

Unified Government of Athens-Clarke County, Georgia  
Mayor and Commission  
Special Called Session  
Tuesday, October 3, 2023  
5:08 p.m.  
City Hall

The Unified Government of Athens-Clarke County, Georgia met this date in a special called session. Present: Mayor Girtz; Commissioners Davenport, Link, Wright, Fisher, Houle, Culpepper, Myers, and Thornton. Absent: Commissioners Taylor and Hamby.

The purpose of the meeting was to enter into executive session for an attorney/client conference to discuss threatened or pending litigation.

A motion was made by Commissioner Davenport, seconded by Commissioner Myers, to enter into executive session. The motion passed by unanimous vote.

A motion was made by Commissioner Wright, seconded by Commissioner Fisher, to adjourn. The motion passed by unanimous vote.

The meeting adjourned at 5:10 p.m.

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Clerk of Commission

Unified Government of Athens-Clarke County, Georgia  
Mayor and Commission  
Tuesday, October 3, 2023  
6:00 p.m.  
City Hall

The Unified Government of Athens-Clarke County, Georgia met this date in regular monthly session. Present: Mayor Girtz; Commissioners Davenport, Link, Taylor, Wright, Fisher, Houle, Culpepper, Myers, Thornton, and Hamby. No one was absent.

A motion was made Commissioner Myers, seconded by Commissioner Hamby, to reconsider action of Tuesday, September 5, 2023 with reference to solar photovoltaic systems at the Athens-Clarke County Library. The motion passed by unanimous vote.

A motion was made by Commissioner Houle, seconded by Commissioner Thornton, to approve Minutes of Tuesday August 1; Tuesday, August 15; and Tuesday, August 29, 2023; and non-voting meetings of Tuesday, August 8; Thursday, August 10; Tuesday, August 15; Thursday, August 17; and Friday, August 18, 2023. The motion passed by unanimous vote.

#### Old business – Consent

#### Resident input

There was none.

A motion was made by Commissioner Wright, seconded by Commissioner Thornton, to consent to action on the following 10 items. The motion passed by unanimous vote.

1. ADOPT: The following ordinance (#23-10-72) which was presented by title only regarding Public Safety Civilian Oversight Board member vacancies as per agenda report revised September 25, 2023, and authorize the Mayor and appropriate staff to execute all necessary documents.

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA, WITH RESPECT TO THE **PUBLIC SAFETY CIVILIAN OVERSIGHT BOARD**; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia, hereby ordains as follows:

SECTION 1. Section 3-18-11 of the Code of Athens-Clarke County, Georgia, entitled “*Vacancies*,” is hereby amended by replacing the words “within sixty days to fulfill the remainder of the term” with the words “as per the regularly established process for similar appointment to any Athens-Clarke County boards, authorities, and/or commissions, as administered by the Clerk of Commission. The process for appointment will align with the earliest possible cycle of Mayor & Commission activity, acknowledging time is of the essence,” so that it now reads as follows:

“Sec. 3-18-11. - Vacancies.

Any membership vacancies created on the Public Safety Civilian Oversight Board for any reason whatsoever shall be filled by the Mayor and Commission as per the regularly established process for similar appointment to any Athens-Clarke County boards, authorities, and/or commissions, as administered by the Clerk of Commission. The process for appointment will align with the earliest possible cycle of Mayor & Commission activity, acknowledging time is of the essence.”

SECTION 2. Should any provision, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, paragraphs, sentences, or words of this Ordinance as hereby issued shall remain in full force and effect. All Ordinances or parts of Ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed or set aside.

SECTION 3. The Clerk of Commission, in consultation with the County Attorney, shall have the power to correct scrivener’s errors.

2.
  - a) ADOPT: The following ordinance (#23-10-73) which was presented by title only to accept FHWA grant funding in the amount of \$1,000,000, as shown in Attachment #2 of agenda report dated September 5, 2023;
  - b) Accept the Safe Streets and Roads for All Action Planning Grant from the Federal Highway Administration (FHWA) in the amount of \$1,000,000 to fund a Safety Action Plan;
  - c) Ratify the execution of the Memorandum of Agreement with Federal Highway Administration on the Safe Streets and Roads for All (Attachment #1);
  - d) Authorize the Mayor and appropriate ACCGOV staff to execute all related contracts and documents.

