the estimated payments that are collected are being moved between municipalities.

Grace asked if the City has any advance notice of the moving of these funds.

Timberman responded that no records are received when adjustments are made. At the time of distribution, if you don't have enough money the State will put you in the negative, and then you owe the State money, and they are proposing language that if a negative is not paid within 30 days, the State will charge interest.

Council Member McGee asked if our usual yearly income from business taxes will be received by the end of the year, whether this is just a transition period.

Timberman replied that there is already a 60-day lag time.

Auditor Hecht clarified that these are business tax payments, not employee withholding which is our major source of tax revenue.

Timberman noted that the City handles about \$1 million in business income annually.

Mayor Patterson stated that when these business taxes were collected locally, the City had 100% oversight that included review and audit. When collected by the State the collections are random, and it will be next to impossible to challenge a return.

ORDINANCE FOR THIRD READING:

0-14-19

AN ORDINANCE AMENDING ORDINANCE 142-18, STAFFING LEVELS; AND DECLARING AN EMERGENCY. Risner moved for Adoption; Crowl seconded. Adoption was approved unanimously.

ORDINANCES FOR SECOND READING:

0-15-19

AN ORDINANCE EXTENDING THE PILOT RESIDENTIAL CURBSIDE COMPOST PROJECT THROUGH JUNE 30, 2019.

0-16-19

AN ORDINANCE CLOSING A PORTION OF COURT STREET BETWEEN UNION AND WASHINGTON ON SATURDAY, AUGUST 3, 2019, FROM 8:00 A.M. TO MIDNIGHT FOR THE "BOUNTY ON THE BRICKS" FUNDRAISER.

0-17-19

AN ORDINANCE SUSPENDING THE ENFORCEMENT OF ATHENS CITY CODE CHAPTER 11.04, VENDING, PEDDLING AND SOLICITING, TO ALLOW VENDING IN A DESIGNATED AREA ON AUGUST 3, 2019, DURING THE "BOUNTY ON THE BRICKS" FUNDRAISER.

0-18-19

AN ORDINANCE AMENDING ORDINANCE 84-18 TO INCREASE THE APPROPRIATION AND EXPENDITURE FOR CONSTRUCTION AND CONSTRUCTION ENGINEERING SERVICES FOR THE RICHLAND AVENUE PEDESTRIAN PASSAGEWAY PROJECT (#311); AND DECLARING AN EMERGENCY. Kotses moved to Table, as the bid came in well above the allowable 10%; Fahl seconded. Discussion: McGee believes this would be a

perfect opportunity for the City to consider alternatives to provide safety at this intersection.

Tabling was approved unanimously.

ORDINANCES FOR FIRST READING:

0-19-19

AN ORDINANCE GRANTING AN ENHANCED ACCESS EASEMENT TO ALLOW UTILITIES TO PROPERTY CONTIGUOUS TO HOPE DRIVE.

Discussion: A Hocking Athens Perry County Action Program (HAPCAP) representative explained that if this enhanced access easement is approved HAPCAP will move forward to determine if this land is suitable for building. If they find that it is, they would like to proceed with building a Head Start facility to provide some full day services, not only to children ages birth to 5 years, but also to their families.

0-20-19

AN ORDINANCE AUTHORIZING A CONTRACT WITH THE WASHINGTON COUNTY COMMISSIONERS; AND DECLARING AN EMERGENCY.

0-21-19

AN ORDINANCE AMENDING THE 2019 APPROPRIATION ORDINANCE.

0-22-19

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF \$460,000 OF NOTES BY THE CITY OF ATHENS, OHIO, IN ANTICIPATION OF THE ISSUANCE OF BONDS FOR THE PURPOSE OF PAYING PART OF THE COSTS OF ACQUIRING NEW PARKING METERS; AND DECLARING AN EMERGENCY.

Discussion: Risner pointed out that the City will save money by financing locally and purchasing the meters as opposed to leasing them.

Auditor Hecht indicated that by borrowing locally the City will have a more flexible payment schedule and an interest rate of 1.6%. The interest rate if financed through the company was 12%.

0-23-19

AN ORDINANCE AMENDING ORDINANCE 102-18; AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO PURCHASE SMART PARKING METERS.

Discussion: Kotses stated that the lease to own process through the company would have cost the City an additional \$55,000 in interest over the life of the agreement. An additional concern with the lease was that it would require payments to be deposited in an escrow account provided by a third party that raised some legal concerns, and there was also the possibility that this account could be sold to another provider that could change the payment structure.

McGee asked about the number of meters to be purchased, and asked about the length of time it will take to recoup the expenditure.

Mayor will get back with an exact number of meters being purchased. He believes the note can be paid down in 3-4 years.

President asked whether upgrades and maintenance agreement will change when purchasing outright.

Mayor responded that the software service agreement will be the same, and he will check and get back with Council on the maintenance agreement for the meter heads.

Judith Roman, Northwood resident, asked about the cost of maintenance with these new meters.

Mayor explained that the City employs an individual who currently maintains the meters and will be trained on the new meters.

McGee asked if new meters would be installed in the Parking Garage. Mayor responded that the new meters will all be on-street.

ONE-READING RESOLUTION:

R-03-19

A RESOLUTION ASSERTING OUR CONSTITUTIONALLY PROTECTED RIGHT TO SELF-GOVERNMENT AND HOME RULE. Fahl moved for Adoption; Risner seconded. Discussion: Fahl indicated that the list of concerns in this Resolution is just a partial list of harmful legislation that has been enacted by the State with no consideration of local self-government and home rule.

McGee believes that home rule implies that we also have to be very cautious in how we spend our money, and realize that we can't always rely on the State to give us funds.

Adoption was approved unanimously.

ANNOUNCEMENTS & OTHER BUSINESS:

Kotses moved to appoint James Dyer to fill the unexpired term of Geoff Buckley, and to reappoint Nancy Walker to serve as alternates on Shade Tree Commission; Crowl seconded. Motion was approved unanimously.

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

Judith Roman, Northwood, questioned why her sewer bill was increased and yet the City chooses to spend money on a pilot curbside composting program and new lighting. She asked why the City would opt to pay for these other items and not put this money toward the sewer instead of raising the sewer rates paid by residents.

President explained that certain funds are considered proprietary and cannot be shifted such as parking funds to pay for sewer services.

Mayor pointed out that the Garbage Fund is also proprietary and is paying for the curbside composting pilot, and that these funds cannot be deployed toward other expenses.

President suggested it might be helpful for her to review the City's annual appropriations, as it lists the General Fund expenses, and then all other proprietary funds that are available.

At approximately 7:55 p.m. Grace moved to Adjourn the meeting; Fahl seconded, and the meeting was adjourned.

President of Council

ATTEST:

Clerk of Council