

**CITY OF CLEVELAND
CITY COUNCIL MEETING
MARCH 7, 2022
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 6:30 p.m.

COUNCIL MEMBERS PRESENT: Nan Bowen, Rebecca Yardley, Jeremy McClure, and CJ McDonald.

INVOCATION – MR. TIM MASON – FAITH LUTHERAN CHURCH

Mr. Tim Mason, Faith Lutheran Church, gave the invocation for the city council meeting. Mr. Mason encouraged everyone to stay healthy and to come back to church.

APPROVAL OF AGENDA

On motion by Rebecca Yardley, seconded by CJ McDonald, in favor – Nan Bowen and Jeremy McClure and carried unanimously, the Mayor and Council voted to approve the March 7, 2022 City Council agenda with the addition to discuss personnel issues in executive session at the request of Mayor Turner.

WORK SESSION

- The Mayor and Council reviewed and discussed the proposed changes to the alcohol ordinance to allow for curbside pickup for beer and wine purchases. Walmart and Ingle's both offer curbside grocery pickup and have requested the city consider allowing beer and wine as a part of a grocery order. Several cities and counties allow this practice and the state has developed requirements. The proposed amendment mirrors items required by the state.
Sec. 4-184. - Drive-in window or curb service.
 - (a) It shall be unlawful to sell and dispense alcoholic beverages from a "drive-in," "service" window, or vending machine.
 - (b) Curb service or other sales of alcoholic beverages outside the building licensed to sell is permitted by section 4-89 (licensed caterers), section 4-88 (outdoor golf course sales), section 4-94 (patio sales), and as allowed in (c) in this section of code.
 - (c) A retail package dealer of alcoholic beverages is permitted to load purchased goods in a customer's vehicle as part of an online curbside pick-up service.
 - (1) Retailers shall require all customers to register with the Retailer before permitting the customers to order alcoholic beverages for online curbside pickup.
 - (2) Online curbside sales for alcoholic beverages shall follow all requirements for hours of sale as permitted in this Chapter of city code.
 - (3) Purchase goods must be delivered to the customer's vehicle and the vehicle must be located within a clearly designated pick-up area located within a paved parking area adjacent to the place of business. If the place of business is located in a shopping center or other single property owned or leased by more than one business, at the discretion of the Georgia Department of Revenue, the pick-up area may be located within a paved parking area that is a part of or adjacent to such shopping center or single property, as long as the pick-up area is owned or leased by the retailer or retailer's landlord and is under the supervision and control of the retailer.
 - (4) The retailer shall install and maintain a security camera(s) of the designated pick-up area location to record activities in the check out and identification check of customers.

Sec. 4-184. - Drive-in window or curbside service - continued

- (5) Alcoholic beverages sold as part of online curbside pick-up services must be pulled from the inventory located at the location of the retail package dealer providing the online curbside pick-up services and may not be pulled from the inventory of another retailer of licensed location,
- (6) A retailer may not knowingly transfer alcoholic beverages as a part of an online curbside pick-up service to an individual or business providing delivery for hire services.
- (7) Any employee delivering alcoholic beverages to a vehicle for online curbside pick-up must confirm the identity of the individual receiving the alcoholic beverages and confirm that individual is at least 21 years of age.
- (8) For online retail sales of alcoholic beverages for online curbside pick-up, a retailer must have and provide a copy of a company policy or established protocol detailing company requirements and procedures for the handling and delivering of purchased goods, including identification, in a customer's vehicle at the designated pick-up area location.

Mr. O'Bryant explained the amendment requires outside security cameras. The alcohol ordinance requires cameras at the place of purchase, such as at the register. The ordinance amendment also prevents a beer and wine order being delivered by a service, for example, GubHub.

Mayor Turner asked which items are required by the state and the items required by the city. Mr. O'Bryant answered 4 and 8 are required by the city in accordance to the current ordinance. The state requires 1, 2, 3, 5, 6, and 7.

