

**CITY OF CLEVELAND  
CITY COUNCIL MEETING  
NOVEMBER 5, 2018  
MINUTES**

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**CITY COUNCIL MEETING**

The City Council Meeting of the Mayor and Council of the City of Cleveland was called to order by Mayor Shan Ash at 6:30 p.m.

**COUNCIL MEMBERS PRESENT:** Nan Bowen, Annie Sutton, Kevin Stanley, and Bradley Greene.

**APPROVAL OF AGENDA**

On motion by Annie Sutton, seconded by Nan Bowen, in favor – Kevin Stanley and Bradley Greene, and carried unanimously, the Mayor and Council approved the agenda for the November 5, 2018 City Council Meeting.

**2018-16 AMENDMENT TO ALCOHOL ORDINANCE – 1<sup>ST</sup> CONSIDERATION**

The Mayor and City Council reviewed the amendments to the Alcohol Ordinance.

- Amend definition Hotel/Motel
- Amend 4-11 Alcoholic Review Board – option to appoint
- Amend 4-61 License permitting the sale of alcoholic beverages - part b – to allow for 60% of total sales dedicated to food and nonalcoholic beverages
- Amend 4-205 Hearings – Mayor and Council to hear all appeals

Tom O'Bryant, City Administrator, explained the need for the amendments and has met with Chief Foster to discuss the changes.

Mr. O'Bryant discussed the current role of the alcohol review board. Section 4-11 deletes the acts of the alcoholic review board. The way the ordinance is currently written, the board has the authority to give variances or to issue a permit if it is denied by city staff, which in essence is a change to the ordinance. Permits would only be denied if the applicant did not follow the ordinance. Only the mayor and council can change an ordinance. The new language gives the mayor and council the option of appointing a board with guidelines. The board has never met and currently there is one standing member on the board. The mayor and council has the option to create new guidelines for the alcohol review board to include an advisory and research role.

Mr. O'Bryant discussed deleting Section 4-61 part b (1) (2) (3) which requires a meal and adding new part b (1) 60 percent of its total sales comprised of the sale of food prepared on the premises and nonalcoholic beverages consumed on the premises of restaurants, indoor civic/cultural facility, or restaurant within a hotel. Said establishments shall be prepared to serve food every hour they are open. It is easier to enforce a percent of sales by requiring sale tickets than it is to enforce the requirement of a meal while serving alcohol.

Changing the definition of Hotel/Motel to delete permanent, and residential. These uses are not allowed in our current zoning ordinance.

Ed Ward, local business owner, asked if there was anything about extended stay in the ordinance. Mr. O'Bryant answered no, the zoning ordinance does not allow for extended stay.

**2018-16 AMENDMENT TO ALCOHOL ORDINANCE – 1<sup>ST</sup> CONSIDERATION – continued**

Mr. Ward went on to add unsubstantiated comments about how people will look at his restaurant differently now they will not be forced to purchase a meal. Mr. Ward stated his alcohol sales average at 30% to his food sales.

Debbie Gilbert informed the obvious that the city did not have a hotel with a restaurant and questioned why it was in the ordinance. Mr. O'Bryant explained the city may have a hotel with a restaurant in the future and it will already be addressed in the ordinance.

Mayor Ash asked the language of the amendment be included in the minutes as follows:

WHEREAS, the Mayor and the Council of the City of Cleveland desire to amend the **City of Cleveland Code of Ordinances, Chapter 4 ALCOHOL BEVERAGE ORDINANCE** heretofore adopted, so as to amend Article I. In General, Section 4-4 Definitions Hotel/Motel, Section 4-11 Alcohol Beverage Review Board, Article II. Licensing Section 4-61 License permitting the sale of alcoholic beverages, Article VI License Fees Section 4-205 Hearings.

NOW, THEREFORE, BE IT RESOLVED by the City of Cleveland City Council, the **City of Cleveland ALCOHOL BEVERAGE ORDINANCE** is hereby amended as follows:

By deleting Section 4-4 Definitions *Hotel Motel* and by adding new definition *Hotel/Motel*.