**AN ORDINANCE TO AMEND THE FY2024 ANNUAL OPERATING AND CAPITAL BUDGET FOR ATHENS-CLARKE COUNTY, GEORGIA SO AS TO PROVIDE GRANT FUNDING, IF AWARDED, TO THE TRANSPORTATION & PUBLIC WORKS DEPARTMENT FROM THE FEDERAL HIGHWAY ADMINISTRATION (FHWA) TO PROVIDE FUNDING FOR A SAFETY ACTION PLAN; AND FOR OTHER PURPOSES.**

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. The Commission of Athens-Clarke County, Georgia desires to amend the Grants Special Revenue Fund to provide grant funding, if awarded, to the Transportation & Public Works Department from the Federal Highway Administration (FHWA) to provide funding for a Safety Action Plan; and for other purposes.

Said Operating and Capital budget is hereby amended as follows:

**Grants Special Revenue Fund:**

REVENUES:

Increase:  
FHWA Safe Streets and Roads for All Action Plan Grant               \$1,000,000

Expenditures:  
Increase:  
Transportation & Public Works Department:  
Operating Expenses   \$1,000,000

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

3.       a) ADOPT: The following ordinance (#23-10-74) which was presented by title only for HUD FY23 Pathway to Removing Obstacles to Housing (PRO Homes) grant application as per agenda report revised September 26, 2023;
- b) Authorize the submission of a grant application for up to \$10,000,000 in HUD FY23 PRO Housing Grant funds, and acceptance of grant funds, if awarded; and
- c) Authorize the Mayor and appropriate ACCGOV staff to execute all related contracts and documents.

**AN ORDINANCE TO AMEND THE FY2024 ANNUAL OPERATING AND CAPITAL BUDGET FOR ATHENS-CLARKE COUNTY, GEORGIA SO AS TO PROVIDE GRANT FUNDING, IF AWARDED, TO THE HOUSING AND COMMUNITY DEVELOPMENT (HCD) DEPARTMENT FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FY23 PATHWAYS TO REMOVING OBSTACLES (PRO) TO HOUSING GRANT IN ORDER TO PROVIDE FUNDING FOR IDENTIFYING AND OVERCOMING LOCAL BARRIERS TO AFFORDABLE HOUSING PRODUCTION AND PRESERVATION; AND FOR OTHER PURPOSES.**

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1.     The Commission of Athens-Clarke County, Georgia desires to amend the Grants Special Revenue Fund to provide grant funding, if awarded, to the Housing and Community Development (HCD) Department from the U.S. Department of Housing and Urban Development (HUD) FY23 Pathways to Removing Obstacles (PRO) to housing Grant in order to provide funding for identifying and overcoming local barriers to affordable housing production and preservation; and for other purposes.

Said Operating and Capital budget is hereby amended as follows:

**Grants Special Revenue Fund:**

REVENUES:  
Increase:  
HUD Pathways to Removing Obstacles (PRO) Grant   \$10,000,000

Expenditures:  
Increase:  
Housing & Community Development (HCD) Department  
Operating Expenses   \$10,000,000

SECTION 2.     All ordinances or parts of ordinances in conflict herewith are hereby repealed.

4.       ADOPT: The following resolution for fiscal Year 2025 Federal Transit Administration (FTA) 5307 operating assistance grant application authorization, Attachment #1 of agenda report dated September 5, 2023 to the Georgia Department of Transportation (GDOT) for operating assistance in the amount of \$3,514,548;
- b) Authorize the acceptance of the grant at the currently projected level or alternative level, if awarded; and
- c) Authorize the Mayor and appropriate staff to execute the resulting contract between the Unified Government of Athens-Clarke County (ACCGov) and GDOT.

**RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE DEPARTMENT OF TRANSPORTATION, UNITED STATES OF AMERICA, AND GEORGIA DEPARTMENT OF TRANSPORTATION, FOR A GRANT UNDER TITLE 49 U.S.C., SECTION 5307.**

**WHEREAS**, the Federal Transit Administration and the Georgia Department of Transportation are authorized to make grants to non-urbanized (rural) areas for mass transportation projects; and

**WHEREAS**, the contract for financial assistance will impose certain obligations upon Applicant, including the provision of the local share of project costs; and

**WHEREAS**, it is required by the United States Department of Transportation and the Georgia Department of Transportation in accordance with the provisions of Title VI of the Civil Rights Act of 1964, that in connection with the filing of an application for assistance under the Federal Transit Act, the applicant gives an assurance that it will comply with Title VI of the Civil Rights Act of 1964 and the United States Department of Transportation requirements thereunder; and

**WHEREAS**, it is the goal of the Applicant that Minority Business Enterprise (Disadvantaged Business Enterprise and Women's Business Enterprise) be utilized to the fullest extent possible in connection with this project, and that definitive procedures shall be established and administered to ensure that minority business shall have the maximum feasible opportunity to compete for contracts and purchase orders when procuring construction contracts, supplies, equipment contracts, or consultant and other services.

