

MINUTES OF COUNCIL

A regular session of Troy City Council was held on Monday, July 3, 2023 at 7:00 p.m. in Council Chambers, City Hall.

Members Attending: Marshall, Pierce, Phillips, Rozell, Schilling, Severt, Snee and Twiss.

Upon motion of Mr. Schilling, seconded by Mrs. Snee, Mr. Whidden was excused from this meeting by unanimous roll call vote.

Presiding Officer:	William Lutz	President of Council
Others Present:	Robin I. Oda	Mayor
	Patrick E. J. Titterington	Director of Public Service and Safety
	Grant D. Kerber	Director of Law
	John E. Frigge	Auditor

INVOCATION & PLEDGE OF ALLEGIANCE: An invocation was given by Council Member Snee, followed by the Pledge of Allegiance.

PUBLIC HEARINGS:

- 1) At 7:02 p.m., Council President Lutz declared open a public hear on Ordinance No. O-37-2023, the Rezoning of Parcel D08-105875 (1511 S. Market St.) & Parcel D08-251110 (1551 S. Market St.) from M-2, Light Industrial District, to B-2, General Business District. Brad Boehringer, 105 Crestwood, stated he did not oppose or support the rezoning, but had questions; Council President Lutz suggested questions be held till later in the meeting as this is the time for comments supporting or opposing the rezoning. There were no comments in this regard, and at 7:03 p.m. Mr. Lutz declared this public hearing closed.
- 2) At 7:04 p.m. Council President Lutz declared open a public hearing on Resolution No. R-40-2023, the 2024 Tax Budget. There were no comments in this regard, and at 7:05 p.m. Mr. Lutz declared this public hearing closed.

MINUTES: The Clerk gave a summary of the minutes of the June 19, 2023, meeting of Troy City Council. There were no corrections or additions to these minutes. Upon motion of Mr. Rozell, seconded by Mr. Phillips, these minutes were approved by unanimous roll call vote.

The Clerk gave a summary of the minutes of the June 26, 2023, Special meeting of Troy City Council. There were no corrections or additions to these minutes. Upon motion of Mr. Schilling, seconded by Mr. Rozell, these minutes were approved by unanimous roll call vote

COMMITTEE REPORTS:

Buildings & Utilities Committee: Mrs. Marshall, Chairman, reported that Committee recommends legislation be prepared authorizing the Director of Public Service and Safety to advertise for bids and enter into a contract for the Police Department Fluid Cooler and Pump Replacement Project at a cost not to exceed \$260,000. Report submitted by Twiss, Whidden and Marshall.

Community & Economic Development Committee: Mr. Schilling, Chairman, reported that Committee recommends legislation be prepared accepting the recommendation of the Troy Planning Commission that the Final Record Plan of the Troy Storage Inns of America Planned Development – Industrial (PD-I) is approved by Council as conforming to the approved General Plan and Final Development Plan. It was noted that this application was submitted prior to the moratorium on self-storage facilities. Report submitted by Pierce, Snee and Schilling.

Community Partnerships Committee: Mr. Rozell, Chairman, reported regarding the August 25 and 26 --Tour De Donut and Donut Jam, and recommended that legislation be prepared to:

1. Authorize the Director of Public Service and Safety to enter into an agreement with Can't Stop Running Co. related to the Tour De Donut event.
2. Authorize the Director of Public Service and Safety to enter into an agreement with Troy Main Street, Inc. related to the Donut Jam event, and include the hours for the sale of alcoholic beverages as stated in the detailed report.
3. Include the standard notwithstanding legislation for such events.

Committee supports emergency legislation so that the F2 liquor permit application can be submitted and details finalized for both agreements.

Report submitted by Schilling, Severt and Rozell.

Law & Ordinance Committee: Mrs. Snee, Chairman, gave an oral report of notice of the following liquor permit applications:

- New D-2 Liquor Permit Application of Bottle No 121 LLC, dba the Cellar, 1600 W. Main Street, Ste A
- TREX C-1 and C-2 Liquor Permits for Troy Station LLC, 1511 S. Market Street

Personnel Committee: Mr. Pierce, Chairman, reported Mayor Oda has requested Council concurrence of the reappointment of Cindy Wingert to the City Beautification Committee. A motion was made by Mr. Pierce, seconded by Mr. Phillips, that Council concurs with the reappointment of Cindy Wingert to the City Beautification Committee for a term commencing July 1, 2023 and running through June 30, 2025. Motion passed by unanimous roll call vote.

