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ATHENS CITY COUNCIL: REGULAR SESSION, MONDAY, JUNE 6, 2022, 7:00 P.M.

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

Also present: President Pro Tem Risner, Acting Mayor Knisely, Service-Safety Director Stone, and Law Director Eliason.

DISPOSITION OF MINUTES:

Grace moved approval of the minutes for the Regular Session held May 16, 2022; Ziff seconded. Minutes were unanimously approved as presented.

COMMUNICATIONS:

President ProTem Risner acknowledged that City Council received a citizens' petition in opposition to the proposed location of the new Fire Station.

Council Member McCarey on behalf of Ohio University's Division of Diversity and Inclusion and the Juneteenth Planning Committee, extended an invitation to all in celebrating the emancipation of enslaved African Americans and African American culture, a festival to be held Saturday, June 18th from 3 to 6 p.m. on the College Green. This is a family-friendly festival, free and open to the public.

Council Member Crawl provided an update on the newly formed Solid Waste Work Group. City Council and the City Administration have convened this group well in advance of the July 1, 2023 expiration date of the current Solid Waste contract. President Knisely asked that he and Council Member Swank represent City Council. The first meeting was held today to review some proposed changes to the City Code from the Code Director, and to begin taking citizen input on the current landfill, recycling and composting operations, both within our neighborhoods as well as within the franchise district (the uptown business area). This group will be meeting regularly over the next 8-10 months to hopefully end up with the best possible services for the City.

REPORTS & COMMUNICATON FROM OTHER ELECTED OFFICIALS:

Acting Mayor Knisely shared that Ohio Senate Bill 377 that includes the \$500,000 million Appalachian Community Grant Program has been passed by the Senate and will be going to the House for final approval.

A notice was received from Columbia Gas of a proposed rate increase. The rate increase will take the fixed monthly distribution charge from \$16.75 to \$46.41, proposed over five years. The Public Utilities Commission of Ohio

(PUCO) will hold a public hearing in the Council Chambers tomorrow evening at 6:00 p.m.

Service-Safety Director Stone announced that the City of Athens has received \$600,000 as part of the State Capital Bill. This funding will help with the \$3,500,000 needed to make the Armory renovation project a reality, and will support the City's request toward the Ohio Southeast grant which is the Jobs Ohio component for Southeast Ohio. This will be a viable, beneficial reuse project, and Mayor Patterson deserves a tremendous amount of credit in moving this project across the finish line.

ORDINANCES FOR THIRD READING:

0-72-22

AN ORDINANCE AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ADVERTISE AND ACCEPT BIDS FOR CONSTRUCTION AND CONSTRUCTION ENGINEERING OF THE CITY/COUNTY SEWER EXPANSION, PROJECT (#317); AND DECLARING AN EMERGENCY. McCarey moved for Adoption; Grace seconded. Adoption was approved unanimously.

0-73-22

AN ORDINANCE AMENDING THE 2022 APPROPRIATION ORDINANCE 150-21 AND ORDINANCE 54-21; AUTHORIZING WASTEWATER REMOTE SITE TELEMTRY IMPROVEMENTS, PROJECT #339. McCarey moved for Adoption; Ziff seconded. Adoption was approved unanimously.

0-74-22

AN ORDINANCE AUTHORIZING CONSTRUCTION AND CONSTRUCTION ENGINEERING OF SLIP REPAIR ON THE BIKEWAY SPUR BETWEEN ARMITAGE ROAD AND UNIVERSITY ESTATES BOULEVARD, PROJECT (#348). Risner moved for Adoption; Crowl seconded. Discussion: While this repair comes at a large expense to the City, Risner acknowledged the critical infrastructures that must be protected in the area and, consequently, this project is necessary.

Swank commented on a concern that has been expressed in earlier meetings that this additional large expense follows the many other repair expenses that have already addressed this slip repair. He asked if this is the best solution, and whether the Administration is confident that in three years Council will not be facing this same problem again.

Service-Safety Director Stone responded, that in his professional opinion, this is the best solution. A drilled pier retaining wall is the 100% solution when it comes to slope stability.

