

CITY OF CLEVELAND
CITY COUNCIL MEETING
APRIL 12, 2021
MINUTES

CITY COUNCIL MEETING

The City Council Meeting of the Mayor and Council of the City of Cleveland was called to order by Mayor Josh Turner at 6:31 p.m.

COUNCIL MEMBERS PRESENT: Nan Bowen, Rebecca Yardley, Kevin Stanley, and Bradley Greene.

APPROVAL OF AGENDA

On motion by Nan Bowen, seconded by Kevin Stanley, in favor – Rebecca Yardley and Bradley Greene and carried unanimously, the Mayor and Council approved the agenda for the April 12, 2021 City Council Meeting.

NADINE WARDENGA - DONALD AND DONNA STOCKWELL REQUESTING A ZONING VARIANCE OF THE BUILDING SETBACK LINES TO THE CITY'S RIGHT-OF-WAY ON CEMETERY STREET. 235 CHURCH STREET – TAX MAP AND PARCEL C01B 052

Ms. Nadine Wardenga, Chair of the Planning and Zoning Board, presented the application of Donald and Donna Stockwell requesting a zoning variance of the building setback lines to the city's right-of-way on Cemetery Street – 235 Church Street, Tax Map and Parcel C01B-052.

Ms. Wardenga stated she hoped everyone had the opportunity to visit the property to determine if the variance is warranted. Typically, variances are not approved, but this property has terrain issues and the building would need to be in a location for accessibility.

Ms. Wardenga informed the board unanimously recommended approval of the variance.

Mayor Turner asked if anyone present for the application of the variance request contributed to the campaigns of the mayor and council. There was no one present for the hearing on the application that had contributed.

Mayor Turner asked if there were any public comments and asked if the applicants, Mr. and Mrs. Stockwell, had comment.

Mr. Donald Stockwell informed the home was built in 1918 and they have tried to renovate as close to the original design of the house. The terrain issues would have the proposed building at a slope in the woods. Mr. Stockwell added, the couple believes the road is not a functional road for the city and have plans to petition the city for the road to be abandoned.

On motion by Bradley Greene, seconded by Kevin Stanley, in favor – Nan Bowen and Rebecca Yardley, and carried unanimously, the Mayor and Council voted to accept the recommendation of the Planning and Zoning board and grant the zoning variance of the building setback lines to the city's right-of-way on Cemetery Street – 235 Church Street, Tax Map and Parcel C01B-052.

NADINE WARDENGA - DONALD AND DONNA STOCKWELL REQUESTING A ZONING VARIANCE OF THE BUILDING SETBACK LINES TO THE CITY'S RIGHT-OF-WAY ON CEMETERY STREET. 235 CHURCH STREET – TAX MAP AND PARCEL C01B 052 - continued

Minutes of the March 25, 2021, Planning and Zoning Meeting are made a part of these minutes.

The Planning and Zoning Board meeting of the City of Cleveland was called to order by Chair Nadine Wardenga at 6:31 p.m.

Board Members present: Jessica Adams, Jeff Groves, Linda Hobbs and Sam Pelletier. Wilma Pittman, Arthur Palmer, and Henrietta Sutton were absent.

Citizen attendance: None

City Staff Present: Tonya Abernathy, Tom O'Bryant

Chair Nadine Wardenga introduced the item of business, Donald and Donna Stockwell requesting a zoning variance of the building setback line to the city's right of way on Cemetery Street, 235 Church Street – tax map and parcel C01B 052.

Ms. Wardenga asked the Stockwells to present their request. Mr. Stockwell stated that they had bought the property and are currently conducting renovations on the whole house and that they would like to add a shop/garage structure. They had purchased the adjacent lot and added it to their property. Their plan included a survey so they could determine where it would best to locate the garage/shop. They placed a request with the city building official, David Lanphear, to mark the setback from the road right of way for placement of the accessory structure, twenty feet from the center line, and an additional forty feet from that point, which placed the structure back in the woods on their property where the lot deeply slopes down to the back property line.