COMMENTS ON COMMITTEE REPORTS OR AGENDA ITEMS: None.

RESOLUTION NO. R-40-2023

RESOLUTION ADOPTING THE BUDGET OF THE CITY OF TROY, OHIO FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2024 AND DECLARING AN EMERGENCY

This Resolution was given first title reading.

Mr. Phillips moved for suspension of rules requiring three readings. Motion seconded by Mr. Severt.

Yes: Severt, Schilling, Pierce, Phillips, Marshall, Rozell, Twiss and Snee.

No: None.

Mr. Twiss moved for adoption. Motion seconded by Mr. Phillips.

Yes: Schilling, Pierce, Phillips, Marshall, Rozell, Twiss, Snee and Severt.

No: None.

RESOLUTION ADOPTED

RESOLUTION NO. R-41-2023

RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE AND SAFETY OF THE CITY OF TROY, OHIO TO ADVERTISE FOR BIDS AND ENTER INTO A CONTRACT FOR THE POLICE DEPARTMENT FLUID COOLER AND PUMP REPLACEMENT PROJECT

This Resolution was given first title reading.

Mr. Phillips moved for suspension of rules requiring three readings. Motion seconded by Mr. Pierce.

Yes: Pierce, Phillips, Marshall, Rozell, Twiss, Snee, Severt and Schilling.

No: None.

Mr. Twiss moved for adoption. Motion seconded by Mr. Schilling.

Yes: Phillips, Marshall, Rozell, Twiss, Snee, Severt, Schilling and Pierce.

No: None.

RESOLUTION ADOPTED

ORDINANCE NO. O-28-2023

AN AMENDED ORDINANCE CHANGING THE ZONING OF 58.093 ACRES OF INLOT 11550, PARCEL NUMBER D08-107388 IN THE CITY OF TROY, OHIO, FROM THE MIAMI COUNTY ZONING OF A-2, GENERAL AGRICULTURE, TO THE CITY ZONING OF A-R, AGRICULTURAL- RESIDENTIAL DISTRICT

This Ordinance was given first title reading on May 15, 2023.

Given Public Hearing and second title reading on June 5, 2023.

Given third title reading and amended on June 19, 2023

Given third title reading as amended Ordinance.

Mr. Severt moved for adoption. Motion seconded by Mr. Phillips

Yes: Marshall, Rozell, Twiss, Snee, Severt, Phillips, Schilling and Pierce.

No: None.

ORDINANCE ADOPTED

ORDINANCE NO. O-37-2023

AN ORDINANCE CHANGING THE ZONING OF PARCEL NUMBERS D08-105875 AND D08-251110 IN THE CITY OF TROY, OHIO FROM M-2, LIGHT INDUSTRIAL DISTRICT, TO B-2, GENERAL BUSINESS DISTRICT

This Ordinance was given first title reading on June 19, 2023.

Given Public Hearing and second title reading.

ORDINANCE NO. O-38-2023

ORDINANCE ACCEPTING THE FINAL RECORD PLAN OF THE TROY STORAGE INNS OF AMERICA PLANNED DEVELOPMENT – INDUSTRIAL (PD-I)

This Ordinance was given first title reading.

Mr. Phillips moved for suspension of rules requiring three readings. Motion seconded by Mr. Twiss.

Yes: Rozell, Twiss, Snee, Severt, Phillips, Schilling, Pierce and Marshall.

No: None.

Mr. Twiss moved for adoption. Motion seconded by Mr. Pierce.

Yes: Twiss, Snee, Severt, Phillips, Schilling, Pierce, Marshall and Rozell.

No: None.

ORDINANCE ADOPTED

ORDINANCE NO. O-39-2023

ORDINANCE AUTHORIZING THE USE OF PUBLIC AREAS FOR THE 2023 TOUR DE DONUT EVENT, NOTWITHSTANDING CONFLICTING PROVISIONS OF THE TROY CODIFIED ORDINANCES, AND AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE AND SAFETY OF THE CITY OF TROY, OHIO TO ENTER INTO AN AGREEMENT WITH CAN'T STOP RUNNING CO THEREFOR, AND DECLARING AN EMERGENCY

This Ordinance was given first title reading.