Jeremy McClure read number 6: A retailer may not knowingly transfer alcoholic beverages as a part of an online curbside pick-up service to an individual or business providing delivery for hire services. Mr. McClure asked if Mr. Keene reviewed and Mr. O'Bryant answered yes as well as Ms. Yardley.

Mr. McDonald stated the amendment looks good, easy to read and follow. Mayor Turner asked what the next step is to move forward. Mr. O'Bryant answered the council will need to schedule a first consideration. Mayor Turner asked if everyone is okay for a first consideration at the March 14, 2022 city council meeting. All were in agreement. Ms. Yardley suggested a called meeting for a second consideration and possible adoption. Mayor Turner asked if everyone was agreeable to a called meeting for March 21, 2022. All were in agreement.

Pawnbroker ordinance – amendments

The Mayor and City Council reviewed and discussed the amendments to the Pawn Broker ordinance. Mr. O'Bryant informed he took the council's suggestions and comments and made changes. The application and fees were in the packets of the past council meeting. Mr. O'Bryant met with Chief Shoemaker on the ordinance. Chief Shoemaker stated the ordinance has been cleaned up and updated by deleting older language so that the ordinance flows better.

Ms. Yardley questioned the fees and the discrepancy of the proposed fees to what the City of Cornelia charges. Mr. O'Bryant explained the fees are to cover the costs of background checks, GCIC fees, fingerprinting, and administration. Mr. O'Bryant does not know why Cornelia has a different fee schedule. Every city and county develops their own schedule of fees.

Pawnbroker ordinance – amendments - continued

Jeremy McClure also questioned the fee schedule and Mr. O'Bryant informed the fees are for pawn brokers receiving fire arms. Mr. McClure asked if the owner will understand the city does not provide required equipment such as security camera, computer and fingerprint pad. Chief Shoemaker answered the owner will understand this is their responsibility. The city is responsible for purchasing and maintaining the LEADS program. Mr. Keene asked if the ordinance clearly states the owner is responsible for the required equipment. Jeremy McClure does not feel 42-28 is clear as to who is responsible for the program and equipment for reporting pawns.

Ms. Yardley asked if there was a database to research if an owner has had a pawn license revoked in another jurisdiction. Chief Shoemaker answered he is not aware of such database, but a pawn license would be made void if it is found the applicant was dishonest on the application.

Mr. Keene asked about 42-25 (b)(10) and the requirement of reporting a list of employees every six months. Chief Shoemaker informed the section was not changed and is in the existing ordinance. Ms. Yardley asked if the highlighted areas refer to state statute. Chief Shoemaker answered the highlighted areas are a combination of both state and the existing city ordinance.

Mayor Turner asked about the fee schedule. Mr. O'Bryant stated the fees: \$250 application fee; \$50.00 additional background check fee; \$50 managing agent fee; \$50 registered agent fee; \$50 change in registered agent fee; and \$150 additional employee application fee. Originally, an annual fee of \$1200 was included to help cover the costs of the LEADS program, but has been removed. Mr. McClure questioned the background check fees and compared to the City of Dawsonville which does not require a fee. Mr. O'Bryant explained Dawsonville sends applicants to the county sheriff's office for background checks and the sheriff's office charges the fee. Chief Shoemaker added he did not think it was in the city's best interest to attach our requirements to the county sheriff's office. Chief Shoemaker feels the city should stand on its own. Dawsonville contracts with the county sheriff's office for a fee.

Ms. Yardley asked about 42-28 record of transaction, if there was a particular program that will be used. Chief Shoemaker answered the LEADS system will be used. There is no cost to the pawn owner, only the city. Mr. McClure responded no costs other than the purchase of a computer, security camera, and fingerprinting pad.

Mr. McDonald suggested a discussion on the fee schedule, specifically the \$1200 annual fee. Mr. O'Bryant stated the fee schedule and explained the \$1200 fee has been removed. Mr. McDonald would like to see the application and fee schedule. Mayor Turner asked the application and fee schedule be emailed to the council.

Mayor Turner asked if everyone is okay for a first consideration at the March 14, 2022 city council meeting. All were in agreement. Mayor Turner asked if everyone was agreeable to a called meeting for March 21, 2022. All were in agreement.