NOW THEREFORE, BE IT RESOLVED BY Unified Government of Athens-Clarke County hereinafter referred to as the "Applicant",

1. That the Designated Official Kelly Girtz, Mayor, hereinafter referred to as the "Official, is authorized to execute and file an application on behalf of Unified Government of Athens-Clarke County with the Georgia Department of Transportation, to aid in the purchase of bus transit vehicles and/or the planning, development, and construction of bus transit-related facilities pursuant to Section 5307 of the Federal Transit Act.
  2. That the Official is authorized to execute and file such application and assurances, or any other document required by the U.S. Department of Transportation and the Georgia Department of Transportation effectuating the purpose of Title VI of the Civil Rights Act of 1964.
  3. That the Official is authorized to execute and file all other standard assurances, or any other document required by the Georgia Department of Transportation or the U.S. Department of Transportation in connection with the application for public transportation assistance.
  4. That the Official is authorized to execute grant contract agreements on behalf of the Applicant with the Georgia Department of Transportation.
  5. That the Official is authorized to set forth and execute Minority Business Enterprise, DBE (Disadvantaged Business Enterprise) and WBE (Women Business Enterprise) policies and procedures in connection with the project's procurement needs as applicable.
  6. That the applicant while making application to or receiving grants from the Federal Transit Administration will comply with FTA Circular 9030.1E, FTA Certifications and Assurances for Federal Assistance 2023 as listed in this grant application and General Operating Guidelines as illustrated in the Georgia State Management Plan.
  7. That the applicant has or will have available in the General Fund the required non-federal funds to meet local share requirements for this grant application.
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5. APPROVE: Participation in the 2023-2025 Make Ready Infrastructure Program offered by Georgia Power as per agenda report dated September 1, 2023;
    - a) Approve the list of six Tier I sites as identified in History #18, and previous applications (History #18) for the 2023 – 2025 Make Ready Infrastructure Program to receive up to \$200,000 in in-kind electric vehicle infrastructure at each location;
    - b) Approve staff to submit additional 2023 – 2025 Make Ready Infrastructure Program applications for up to eight Tier II sites as identified in Facts and Issues #10, as the demand for electric vehicle charging infrastructure increases at these locations;
    - c) Direct any related rebates and credits back to their original funding source; and,
    - d) Authorize the Mayor and appropriate staff to execute all related documents.
  6. APPROVE: Replacement of sewer main @ SR 10 Loop GDOT Bridge Replacement Project (PI#0013715) – Change order as per agenda report dated August 30, 2023.

- a) Authorize an additive change order in the amount of \$183,385 to the Contract Item Agreement for the SR 10 Loop GDOT Bridge Replacement Project;
  - b) Authorize a net change to the project appropriation of \$201,561; and
  - c) Authorize the Mayor and appropriate staff to execute all related documents.
  
- 7. APPROVE: Standby emergency sewer bypass pumping equipment @ SR 10 Loop GDOT Bridge Replacement Project (PI#0013715) as per agenda report dated August 25, 2023.
  - a) Authorize an appropriation in the amount of \$839,108 for Standby Emergency Sewer Bypass Pumping Equipment at the SR 10 Loop GDOT Bridge Replacement Project (PI#0013715);
  - b) Award a unit price contract to the apparent low bidder, United Rentals Fluid Solutions, for \$762,825;
  - c) Authorize staff to approve project change orders that do not collectively exceed the overall appropriation of \$839,108; and
  - d) Authorize the Mayor and appropriate staff to execute all related documents.
  
- 8. APPROVE: Landfill compactor rebuild as per agenda report revised September 21, 2023.
  - a) Award a purchase contract to C&C Manufacturing, LLC (certified AI-Jon manufacturer) in the amount of \$440,000 to rebuild the 2008 AI-Jon Compactor for use by the Solid Waste Department's Landfill Division;
  - b) Approve retaining the 2008 AI-Jon Compactor to rebuild instead of sending it to surplus; and
  - c) Authorize the Mayor and staff to execute all related contracts and documents.
  
- 9. APPROVE: SPLOST 2020 Project 03, Classic Center Arena – Furniture and interiors contract award as per agenda report dated September 6, 2023.
  - a) Approve a designation of Empire Office, Inc as the highest scoring firm and award of the Furniture and Interiors Services contract to Empire Office, Inc for SPLOST 2020 Project 03 Classic Center Arena;
  - b) Authorize the Manager, staff, and Classic Center representatives to negotiate with Empire Office, Inc to develop a final Scope of Services and Fees for a not-to-exceed contract amount of \$455,000; and
  - c) Authorize the Mayor and appropriate staff to execute all related documents.
  