Spjeldnes understands that there have been many efforts made, less expensive fixes that were unsuccessful. A lot of money has been spent before we got to this point, and she questioned whether the drilled pier retaining wall should have been done first.

Service-Safety Director Stone responded that, due to the great expense of a drilled pier retaining wall, less costly repairs are typical to address slippage.

Adoption was approved unanimously.

0-75-22

AN ORDINANCE AUTHORIZING FINAL DESIGN OF PROJECT #313, RENOVATION OF THE ARMORY. Crowl moved for Adoption; Ziff seconded. Discussion: Spjeldnes asked for clarification on the use of the State Budget appropriation of \$600,000.

Service-Safety Director Stone noted that this funding will be used for construction.

Adoption was approved unanimously.

0-76-22

AN ORDINANCE AMENDING THE 2022 APPROPRIATION ORDINANCE. Crowl moved for Adoption; Grace seconded. Discussion: Swank asked about the need for the \$8000 expenditure for the municipal maintenance contract, who the contract is with, what the expenditure is for, and how it relates to the recent closing of portions of the pool.

Service-Safety Director Stone responded that a panel that controls half of the chlorine generator failed. This appropriation will replace this significant and unanticipated expense that took away dollars set aside for general annual maintenance. The closing of the lap lanes and diving well were closed due to a glitch in using the correct chlorine generation system and filtering, and is not related to this appropriation.

Swank is concerned that the pool has only been open 10 days, and hopes the Administration does not need to return to Council this season for additional funding.

Crowl noted that Buckeye Aquatics is the pool maintenance contractor.

Spjeldnes questioned whether the additional \$200,000 for income tax refunds will be enough.

Crowl reported that, to date, \$498,000 in refunds have been issued, with \$550,000 having been appropriated, not including this \$200,000. The Auditor's Office is hopeful this appropriation should be enough for the year.

Adoption was approved unanimously.

0-77-22

AN ORDINANCE AUTHORIZING RETROACTIVE PAY FOR THE CHIEF DEPUTY CLERK IN ATHENS COUNTY MUNICIPAL COURT. Crowl moved for Adoption; Ziff seconded. Adoption was approved unanimously.

0-78-22

AN ORDINANCE AMENDING THE AUDITOR'S 2022 STAFFING LEVELS, AND COMPENSATION FOR THE SEASONAL POOL MANAGER; AUTHORIZED BY ORDINANCE 141-21. Crowl moved for Adoption; Ziff seconded. Adoption was approved unanimously.

0-79-22

AN ORDINANCE AUTHORIZING A PAY INCREASE DUE TO ADDITIONAL DUTIES ASSIGNED TO THE POSITION OF EXECUTIVE ADMINISTRATOR IN THE AUDITOR'S OFFICE. Crowl moved for Adoption; Ziff seconded. Adoption was approved unanimously.

ORDINANCES FOR SECOND READING:

0-80-22

AN ORDINANCE AUTHORIZING THE MAYOR TO SUBMIT AN APPLICATION AND ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR SMALL CITY PROGRAM FUNDS FOR THE 2022 SOLICITATION CYCLE; AND DECLARING AN EMERGENCY.

0-81-22

AN ORDINANCE AUTHORIZING THE DISPOSAL OF A MOWER AT THE WATER TREATMENT PLANT.

0-82-22

AN ORDINANCE AMENDING THE 2022 APPROPRIATION ORDINANCE.

0-83-22

AN ORDINANCE PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$9,000,000 OF BONDS BY THE CITY OF ATHENS, OHIO, FOR THE PURPOSE OF FINANCING THE COSTS OF CONSTRUCTING A NEW FIRE STATION, MAKING SITE IMPROVEMENTS, AND ACQUIRING FURNITURE, EQUIPMENT AND FURNISHINGS AND A SITE THEREFOR, AND MATTERS RELATED THERETO; AND DECLARING AN EMERGENCY. Discussion: Swank asked if the future site of the new Fire Station on Stimson Avenue, currently owned by Ohio University, is available at this time.

Service-Safety Director Stone responded that the lease agreement will be coming to Council, possibly next week, to acquire the land for that purpose.