2022-02 ZONING AMENDMENT FOR SHORT TERM RENTAL – SECOND CONSIDERATION AND POSSIBLE ADOPTION

The Mayor and City Council reviewed and discussed 2022-02 which would allow for the zoning classification for short term rental, also referred to as Airbnb or short term vacation rental.

Mayor Turner asked Mr. Keene if the city should adopt the zoning classification before the adoption of the ordinance and if adopted in advance, would it put the city at risk. Mr. Keene feels the classification and the ordinance should be adopted simultaneously. Ms. Yardley questioned would it be appropriate to postpone the second reading and possible adoption until the ordinance is adopted. Mr. Keene answered yes. Mr. O'Bryant reminded the council of the 45-day deadline to make a decision on the zoning classification, otherwise the city will need to re-advertise and schedule new zoning board hearings. Mr. Keene feels the city is within the allotted amount of time.

On motion by CJ McDonald, seconded by Nan Bowen, in favor – Rebecca Yardley and Jeremy McClure and carried unanimously, the Mayor and City Council voted to postpone the adoption of 2022-02 Zoning Amendment for Short Term Rental until the March 14, 2022 City Council meeting.

SHORT TERM RENTAL – FIRST READING AND CONSIDERATION

Mr. O'Bryant informed, from a previous work session on the short term rental ordinance, the council suggested many changes which have been incorporated in the new draft. Per the council comments, there was an objection to detailing the building and life safety codes. This has been replaced to state to follow building and life safety codes by reference.

Mr. McDonald questioned the insurance requirements in section 12-389 6 h. Mayor Turner stated he is satisfied the requirement of commercial insurance has been removed.

Ms. Yardley asked how the application was developed. Mr. O'Bryant answered he looked at what the county required and what the proposed ordinance requires in the development of the application.

Mayor Turner questioned the occupancy limits in section 389-C-3. Ms. Yardley reminded that Lt. Mark Gunter, Fire Department, informed the Life Safety Code dictates occupancy. Mr. McClure suggested the section state occupancy is determined by life safety codes and not have a specific maximum. Mr. McDonald is fine with the section and stated the city can revisit if needed.

Mr. O'Bryant noted Mr. Keene found a needed correction in section 392 -1 should state Cleveland Municipal Court to replace magistrate court.

Mr. McDonald asked if it was necessary for a social security number on the application. A social security number or a FEIN number is required for an occupational license which can be used as a part of the short term rental application.

SHORT TERM RENTAL – FIRST READING AND CONSIDERATION - continued

Mayor Turner does not agree with section 394 for the appeal process. Mayor Turner feels it puts the mayor and city council in a judicial position. It was suggested the council assign the planning and zoning board to hear appeals. Mayor Turner prefers appeals/denials/revocations are heard by the city judge. Mr. McDonald feels the planning and zoning board is an extension of the council and is not an appropriate use of the board. Mayor Turner suggested to leave as written and change later after the council has time to review. Mr. McClure asked the ordinance is forwarded to Judge Baker.

On motion by CJ McDonald, seconded by Nan Bowen, in favor – Rebecca Yardley and Jeremy McClure and carried unanimously, the Mayor and Council voted to approve the first consideration of the Short Term Rental Ordinance.

TOM O'BRYANT – CITY ADMINISTRATOR

Mr. O'Bryant presented the proposal from the Georgia Municipal Association to develop a personnel policy for the city. This proposal is at the request of the Mayor and Council. The following are the terms and conditions:

Scope of Services: GMA Member Services Consultant will provide the following services:

- a. Review existing personnel policy and all amendments.
- b. Meet with City to review expectations and identify specific areas to be addressed in the update.
- c. Prepare and draft outline for proposed updated personnel policy and solicit City comments.
- d. Interview City representatives, as needed, for preparation of draft personnel policy.
- e. Prepare draft updated personnel policy and solicit City comments.
- f. Meet with City to present final draft of updated personnel policy.
- g. Complete and submit final updated personnel policy within sixty (60) days of contract execution.