Mr. Rozell moved for suspension of rules requiring three readings. Motion seconded by Mr. Schilling.

Yes: Snee, Severt, Phillips, Schilling, Pierce, Marshall, Rozell and Twiss.

No: None.

Mr. Twiss moved for adoption. Motion seconded by Mr. Rozell.

Yes: Severt, Schilling, Pierce, Phillips, Marshall, Rozell, Twiss and Snee.

No: None.

ORDINANCE ADOPTED

ORDINANCE NO. O-40-2023

ORDINANCE AUTHORIZING THE USE OF PUBLIC AREAS FOR THE 2023 DONUT JAM EVENT, NOTWITHSTANDING CONFLICTING PROVISIONS OF THE TROY CODIFIED ORDINANCES, AND FURTHER APPROVING THE USE OF AN AREA FOR THE SALE OF BEER AND WINE, SUBJECT TO THE ISSUANCE OF PROPER PERMITS BY THE STATE OF OHIO AND PROCUREMENT OF LIQUOR LIABILITY INSURANCE AND AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE AND SAFETY OF THE CITY OF TROY, OHIO TO ENTER INTO AN AGREEMENT WITH TROY MAIN STREET, INC. THEREFOR, AND DECLARING AN EMERGENCY

This Ordinance was given first title reading.

Mr. Schilling moved for suspension of rules requiring three readings. Motion seconded by Mr. Phillips.

Yes: Schilling, Pierce, Phillips, Marshall, Rozell, Twiss, Snee and Severt.

No: Twiss.

Mr. Phillips moved for adoption. Motion seconded by Mrs. Snee.

Yes: Pierce, Phillips, Marshall, Rozell, Snee, Severt and Schilling.

No: Twiss.

ORDINANCE ADOPTED

EXECUTIVE SESSION. A motion was made by Mr. Phillips, seconded by Mrs. Snee, that Council recess into executive session to confer with legal counsel concerning disputes that are the subject of pending or imminent court action. Motion approved by unanimous roll call vote.

Council recessed into executive session at 7:24 p.m.

A motion was made by Mr. Phillips, seconded by Mr. Schilling, that Council return to regular session. Motion passed by unanimous roll call vote. At 8:36 p.m. Council returned to regular session.

COMMENTS OF MEMBERS OF COUNCIL:

Mr. Rozell, on behalf of Braid Funeral Home, stated their appreciation for no parking signs that the City placed at churches in the downtown are for recent funerals.

AUDIENCE COMMENTS:

Brad Boehringer, 105 Crestwood, Dr., regarding Ordinance No. O-37-2023, commented that he believes Troy is getting an influx of gas stations and convenience stores and asked if Council will establish a moratorium on gas stations and convenience stores.

Comments regarding the Tavern Building, 112-116 W. Main Street:

-Brad Boehringer, 105 Crestwood Dr., Troy – asked if there was information on June 16 as to the unsafe conditions of the building, why the City waited eight days to close part of W. Main St.; questioned why the City continues to use Mr. England as the Chief Building Official; and asked if the Director of Public Service & Safety will be permitted to retire/rehire.

-Ben Sutherly, President of the Troy Historic Preservation Alliance (THPA), 110 ½ W. Main St., Troy – passed around a book about the Randolph Freed People, commenting that the Tavern Building is where those persons were

required to register, their story is of national consequence and history; Troy Community Works is exploring being part of the building solution; he read comments of a person who had returned from Troy after many years and was happy to see the historic preservation of the community; he suggested that it is not too late to collaborate on creating a repair option for the building and getting W. Main St. open.

-Courtney Hart, 2277 US Rte. 40, Tipp City, owner of Ivy Court – stated that her family has sacrificed to open a business in downtown and how the decisions regarding the building and closing the street have negatively impacted her business and the businesses of others; that the road was closed without notice, communication to, or consideration of the businesses; lack of communication continues; and the decisions of those in the City are punishing small businesses.

-Dave Denoyer, 535 Peters Ave. – closing W. Main St. is punishing small businesses, taking away customers and revenue.

-Jody Snyder, 2295 Murphy Lane East, Troy – asked Council to reverse the decision to close W. Main St.; believes the closing of the road was an emotional act of the Mayor and was not well thought out with an end plan; local small businesses support youth and community activities and the businesses should have been given notice of the road being closed and not be punished.