They requesting the setback because of the terrain, but also because the street is rarely used by the public and is considered a driveway to their house by almost everyone that drives by on Church Street. They own the property on both sides of the street and the Seventh Day Adventist Church owns a lot the fronts part of the street that exits to the east on Church Street. He said they are not sure how this section came to exist since it is not used as a public road at all. He said occasionally someone following google maps will drive on it.

Linda Hobbs stated that she thought the street was a driveway to the house. Sam Pellitier said that he had visited the location once and parked in the middle of the road because he also thought the street was a driveway to the house. Mr. Stockwell stated they initially considered requesting that the road be abandoned due to public lack of use, but it was explained to them that the abandonment would be long process and they would like to move forward with their plan improvements. So, they are requesting to build the structure, not on the city right of way, but up to it. The structure would still be twenty feet from the center of the street. He reiterated that they own the property on both sides of the street.

Ms. Wardenga asked if any board members had any questions or comments on the request. Jeff Groves stated he is aware of the site and thought the road was a private driveway for turning around.

NADINE WARDENGA - DONALD AND DONNA STOCKWELL REQUESTING A ZONING VARIANCE OF THE BUILDING SETBACK LINES TO THE CITY'S RIGHT-OF-WAY ON CEMETERY STREET. 235 CHURCH STREET – TAX MAP AND PARCEL C01B 052 - continued

Jessica Adams said she thought the same as well and has not ever seen anyone use the street. Mr. Stockwell agreed that is what most people think, but technically it is a street and has stop signs on both ends that exit onto Church Street. Mr. Stockwell said they had been told that the street was put in because years ago there were chicken and hog farms down Old Blue Creek Road, and that the trucks from Ash Mill could not make the turn at Church Street so the extension was put in to accommodate those trucks going to and from the farms. Ms. Wardenga said this section of Cemetery Street possibly existed before Church Street was constructed. Ms. Stockwell stated that the house was built in 1918 and they continue to hear wonderful stories about the house, the area and previous home owners, and that is why they are renovating the house to look as original as possible. Ms. Wardenga stated that several members of the Planning and Zoning Board are familiar with the restoration of older historic homes in Cleveland and appreciates what they are doing with the home.

Ms. Wardenga asked if there was anyone present that was against the request. There was no one present to make such a request.

There being no more discussion Ms. Wardenga asked the Board for a motion on the variance request. On motion by Sam Pelletier, the Board recommend to City Council the request be granted and allow the Stockwells to build up to, but not to encroach on the city right of way, seconded by Jeff Groves, in favor Jessica Adams and Linda Hobbs and carried unanimously.

Ms. Wardenga informed the Stockwells that the Planning and Zoning Boards vote is a recommendation to the Cleveland City County. She further instructed them that they will need to attend the April 12, 2021 City Council meeting at 6:30 p.m. at this same location for the City Council consideration and decision.

On motion by Jeff Groves, seconded by Jessica Adams, in favor – Linda Hobbs and Sam Pelletier, and carried unanimously, the Planning and Zoning Board voted to adjourn the City of Cleveland Planning and Zoning Board Meeting of March 25, 2021 at 6:41 p.m.

RESOLUTION 2021-06 – ALCOHOL BEVERAGE ORDINANCE AMENDMENT

Mayor Turner presented Resolution 2021-06 Alcohol Beverage Ordinance Amendment. The City Council reviewed February 1, 2021, February 8, 2021, and is up for review and possible adoption.

Mayor Turner asked Tom O'Bryant to recap the proposed amendments.

Mr. O'Bryant explained the amendments include the number of days a restaurant, which serves alcohol, is open from six-days to four-days during the week, amended definition of Restaurant of the requirement of alcohol to food sales; including the requirement of a meal with distilled spirit sales. The change will allow beer and wine sales without a meal.