*Hotel/motel* means a building or structure kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for adequate pay to travelers, guests, and transients in which 50 or more rooms are used for the sleeping accommodations of such guests. Boarding houses or other similar facilities which have less than 50 rooms used for sleeping accommodations for such guests are not classified as a hotel for the purposes of this chapter. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a restaurant on their premises, and the holder of such franchise shall be included in the definition of hotel hereunder.

- (1) In which the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises and which shall derive at least 60 percent of its total annual gross sales from the sale of prepared foods and recreation activities; and
- (2) In which meals are served, such place being provided with adequate and sanitary kitchen and dining room equipment and a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests. Said establishment shall be prepared to serve food every hour they are open.

By deleting Section 4-11 Alcoholic Beverage Review Board and adding new Section 4-11 Alcoholic Beverage Review Board (a)The Mayor and Council of the City of Cleveland, at its discretion, may appoint an alcoholic beverage review board. The Mayor and City Council will develop guidelines for the effectiveness of the alcoholic beverage review board.

By deleting Section 4-61 License permitting the sale of alcoholic beverages Part b, subpart (1), (2), (3) and by adding new Section 4-61 License permitting the sale of alcoholic beverages Part (b) subpart 1) as follows:



**2018-16 AMENDMENT TO ALCOHOL ORDINANCE – 1<sup>ST</sup> CONSIDERATION – continued**

Section 4-61 License permitting the sale alcoholic beverages

b. (1) 60 percent of its total sales comprised of the sale of food prepared on the premises and nonalcoholic beverages consumed on the premises of restaurants, indoor civic/cultural facility, or restaurant within a hotel. Said establishments shall be prepared to serve food every hour they are open;

By deleting Article VI License Fees Section 4-205 Hearings and by adding new Section 4-205 Hearings as follows:

- (a) No license or permit shall be denied, suspended, or revoked without the opportunity for a hearing as hereinafter provided.
- (b) The city clerk or designee shall provide written notice to the applicant, licensee or employee of his or her order or the chief of police's decision to deny, suspend, or revoke the license or permit. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant, licensee, or employee of the right to appeal under the provisions of this chapter. Any applicant, licensee, or employee who is aggrieved or adversely affected by a final action of the city clerk or designee may have a review thereof by appeal to the Mayor and Council of the City of Cleveland. Such appeal shall be by written petition, filed in the office of the city clerk or designee within 15 days after the final order or action of the city clerk or designee and in order to defray administrative costs must be accompanied by a filing fee of \$500.00. The Mayor and Council of the City of Cleveland may at the request of the appellant, refund the filing fee by a majority vote.
- (c) A hearing shall be conducted on each appeal with 30 days of the date of filing with the city clerk or designee, unless a continuance of such date is agreed to by the appellant and the city clerk or designee. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross examine witnesses. All testimony shall be sworn. The Mayor and Council of the City of Cleveland shall be authorized to hire independent counsel to serve as a hearing officer and/or counsel to the council with the approval of the city council.
- (d) The written findings of the Mayor and Council of the City of Cleveland shall be forwarded to the city clerk or designee by Mayor and Council of the City of Cleveland after the conclusion of the hearing and it shall be the duty of the city clerk or designee to notify the appellant of the action of the Mayor and Council of the City of Cleveland.
- (e) In hearings as set forth in this section, the city clerk or designee bears the burden of proof by a preponderance of the evidence. The findings of the city clerk or designee shall not be set aside unless the Mayor and Council of the City of Cleveland finds them to be:
  - (1) Contrary to law or ordinances;
  - (2) Unsupported by substantial evidence on the record as a whole; or
  - (3) Unreasonable.
- (f) The findings of the Mayor and Council of the City of Cleveland shall be final unless appealed within 30 days of the date of said findings by certiorari to the superior court of the county.