- 10. APPROVE: SPLOST 2020, Project 24 – Animal Shelter Improvements – Proposed schematic as per agenda report revised September 28, 2023.
  - a) Approve the Proposed Schematic Design for SPLOST 2020, Project 24 – Animal Shelter Improvements, as generally shown in Attachment #1;
  - b) Authorize the Manager to complete the construction documents and to advance the project to the bid and award in accordance with the approved schematic design; and
  - c) Authorize the Mayor and appropriate staff to execute all related documents.

A public hearing was conducted on the abandonment and quitclaim part of North Lumpkin Street (from East Strong Street to North Hull Street) and part of East Strong Street (from North Lumpkin Street to North Hull Street) to Athens Housing Authority, and the adoption of intergovernmental agreement with the Athens Housing Authority.

### Resident input

1. Buck Bacon – supported.

A motion was made by Commissioner Houle, seconded by Commissioner Thornton, as per agenda report revised September 25, 2023.

- a) Approve the abandonment of North Lumpkin Street right of way, measuring 0.48 acres, from East Strong Street to North Hull Street (Attachment #1);
- b) Approve the quitclaim of North Lumpkin Street, from East Strong Street to North Hull Street measuring 0.48 acres, to Athens Housing Authority;
- c) Approve the quitclaim of East Strong Street, from North Lumpkin to North Hull Street an unopened right of way measuring 0.35 acres, to Athens Housing Authority (Attachment #1);
- d) Approve an Intergovernmental Agreement with the Athens Housing Authority (AHA) whereby ACCGov agrees to quitclaim the above-described parts of North Lumpkin Street and East Strong Street in return for AHA to dedicate to ACCGov a grid of newly constructed streets within the Bethel Midtown Village;
- e) Adopt the two following resolutions; and
- f) Authorize the Mayor and appropriate staff to execute all related documents.

The motion passed by unanimous vote.

### **A RESOLUTION OF THE COMMISSION OF ATHENS-CLARKE COUNTY, GEORGIA, AUTHORIZING THE CLOSING, VACATING, AND ABANDONMENT OF A PORTION OF NORTH LUMPKIN STREET AND ANY ASSOCIATED INFRASTRUCTURE**

WHEREAS, the Mayor and Commission of Athens-Clarke County, Georgia, after notice and public hearing on October 3, 2023, have determined that removal of the public road and any associated infrastructure in Athens-Clarke County, Georgia, known as North Lumpkin Street, from Strong Street to North Hull Street, as more fully shown on the plat attached hereto as Exhibit A and incorporated herein by reference, is in the best public interest and therefore should be formally closed, vacated, and abandoned; and

WHEREAS, the Unified Government of Athens-Clarke County has complied with all requirements of state law and the Charter of the Unified Government of Athens-Clarke County concerning the abandonment of roads that are part of a county road system; and

WHEREAS, the Mayor and Commission of Athens-Clarke County, Georgia, has determined that said abandoned roads and associated infrastructure shall be disposed of pursuant to the requirements of Sections 32-7-2 and 32-7-4 of the Official Code of Georgia Annotated and Section 7-502 of the Charter of the Unified Government of Athens-Clarke County, Georgia; and

WHEREAS, it is the understanding that of the Mayor and Commission of Athens-Clarke County, Georgia, that said abandonment will be in the public interest, as said abandoned public road will be used as part of the North Athens Downtown Development Project; and

WHEREAS, it is the understanding of the Mayor and Commission of Athens-Clarke County, Georgia, that the Athens Housing Authority, in its development of the North Athens Downtown Development Project, intends to realign North Lumpkin Street, Strong Street, and Madison Avenue, and to dedicate such roadways to the Unified Government of Athens-Clarke County, Georgia, which the Mayor and Commission of Athens-Clarke County, Georgia, finds to be in the public interest;

NOW THEREFORE, the Commission of Athens-Clarke County, Georgia, hereby resolves as follows:

1. North Lumpkin Street and any associated infrastructure as described herein above and more fully shown on the attached plat are hereby closed, vacated, and abandoned. Hereafter, that portion of North Lumpkin Street and any associated infrastructure shall no longer be part of the county road system, and the rights of the public in and to this road and associated infrastructure as a public road shall cease.
2. The Mayor and the Clerk of Commission are hereby authorized to execute a quitclaim deed conveying said portion of North Lumpkin Street and any associated infrastructure to the abutting property owner, the Athens Housing Authority.