Swank asked if the Stimson Avenue and Dairy Lane leases will be independent of one another, or if the Fire Station lease will be contingent upon approval of the Dairy Lane property.

Service-Safety Director Stone responded that while the ordinances will be independent of one another, the terms negotiated with Ohio University are that one agreement is contingent upon the other. The University will not enter into one if the other one does not pass.

Swank said the City's land lease agreement on Dairy Lane (Southside Park) to Ohio University is new news to a lot of people. Council is already hearing push back from the community about this. So, if City Council decides to vote against leasing Southside Park, he questioned whether the City can still get the land for this \$9,000,000 fire station.

Service-Safety Director Stone responded, "The short answer is no." The City would continue to maintain and use Southside Park (the playground) until such time as the University would exercise its option in support of The Ridges Redevelopment Plan. Currently there are no plans. It will be an option to use under the same timeframe as that for the fire station. Again, one is contingent upon the other.

Crowl believes that the playground area (Southside Park) that abuts Richland Avenue would have to come back before City Council for approval.

Service-Safety Director Stone responded, "That is correct."

McCarey, acknowledging the recent citizens' petition, questioned what role that has in terms of their ability to influence Council's decision.

Law Director Eliason clarified that the citizens' petition is simply to make known the wishes of the community, and hopefully influence Council's decision. It has no other legal effect, however, the citizens could always file a referendum should City Council approve the legislation.

Crowl appreciates that the petition includes the stated support from a wide swath of our community, including minors.

0-84-22

AN ORDINANCE AUTHORIZING FINAL DESIGN ENGINEERING AND CONSTRUCTION SERVICES FOR A NEW FIRE HEADQUARTERS, PROJECT #346.

ORDINANCES FOR FIRST READING:

0-85-22

AN ORDINANCE AMENDING ATHENS CITY CODE TITLE 29, HOUSING REGULATIONS, CHAPTER 29.36, PROHIBITED ACTONS, TO ADD SECTION 29.36.02, TENANT'S RIGHT TO PAY TO STAY. Discussion: Lucy Schwallie, East State Street, is the Managing Attorney of Southeastern Ohio Legal

Services, representing low income tenants in housing cases. One of the most frequent reasons a tenant faces eviction is for nonpayment of rent. The gig economy does not provide for paid leave, there is no cushion for unexpected expenses, and government benefits sometimes change with little or no notice to the recipients. Evictions follow tenants, limiting housing options and credit for years. This legislation will provide additional options for renters to keep them housed when their income instability impacts their ability to pay rent, but it will still allow the landlords to be made whole.

Swank asked about the recent Hamilton County Court's refusal to enforce this legislation.

Schwallie explained that this legislation is an affirmative defense that can be proposed in an eviction case. It does not obligate the landlord in any way to accept it. In the City of Athens there are levels of appeals, the 4th District Court of Appeals, that could be used to sort that out as well. She hopes the Hamilton County situation will not restrict this Council from taking action.

Swank asked if she could speak to how, without an ordinance like this, a landlord could use nonpayment of rent for eviction, when in reality they are evicting someone for other reasons that are protected by law.

Schwallie responded that if a tenant does not stay current with rent it is a simple, clear cut way to initiate an eviction proceeding, get a judgment, and get a writ of restitution. There could be many things going into that landlord's decision, but if the rent is not paid, there is no investigation and no defense to that. Equity defense can be raised in very particular situations, but in a private rental situation there is no case law that supports that.

Crowl understands there is some objection that a municipalities rights to Home Rule do not give Council the ability to approve this legislation.

Schwallie indicated that Southeastern Ohio Legal Services could take a closer look at that and provide some additional information.

Law Director Eliason commented that there is one other Statutory Village that has approved this legislation. She clarified that Home Rule is for situations that involve public health, safety, and morals, and she believes this legislation addresses those reasons.

Lori Boegershausen, Shafer Street, offered the following answers to pertinent questions from the Affordable Housing Alliance of Central Ohio Pay to Stay Technical Guide:

- 1) Does Pay to Stay make it harder to remove a problem renter that poses dangers to the community? No, Pay to Stay's only defense is to an eviction for nonpayment of rent. It does not shield renters who violate other tenant duties like those related to health and safety of the premises, criminal activity, or drug offenses.