2. GMA Staff: Stan Brown, GMA Member Services Consultant will serve as lead on this project.

3. Fees: The fee for this service is \$3500.00, plus travel related costs for mileage (2022 IRS Rate), meals, and lodging and for no more than two (2) nights.

4. Invoices: Upon receipt of the invoice from GMA, the \$3500.00 fee and all other associated costs will be due and payable to GMA no later than 30 days from invoice date. GMA will send all invoices via email to Tom O'Bryant, City Manager, tobryant@cityofclevelandga.org .

Jeremy McClure asked if there were funds in the budget to cover the expense. The city has fund in the legal services budget line item that can be allocated to the project.

On motion by Nan Bowen, seconded by CJ McDonald, in favor – Rebecca Yardley and Jeremy McClure and carried unanimously, the Mayor and Council voted to accept the GMA Member Services agreement to develop a personnel policy.

NEW BUSINESS

1. On motion by Nan Bowen, seconded by CJ McDonald, in favor – Rebecca Yardley and Jeremy McClure and carried unanimously, the Mayor and Council voted to approve the minutes of February 7, 14, and 16, 2022.
2. Public comments – Mayor Turner recognized Ms. Lisa Ritchie. Ms. Ritchie has been hired as the new city clerk and will begin March 28, 2022.

OLD BUSINESS

There was no old business to discuss.

EXECUTIVE SESSION

On motion by Jeremy McClure, seconded by CJ McDonald, in favor – Nan Bowen and Rebecca Yardley and carried unanimously, the Mayor and Council voted to enter into executive session to discuss real estate and personnel issues at 7:27 p.m.

RETURN TO COUNCIL MEETING

On motion by Rebecca Yardley, seconded by Jeremy McClure, in favor – Nan Bowen and C.J. McDonald and carried unanimously, the Mayor and Council voted to return to the city council meeting at 10:11 p.m. Mr. McDonald checked to see if anyone had stayed to return to the meeting and invited them to return to the council meeting room.

On motion by Rebecca Yardley, seconded by CJ McDonald, in favor – Nan Bowen and Jeremy McClure and carried unanimously, the mayor and Council voted to move Tom O’Bryant from the position of City Administrator to the position of Economic Development and Planning Director, and will continue to serve in the capacity of acting City Administrator until such time that a successor is appointed.

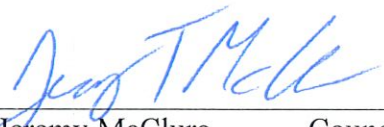
On motion by CJ McDonald, seconded by Jeremy McClure, in favor – Nan Bowen and Rebecca Yardley and carried unanimously, the Mayor and Council voted to post the position for the employment of City Administrator with a starting base salary of \$95,000, increasing, commensurate with experience.

ADJOURNMENT


On motion by Nan Bowen, seconded by Jeremy McClure, in favor – Rebecca Yardley and C.J. McDonald, and carried unanimously, the Mayor and Council voted to adjourn the meeting of March 7, 2022 at 10:15 p.m.



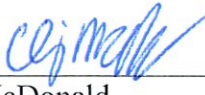
Josh Turner Mayor



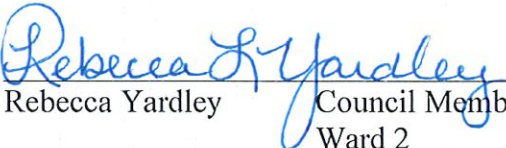
Jeremy McClure Council Member
 Ward 3



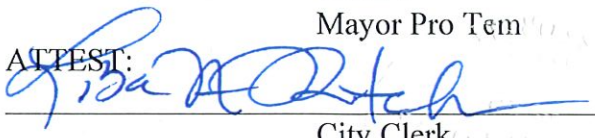
Nan Bowen Council Member
 Ward 1



C.J. McDonald Council Member
 Ward 4
 Mayor Pro Tem



Rebecca Yardley Council Member
 Ward 2

ATTEST:


Lisa A. Hatch
City Clerk