On motion by Bradley Greene, seconded by Kevin Stanley, in favor – Nan Bowen and Annie Sutton, and carried unanimously, the Mayor and Council voted to approve the first consideration of the amendments, as presented, to the Alcohol Ordinance.

**CHIEF RICKY PRUITT – FIRE DEPARTMENT**

Chief Ricky Pruitt, Fire Department, presented the statistics for October 2018. The department reported 77 calls – 40 inside the city, 37 outside the city with 10 calls outside the automatic aid area.

The department has received a request from Babyland to ride Santa Clause around the facility during Babyland's Christmas Tree Lighting Event. The council approved the request.

Annie Sutton asked about the power outage November 4 and Chief Pruitt answered he was unsure of the cause, but it was widespread through Cleveland, Dahlonaga, and North Hall.

**CHIEF JOHN FOSTER – POLICE DEPARTMENT**

Chief John Foster, Police Department, was not present.

**GRANT KEENE – CITY ATTORNEY**

Grant Keene, City Attorney, did not have new business to discuss.

**TOM O'BRYANT – CITY ADMINISTRATOR**

**1. Acceptance of land for Right of Way**

- a. During plan review with GLM, LLC for the construction of the Arby's Restaurant the City requested a donation of land (0.007 acres) located in the southern corner of the property for additional right of way at the intersection of South Main Street and Quillian Street.
- b. GLM provided executed deed and survey for the donation.
- c. Mayor and City Council will need to vote to accept the donation and deed of the small parcel for the right of way.

Mr. O'Bryant informed the property has closed and the owners can legally deed the 0.007 acres to the city.

On motion by Nan Bowen, seconded by Annie Sutton, in favor – Kevin Stanley and Bradley Greene, and carried unanimously, the Mayor and Council voted to accept the conveyance of 0.007 acres from GLM Cleveland, LLC.

**2. Film Permit Application**

- a. The City of Cleveland recently received a request for use of city property for film production.
- b. The applicant did not provide adequate information to city staff for approval and it was requested that the applicant address the issue with city council. Council members asked the applicant a number of questions addressing issues and concerns and asked the applicant to provide additional information to staff for approval.
- c. The applicant never returned to provide staff with the information requested by council and it was reported that filming took place at a private location within the city.
- d. City council requested that a film application permit be developed and utilized as part of the event permit ordinance and procedure.
- e. Staff has developed a specific application for production filming within the City of Cleveland that includes the use of public and private property.



**TOM O'BRYANT – CITY ADMINISTRATOR - continued**

Film permit application – continued

Some of the items listed includes type of filming, type of property needed for filming (public, private) elements such as special lighting, generators, etc.

Annie Sutton thanked Mr. O'Bryant for his work on the film permit application.

**3. SPLOST promotion program by the Chamber of Commerce.**

- a. The SPLOST 2020 referendum will be part of the November 6, 2018 general election.
- b. The White County Chamber of Commerce voted to support the continuation of the SPLOST and has developed a campaign program promoting the advantages of the SPLOST and advocating a yes vote to continue the SPLOST for another six years. The campaign includes newspaper, radio and social media promotions.
- c. Mr. O'Bryant provided some of the material that the Chamber has employed in promotion of the support for the 2020 SPLOST.

Beth Truelove, Chamber President, explained the group was strategic in where they placed ads and signs, specifically at newly paved roads or roads scheduled to be paved and infrastructure projects.

**4. Update on ARC water line replacement project.**

- a. The Appalachian Regional Commission and the Department of Community Affairs held an Awards Dinner in LaGrange, Georgia on October 11, 2018 where the projects were formally announced and ceremonial checks were distributed to local elected officials. The check was delivered to the city the following week.
- b. Tom O'Bryant met the GMRC staff, who will be administering the grant, and they directed the city to move forward from preliminary engineering to the final engineering for the project in order for the project to receive a final review from Georgia EPD and then go to bid.
- c. Brian Rindt has been requested to complete the final engineering.
- d. Staff, as requested by ARC, has set up an account with the agency which will be utilized for reporting and drawdown requests.