- 2) Do landlords lose money through Pay to Stay? No, they do not have to. Most restrictions require tenants to pay all past due rent, plus late fees and legal fees to ensure the landlord is made whole before the protection will apply.
- 3) What is the penalty for noncompliance, and who monitors that? There is no penalty and no municipal enforcement required. Pay to Stay codifies an affirmative defense to an eviction, meaning that tenants must raise it in court to protect their rights.
- 4) Can municipalities prevent landlords from abusing this protection by extracting unfair late fees and expenses that are out of line with the market? Yes, some municipal jurisdictions have defined reasonable late fees that the tenant must pay.
- 5) Why would a landlord refuse to accept rent? Attorneys frequently advise landlords to refuse late rent to preserve the right to pursue an eviction action.

Spjeldnes questioned what is considered reasonable attorney fees, and asked if the City can require landlords to accept rent?

Law Director Eliason responded that this legislation is a defense to the action. Once an action is filed in court, if the tenant presents the late rent, court costs, and reasonable attorney fees then it would be up to the judge to decide whether or not the eviction action would move forward. It is also up to the court to determine what would be reasonable.

Catherine King, County resident and Member of the United Athens County Tenants Association (UACT), noted that Pay to Stay expands protection to tenants by making it more difficult for landlords to evict them in a retaliatory manner as soon as they are a day late on rent.

Nick Bochenek, Shafer Street, read a letter from the United Athens County Tenants, see attached.

0-86-2

AN ORDINANCE AMENDING CHAPTERS 7.05, PARKING REGULATIONS, AND 7.06, TOW TRUCK REGULATIONS, IN ATHENS CITY CODE TITLE 7, TRAFFIC CODE. Discussion: Swank does not believe this legislation is solving a problem, is unclear about the issue, and it offers no benefit to the majority of Athens' residents and its visitors. Towing was brought before Council in 2019 and was tabled by a 5/2 vote, and he questioned what has changed in the last three years. He is concerned that this ordinance strips the power of the City to license tow truck operators. He sees no reason to advance this ordinance.

Spjeldnes would like to continue to address the City's local towing regulations. She would like to see this ordinance tabled and reconsidered instead of simply removing it from the City Code.

Swank moved to Table for additional research; Spjeldnes seconded.
Discussion: Risner does not support tabling, pointing out that the State of Ohio licenses tow truck operators.

Swank would like the City to regulate the tow truck operators for the health and safety of the citizens.

Service-Safety Director Stone indicated that Police Chief Pyle's comments during the May 23rd Transportation Committee discussion along with his recent email summarizes the position of the Administration.

Ziff would like clarification as to why the City doesn't regulate tow truck operators.

Crowl does not support tabling at first reading.

Grace agrees with Crowl. Amending the ordinance seems a better way to move forward. Simply delaying a decision by tabling does not make sense to her.

Spjeldnes's reason for seconding the motion to table was not to simply delay the ordinance, but to provide time for reconsideration.

Risner clarified that this ordinance simply brings the City Code in alignment with the State Code.

Swank acknowledged that the State of Ohio, through the PUCO, has given cities the right to license and regulate towing, and to set fees in places other than private tow zones. The fact that the City has chosen not to do so is irresponsible. He agrees with Spjeldnes, this needs further research and consideration.

Law Director Eliason confirmed that the PUCO sets the charges for the private tow zones, not the City. Tows from city streets can be set by the City.

Tabling was denied by a vote of 3-4, with Crowl, Grace, Risner and McCarey voting in opposition.

Discussion: Damon Krane, Hudson Avenue, noting that this is a contentious issue, would welcome clarity on whether only PUCO can license, regulate and set the fees for towing. He questioned why the City's Police Chief supports repealing the local towing regulations.

0-87-22

AN ORDINANCE AUTHORIZING THE MAYOR TO SUBMIT APPLICATIONS AND ENTER INTO AGREEMENTS WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR MUNICIPAL BRIDGE AND LOCAL MAJOR BRIDGE PROGRAM FUNDS.