RESOLUTION 2021-06 – ALCOHOL BEVERAGE ORDINANCE AMENDMENT – continued

Mr. O'Bryant explained the time to get an ID badge has been reduced from thirty-days to ten-days. The amendment also cleans up language concerning auditing to report sales. The renewal for an alcohol license has been moved to November 30 from December 31. It was found most businesses wait until December 31 and expect the license to be issued the same day without giving staff an opportunity to review.

Rebecca Yardley had several notes and questions to discuss. Article I. Section 4-8 Production of records, audits (c) The licensee of restaurants, indoor civic/cultural facility, or restaurant within a hotel, shall report to the city monthly, *total gross sales of all* and gross sales of all alcoholic beverages, including distilled spirits, malt beverages, and wine to ensure and verify compliance with the required 60/40 sales ratio. 60% dedicated to food and non-alcoholic sales and 40% dedicated to all alcohol sales including distilled spirits, malt beverages, and wine. Ms. Yardley questioned the "total gross sales of all" and should "all" be more defined or removed. Mr. O'Bryant explained it is a scribner's error and should read "total gross sales and should strike the words "of all" from the section.

Ms. Yardley questioned the reduction in days to obtain an ID badge from thirty-days to ten-days. Chief Shoemaker informed the change was recommended by former Chief Foster, but he did not have any issue with the change. Mr. O'Bryant explained in the beginning the process was new to everyone and the city wanted to make sure employers had a chance to comply and city staff process the ID information. Now that the requirement has been in place for several years, the city feels the ID processing should be reduced. This prevents those that may have backgrounds that would disqualify them from receiving an ID badge from selling or serving alcohol in the thirty-day period.

Ward Gann, business owner, stated his appreciation of the reduction in days open for business from six to four, but questioned the last line of section 4-4 definition of restaurant which reads Restaurants may also engage in the selling of unprepared food products. Such establishment shall be authorized to sell opened containers of wine or beer and distilled spirits by the drink only with meals provided that restaurants derive at least 60 percent of its total annual gross sales from the sale of prepared meals or food.

Ms. Yardley informed the language was in the original ordinance. Mr. Gann questioned if that included t-shirt and hat sales. Mr. O'Bryant answered yes, total gross sales. Mr. O'Bryant further explained someone can order wine or beer without a meal but must have a meal with distilled drinks orders.

Ms. Yardley stated Article II Section 4-61: License permitting the sale of alcoholic beverages and by adding new Article II. Licensing Section 4-61 License permitting the sale of alcoholic beverages as follows:

- (a) No alcoholic beverages shall be sold for consumption on the premises or distributed for educational or instructional purposes in a wine tasting room except under a license granted by the city clerk or designee, as provided in this chapter.
- (b) Only the following shall be licensed under the City of Cleveland Alcohol Ordinance as defined in section 4-4:

RESOLUTION 2021-06 – ALCOHOL BEVERAGE ORDINANCE AMENDMENT – continued

- (1) Sixty 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. The licensee shall report to the city monthly, total gross sales and gross sales of all alcoholic beverages, including distilled spirits, malt beverages and wine to ensure and verify compliance with the required 60/40 ratio. Said establishment's kitchen shall remain open and shall be prepared to serve food during all hours when alcoholic beverages are sold; the sale of alcoholic beverages when the kitchen is closed is prohibited.

Beth Truelove asked if the requirements of the 60/40 reporting was monthly and was told yes. Mayor Turner asked Grant Keene, City Attorney, for his opinion and Mr. Keene stated the language is an additional requirement.

Mr. O'Bryant informed the current ordinance allows for beer and wine sales by the drink without a meal, but distilled spirits with a meal.

Section 4-61 B (1) Sixty 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. The licensee shall report to the city monthly, total gross sales and gross sales of all alcoholic beverages, including distilled spirits, malt beverages and wine to ensure and verify compliance with the required 60/40 ratio. Said establishment's kitchen shall remain open and shall be prepared to serve food during all hours when alcoholic beverages are sold; the sale of alcoholic beverages when the kitchen is closed is prohibited.