The city has received a fully executed agreement with Georgia Mountains Regional Commission for the administration of the grant. The plans will now be reviewed by the Department of Natural Resources and put to bid.

**NEW BUSINESS**

1. On motion by Annie Sutton, seconded by Nan Bowen, in favor – Kevin Stanley and Bradley Greene, and carried unanimously, the Mayor and Council voted to approve the minutes of October 1 and 8, 2018.
2. Public comments – Grant Keene commented on how impressed he is with the reporting from the fire department with the statistics and graphics.  
Nan Bowen asked about false alarms. Chief Pruitt stated false alarm calls will spike at times, but has tapered off since the city enacted the false alarm ordinance.  
Annie Sutton informed the Historical Society will serve breakfast to veterans Saturday, November 10, 2018 at 9:00 a.m. and there is a gofundme.com page for the Stovall Bridge.

### **EXECUTIVE SESSION**

On motion by Bradley Greene, seconded by Annie Sutton, in favor – Nan Bowen and Kevin Stanley, and carried unanimously, the Mayor and Council voted to enter into an executive session to discuss personnel and a contract at 7:02 p.m.

### **RETURN TO CITY COUNCIL MEETING**

On motion by Kevin Stanley, seconded by Bradley Greene, in favor – Nan Bowen and Annie Sutton, and carried unanimously, the Mayor and Council voted to return to the City Council Meeting of November 5, 2018 at 8:07 p.m.

Mayor Ash asked how the council wished to vote on the design/build for Oak Springs and the Talon building.

Kevin Stanley made a motion to continue to move forward with the construction management of RCCI for services.

Mayor Ash for a second to the motion. There was no second made and the motion died for lack of a second to continue for discussion and a final vote.

It was discussed to continue with RCCI would be in violation of a new Georgia law requiring the construction services to be posted on the Georgia Procurement Registry.

On Motion by Bradley Greene, seconded by Nan Bowen, in favor – Annie Sutton, and carried, the council voted to approve to register the request for qualifications for the design build and construction management services for the Cleveland Municipal Complex and Oak Springs project. Kevin Stanley voted in opposition of the motion.

The Mayor and Council discussed the pay increases for city employees, outside of the police department which received an increase earlier in the year.

On motion by Bradley Greene, seconded by Kevin Stanley, in favor – Nan Bowen and Annie Sutton and carried unanimously, the Mayor and Council voted to issues a one dollar per hour increase for each employee in all departments with the exception of the police department. The increase will begin the first pay period in January 2019. (January 3, 2019)

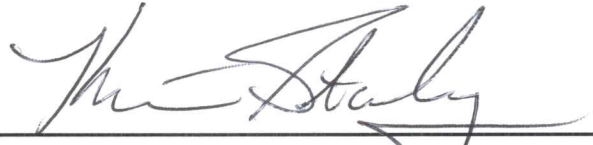
### **ADJOURNMENT**

On motion by Nan Bowen, seconded by Kevin Stanley, in favor – Annie Sutton and Bradley Greene, and carried unanimously, the Mayor and Council voted to adjourn the City Council Meeting of November 5, 2018 at 8:12 p.m.

Signatures next page



Shan Ash, Mayor



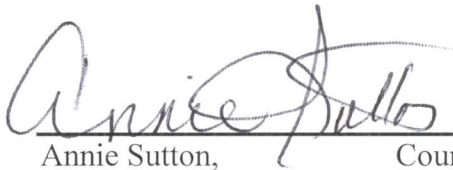
Kevin Stanley, Council Member



Nan Bowen, Council Member

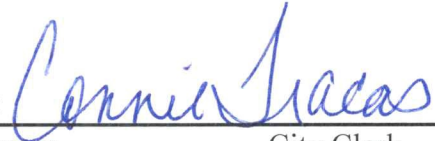


Bradley Greene, Council Member



Annie Sutton, Council Member

ATTEST:



Connie Tracas, City Clerk