0-88-22

AN ORDINANCE AUTHORIZING THE MAYOR TO SUBMIT AN APPLICATION TO PARTICIPATE IN THE STATE CAPITAL IMPROVEMENT AND/OR LOCAL TRANSPORTATION IMPROVEMENT PROGRAM(S) FOR ISSUE I FUNDS; AND TO EXECUTE CONTRACTS AS REQUIRED.

0-89-22

AN ORDINANCE AUTHORIZING WEST WASHINGTON SIDEWALK AND SAFETY IMPROVEMENTS, PROJECT (#335). Discussion: Swank asked if this would also include street lights.

Service-Safety Director Stone responded that there are already several AEP light poles in the area, however, some are overgrown by foliage that blocks the lighting, so trimming is included to increase the current lighting. The first goal of this project is to address sidewalk repairs, and additional light fixtures can be considered as funding permits.

0-90-22

AN ORDINANCE AUTHORIZING CONSTRUCTION AND CONSTRUCTION ENGINEERING FOR THE WATER TREATMENT PLANT SALT STORAGE ROOF SLAB AND BEAM REPLACEMENT PROJECT (#354).

0-91-22

AN ORDINANCE AUTHORIZING A DEBT COLLECTION AGREEMENT BETWEEN CAPITAL RECOVERY SYSTEMS, INC. AND ATHENS COUNTY MUNICIPAL COURT.

0-92-22

AN ORDINANCE AMENDING THE 2022 APPROPRIATION ORDINANCE.

RESOLUTION FOR FIRST READING:

R-03-22

A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR.

ONE-READING RESOLUTION:

R-04-22

A RESOLUTION SUPPORTING THE CONTINUED OPERATION OF THE VETERANS' ADMINISTRATION MEDICAL CENTER IN CHILLICOTHE, OHIO. Swank moved for Adoption; McCarey seconded. Adoption was approved unanimously.

ANNOUNCEMENTS & OTHER BUSINESS:

Risner announced a Special Session to be held next Monday, June 13th, following committee meetings.

At approximately 9:00 p.m. Crowl moved to Adjourn the meeting; Ziff seconded, and the meeting was adjourned.

President Pro Tem of Council

ATTEST:

Clerk of Council

**ATHENS CITY COUNCIL: PUBLIC HEARING, MONDAY, JUNE 6, 2022,
7:00 P.M. – COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM
FUNDS (2ND hearing).**

Council Members in Attendance: Crawl, Grace, McCarey, Risner, Spjeldnes, Swank, and Ziff.

Also Present: President Pro Tem Risner, Acting Mayor Knisely, Service-Safety Director Stone, and Law Director Eliason.

Attendance by the Public: (see attached list)

President Pro Tem Risner opened the second of two Public Hearings to discuss the Community Development Block Grant (CDBG) Programs. The project the administration is proposing is the “Columbus Road Area Lift Stations” Project. The purpose of this project is to rehabilitate and improve Columbus Road Lift Station #1 on Dorr Lane to replace old components and increase the pumping capacity, and to replace an existing private lift station on Theater Lane with a proper public lift station.

Service-Safety Director Stone explained that with the expected increase in sewage from the Marietta Memorial Hospital project along with other commercial establishments opening up in this area, the Columbus Road Lift Station #1 is not sufficient to meet the demand, and with its age is expected to have major maintenance problems or failures within the next 5 years. The current Theater Lane lift station is private and was built in the 1980’s to support a hotel and driving range. That demand has increased with the introduction of a body shop and garden center. There are several parcels in this area owned by different owners, and both under City law and an EPA directive should be served by a public rather than private station. The private station does not have redundant pumps, and it has failed in the past resulting in sewage spills and backups. I expect this will be a \$1 to \$2 million project. The plan of the administration is to use the city’s allocation funds as a match for a CDBG Critical Infrastructure grant request. The balance of funds will come from the City sewer fund.

President Pro Tem Risner then opened the meeting to hear comments from the public. Hearing no questions or comments from the public, the hearing was adjourned at approximately 7:05 p.m.

Jeff Risner
President Pro Tem of Council

ATTEST:

Clerk of Council