Beth Truelove, addressed the council as the devil's advocate, stated local restaurants cannot compete with wineries due to the meal requirement. Ms. Yardley corrected Ms. Truelove by informing the ordinance does allow beer and wine sales without a meal.

Mr. Gann chastised the city for not having the draft ordinance available so that he could review. The ordinance has been reviewed, in open meeting, on February 1, 2021 and February 8, 2021 in which Mr. Gann received a copy.

Henrietta Sutton, citizen, asked how the restaurant license and alcohol license is related. Mr. Gann answered his license is a restaurant with an alcohol license for consumption.

Mr. Gann expressed his disapproval of the requirement of monthly records. He does not think his sales should be open records to the public. Mr. Gann feels the city is overstepping with this requirement.

Mr. Gann was informed most cities and counties use a gross sales method to issue occupational license regardless if alcohol is sold. It is not an uncommon practice. The city can make a determination if recorded records, such as reporting of sale of goods and alcohol, will need to accompany the reporting form.

RESOLUTION 2021-06 – ALCOHOL BEVERAGE ORDINANCE AMENDMENT – continued

On motion by Bradley Greene, seconded by Nan Bowen, in favor – Rebecca Yardley and Kevin Stanley and carried unanimously, the Mayor and Council approved the third consideration and adopted 2021-06 Alcohol Beverage Ordinance Amendment with the following corrections:

Article I. Section 4-8 Production of records, audits (c) The licensee of restaurants, indoor civic/cultural facility, or restaurant within a hotel, shall report to the city monthly, *total gross sales of all* and gross sales of all alcoholic beverages, including distilled spirits, malt beverages, and wine to ensure and verify compliance with the required 60/40 sales ratio. 60% dedicated to food and non-alcoholic sales and 40% dedicated to all alcohol sales including distilled spirits, malt beverages, and wine. (striking *of all*)

Article I. Section 4-4 Definitions *Restaurant* and adding new Article I. Section 4-4 Definitions

Restaurant means a public place kept, used, maintained, advertised and held out to the public as a place where meals are cooked and served and where meals are actually and regularly cooked and served to the public, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and a sufficient number and kind of employees to cook and serve suitable food for its guests. At least one meal per day shall be cooked on the premises and served at least four days a week, with the exception of holidays, vacations, and periods of redecorating, and the cooking and service of such meals shall be the principal business conducted by such establishment. Restaurants may also engage in the selling of unprepared food products. Such establishment shall be authorized to sell opened containers of wine or beer, and distilled spirits by the drink only with meals provided that restaurants derive at least 60 percent of its total annual gross sales from the sale of prepared meals or food. (adding comma - *Such establishment shall be authorized to sell opened containers of wine or beer, and distilled spirits by the drink only with meals provided that restaurants derive at least 60 percent of its total annual gross sales from the sale of prepared meals or food.*)

On motion by Bradley Greene, seconded by Rebecca Yardley, in favor – Nan Bowen and Kevin Stanley and carried unanimously, the Mayor and Council voted to lift the moratorium, enacted February 8, 2021 of the issuance of new restaurant alcohol license.

RESOLUTION 2021-10 – TO APPROVE THE AMENDED AND RESTATED GMA 401(a) DEFINED CONTRIBUTION PLAN AS OF JANUARY 1, 2018 PER IRS REQUIREMENTS

Mr. O'Bryant explained the requirements of IRS and how it relates to the city's defined benefit retirement plan.

Mr. O'Bryant informed the benefit plan is sound and numerous cities and counties are enrolled which makes the plan stronger. The IRS required changes addresses new retirement age and how long a beneficiary may collect from the plan.

Ms. Yardley asked if it was true the plan did not have to be passed until June and was told yes. Ms. Yardley has questions of GMA of the changes and has not received a phone call back from staff at GMA.