-Mr. Titterington commented that there is much misinformation regarding the decisions that led to the road closing; reports from June 16 changed the status of the Tavern Building with an inspection that advised there was no reason to see anything but dire with the building; on June 16 the CBO, Fire Chief and two Assistant Fire Chiefs inspected areas of the building not previously inspected, there was a structural engineer's report that the building cannot be repaired and is unsafe, followed by a court decision late June 23 that the building cannot be demolished and the owner required to repair the north wall by July 7, with the orders of the CBO and Fire Chief, supported by the State Fire Marshal; and as soon as possible on June 24, with mobilizing of barricades, the road was closed to protect pedestrians and drivers. The City issued information social media. While the positioning of barricades is being monitored and some parking spaces cautiously opened, the roadway will not be opened until the CBO and structural engineer determine it is safe to do so. The City cannot control the legal process. With a document that says the building is a hazard, there is an obligation to protect public safety.

-Martin Stewart, 1486 Cheshire Rd., Troy – stated his opinion that the City thought the court would rule in favor of the owner demolishing the building and when that did not happen, the closing action was taken; it is understood that the City had barricades prepared on June 23 for the closing.

-Amy Shannon, 1560 Windridge Place, Apt. D, Troy – the Mayor's Facebook postings read that the City was working on the street closure by June 23, but paused and determined the morning of the 24th to continue with the closure; there are two different stories being told; the building should have been dealt with when initially damaged 3.5 years ago by a tornado; the City would have forced a home owner to make repairs but not this building owner; and the Planning Commission should be overhauled by not following its rules.

-Mr. Titterington commented that 3.5 years ago the City initiated property maintenance orders but was advised to halt as the property owner was taking some repair steps; this was followed by years of litigation; there is one same story; only Type 3 barricades (to close the road) were loaded; bike rack type barricades had to be prepared to frame the sidewalk; there was effort to try to keep sidewalks open; there was much work to be done on Saturday (24th); the Planning Commission's action was not called into question or was part of the law suit; it was the BZA action that was questioned.

Derek Potts, 6360 Newberry-Washington Rd., Piqua – he supports the local businesses and history, but it is not always economically feasible to take a path to rebuild all buildings.

-Chris Davis, 412 Ellis St., Troy – if the building is so dangerous, why did the City not take the building and tear it down; the property owner needs to be held responsible.

-George Flory, 236 N. Elm St., Troy – moved to Troy 14 years ago and could not believe how beautiful and historically preserved the downtown is; tearing down the building will leave a hole; he showed a rendition of the street without the building; in Europe, buildings older than this one are repurposed; there are ways to reattach the north wall; citizens are suspicious of decisions that have been made; and the elected officials are civil servants who are to serve the people.

-Mr. Titterington commented that there may be ways to fix the wall; however, six different structural engineers have different degrees of opinions about the safety and reparability of the building; when the City initially contemplated taking possession of the building there was hope it was a rather simple \$31,000 fix; after finding attic trusses fractured it is another issue; the City has to depend on the experts and those experts are the CBO, Fire Chief, and structural engineer; the rendition of the parking lot/empty space between buildings (if demolished) was an idea abandoned three years ago; and when matters regarding the building went to court, the owner's plan was not a parking lot but a replacement building.

-Dawna Elko, 2348 Fleet Road, Troy – she had been the listing agent for the building and there had been interest in it; no one has now been allowed in it for three years; citizens have lost belief in the leadership of the City; and the City brought in Patrick Hansford to review the building.

-Mr. Titterington stated he/the City did not ask Mr. Hansford for an opinion on the building.

-Mr. Lutz asked if Troy Main Street was involved in information about the closing and used to help provide information to the businesses. Mr. Titterington commented that the Troy Main Street Director was not initially contacted, that has been corrected, and is part any information going forward, and the Troy Main Street Director was part of a meeting held with the owner of Ivy Court.

-Courtney Hart, 2277 US Rte. 40, Tipp City, owner of Ivy Court – information has only been provided by her landlord; she is concerned about safety of people coming into her store; there is not clear, concise, or accurate information provided on a consistent basis.

There being no further business, Council adjourned at 9:45 p.m.

Clerk of Council

President of Council