Mayor Turner asked if GMA met with staff about the plan. GMA met with all employees when the plan was implemented. Mr. O'Bryant informed GMA gives classes on the benefit plan at the annual convention.

**RESOLUTION 2021-10 – TO APPROVE THE AMENDED AND RESTATED GMA 401(a)
DEFINED CONTRIBUTION PLAN AS OF JANUARY 1, 2018 PER IRS REQUIREMENTS -
continued**

Ms. Yardley would like to suspend the approval of the amendments until she can get with GMA. On motion by Rebecca Yardley, seconded by Nan Bowen, in favor – Bradley Greene. Kevin Stanley did not answer nay or yea, and carried unanimously, the Mayor and Council voted to postpone the approval of 2021-10 amended and restated GMA 401(a) until Ms. Yardley receives information from GMA.

BRIAN RINDT – CITY ENGINEER

Brian Rindt, City Engineer, started by commenting on how nice the new sign at the city park for John Palmour and Edward Young. Mr. Rindt worked with both for many years and spoke of their love of the city.

Mr. Rindt cited a story of his decision to spend \$10,000 of city funds to fix a soil problem to stabilize the sewer line. Mr. Rindt informed Edward Young gave him a good arse-chewing and informed the city engineer did not make decisions on spending city funds. A city employee asked Mr. Rindt to request a piece of equipment at \$1500. Mr. Rindt brought the issue up at a council meeting and Mr. Young stated “why are you bothering us with this stuff”. Mr. Rindt wanted to share a story of Ed.

1. Bypass Phase III - Hulsey Road Utility relocation
 - Completed except for:
 - As-built plans
 - Final Inspection punch list
 - Service line crossings of the east-bound lane
2. 12” from tank – complete except for minor finish work (i.e. grassing, etc.)
 - Successful fire flow test at NOK (1,900 gpm)
3. Wastewater Treatment Plant design:
 - Meg is in Kenya (will be back before the meeting)
 - Plans presently with the electrical and control engineers.
 - Should have a timing update from Meg before the meeting.
4. Well number 6 awaiting compilation of drilling and testing data to submit to EPD for approval. Overall looks good for an additional 110 gpm.
5. Fluoride tablets:
 - New process for Georgia
 - Similar tablet feeders for small water systems for chlorination work well.
 - Will be less of a safety hazard/annoyance due to no dust.
 - Will cost about the same except for the first year (free tablets for the first year due to being 1st fluoride tablet system in Georgia).
 - Will save approximately \$4,500 during that first year.
 - Cleveland participated in a pilot program for the chloride tablets
6. Water maps being revised to incorporate recent additions/modifications (Nos. 1 & 2, above).

CHIEF RICKY PRUITT – FIRE DEPARTMENT

Chief Ricky Pruitt, Fire Department, presented the department statistics for March 2021.

The department responded to 83 calls – 34 in the city and 49 outside the city with 17 being outside the automatic aid area. White County Fire responded in the city three times.

Ms. Yardley noted the department responded to Laurel Lodge 5 times in the past month. Chief Pruitt added the department has responded nineteen times since the facility opened. Ms. Yardley asked if the calls were solely to pick up residents that had fallen because staff would not and Chief Pruitt answered yes.

CHIEF JEFF SHOEMAKER – POLICE DEPARTMENT

Chief Jeff Shoemaker, Police Department, presented the department statistics for March 2021.

Community oriented and proactive:

Public assist	850
Premises check	544
Field interviews	2

Reporting

Incident report	115
Accident report	23
Investigative/Supplemental	147
Administrative duties	348

Actions taken

Citation	111
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Citation breakdown: misdemeanor/non-traffic 12; DUI, Alcohol & serious offenses 9; Driver's license, registration & insurance 33; Moving violations/traffic control, etc. 45; Equipment, seatbelt, etc. 12

Warnings	175
Warrants	39
Juvenile	0

GRANT KEENE – CITY ATTORNEY

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

TOM O'BRYANT – CITY ADMINISTRATOR

1. Leak Detection Investigation for the City Water System

- a. As part of system maintenance and to help reduce water loss within the city water system a leak detection investigation will be initiated on April 12 and conducted over the next several weeks.
- b. Water systems have aging pipes, experience shifts and movements within the ground and face other issues that can result in small, undetected leaks which can go unrecognized for extended periods of time. The accumulation of small leaks can lead to water losses that can impact the costs of operation and ultimately water rates for customers.
- c. The leak detection investigation will help reduce the city's cost of water production, extend the capacity of future water provision and help protect against potential water line breaks in the future. The investigation will cover more than 46 miles of city water lines.
- d. The leak detection service will be working closely with the public works staff and employ a number of technologies that pinpoint and localize leaks within the system. The service will estimate the number and types of leaks within the system. When the study is complete the public works staff will develop a schedule and implementation program to repair the leaks found within the system.
- e. The leak detection service has created a digital dashboard for tracking their progress and findings throughout the study.
- f. Additionally, a reduced water loss will help improve the city's score on annual water audit reporting to Georgia DNR EPD.

2. White County Water Authority Board Appointment – FY2022/FY2023

- a. The City makes appointments at the first of the year. Tom was appointed to serve on the White County Water Authority Board for the City's interest in the Turner Creek Treatment Plant.
- b. The White County Water Authority requests to appoint a representative effective July 1 of each fiscal year.
- c. Tom can continue to serve or you may appoint another representative

On motion by Kevin Stanley, seconded by Rebecca Yardley, in favor – Nan Bowen and Bradley Greene, and carried unanimously, the Mayor and Council approved the appointment of Tom O'Bryant to the White County Water Authority Board.

NEW BUSINESS

1. Public comments – Nadine Wardenga informed that the 4-H club will be assisting she and Tom planting flowers in the flower pots on the square. Ms. Wardenga requested adult participation to help with the children. Planting is scheduled for April 20, 2021 beginning at 3:30 or 4:00 p.m.

Ms. Yardley asked the council to refer to page 28 of the White County Office of Public Safety Annual Report 2020. She noted the calls of service by district and stated Cleveland fire is third to all stations in the amount of calls county wide. Ms. Yardley stated Cleveland fire is basically doing the work for the county. She expressed her appreciation for all they do in the department. Bradley Greene stated this is not new and the county's use of Cleveland fire has been going on for a while.

Beth Truelove informed the Comprehensive Plan is ongoing and in review and encouraged everyone to take the survey.

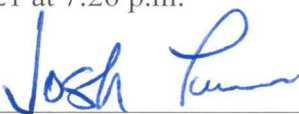
Ms. Yardley informed of a memorial event, sponsored by the White County School System, to be held at Freedom Park April 22, 2021 at 6:30 p.m. This event is to remember all those lost to COVID-19.

OLD BUSINESS

The minutes of March 2021 were signed.

ADJOURNMENT

On motion by Rebecca Yardley, seconded by Nan Bowen, in favor –Kevin Stanley and Bradley Greene, and carried unanimously, the Mayor and Council voted to adjourn the City Council Meeting of April 12, 2021 at 7:26 p.m.



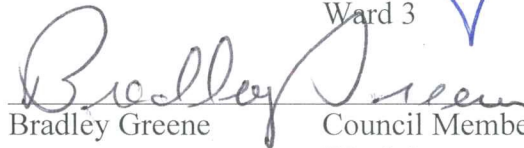
Josh Turner Mayor



Kevin Stanley Council Member
Ward 3



Nan Bowen Council Member
Ward 1
Mayor Pro Tem



Bradley Greene Council Member
Ward 4



Rebecca Yardley Council Member
Ward 2

ATTEST: 

Connie Tracas City Clerk