**A RESOLUTION OF THE COMMISSION OF ATHENS-CLARKE COUNTY, GEORGIA,  
AUTHORIZING THE CLOSING, VACATING, AND ABANDONMENT OF A PORTION OF  
UNOPENED RIGHT-OF-WAY FOR EAST STRONG STREET AND ANY ASSOCIATED  
INFRASTRUCTURE**

WHEREAS, the Mayor and Commission of Athens-Clarke County, Georgia, after notice and public hearing on October 3, 2023, have determined that removal of the unopened right-of-way in Athens-Clarke County, Georgia, designated as part of East Strong Street, from North Lumpkin Street to North Hull Street, as more fully shown on the plat attached hereto as Exhibit A and incorporated herein by reference, is in the best public interest and therefore should be formally closed, vacated, and abandoned; and

WHEREAS, the Unified Government of Athens-Clarke County has provided adequate notice concerning the proposed abandonment; and

WHEREAS, the Mayor and Commission of Athens-Clarke County, Georgia, has determined that said abandoned right-of-way shall be disposed of pursuant to the requirements of state law and Section 7-502 of the Charter of the Unified Government of Athens-Clarke County, Georgia; and

WHEREAS, it is the understanding that of the Mayor and Commission of Athens-Clarke County, Georgia, that said abandonment will be in the public interest, as said abandoned unopened right-of-way will be used as part of the North Athens Downtown Development Project; and

WHEREAS, it is the understanding of the Mayor and Commission of Athens-Clarke County, Georgia, that the Athens Housing Authority, in its development of the North Athens Downtown Development Project, intends to realign North Lumpkin Street, Strong Street, and Madison Avenue, and to dedicate such roadways to the Unified Government of Athens-Clarke County, Georgia, which the Mayor and Commission of Athens-Clarke County, Georgia, finds to be in the public interest;

NOW THEREFORE, the Commission of Athens-Clarke County, Georgia, hereby resolves as follows:

1. The unopened right-of-way for East Strong Street as described herein above and more fully shown on the attached plat is hereby closed, vacated, and abandoned. Hereafter, that unopened portion of East Strong Street and shall not be part of the county road system, and any rights of the public in and to this unopened right-of-way shall cease.
2. The Mayor and the Clerk of Commission are hereby authorized to execute a quitclaim deed conveying said unopened portion of East Strong Street to the abutting property owner, the Athens Housing Authority.

Public hearing and deliberation on recommendations from the Athens-Clarke County Planning Commission

A public hearing was held on request of David Matheny/Armentrout, Matheny, Thurmond PC, owner Prime Properties, Inc., for rezoning from C-G (Commercial General) to RM-3 (Mixed Density Residential) on 0.88 acres known as 575 Macon Highway. Proposed use is multi-family residential. Type II

Planning Commission recommendation: Approval (unanimous)

Resident input

1. Michael McLendon – opposed
2. David Matheny – supported

A motion was made by Commissioner Hamby, seconded by Commissioner Link, to adopt the following ordinance (#23-10-75) which was presented by title only. The motion passed by unanimous vote.

**AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA, WITH RESPECT TO REZONING A PARCEL OF LAND COMPRISING APPROXIMATELY 0.88 ACRES LOCATED AT 575 MACON HIGHWAY FROM C-G (COMMERCIAL-GENERAL) TO RM-3 (MIXED-DENSITY RESIDENTIAL); AND FOR OTHER PURPOSES.**

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. The map constituting the component part of the Zoning Ordinance of Athens-Clarke County, Georgia, by virtue of and in compliance with Sections 9-3-3 and 9-3-6 thereof, is hereby amended by changing the zoning of a parcel of land, comprising approximately 0.88 acres, located at 575 Macon Highway, Athens, Georgia, from C-G (Commercial-General) to RM-3 (Mixed-Density Residential).

Said parcel is more particularly described according to that certain document entitled "Administrative Subdivision Plat for Showtime Bowl, Inc." dated February 26, 2020, made by Ray N. Woods, Georgia registered land surveyor, and being on file and available for public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia. Said parcel is also known as parcel number 181C1 A002A on the Athens-Clarke County tax maps being on file and available for public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia. The date of this amendment to the Official Zoning Map of Athens-Clarke County as shown by Attachment A shall be noted on said Official Zoning Map in the office of the Clerk of Commission, 301 College Avenue, Athens, Georgia, and duly noted in the minutes of the Commission meeting.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

A public hearing was held on request of Frank Pittman/Pittman & Greer Engineering, owner Walton Georgia LLC c/o Walton Global Holdings LLC, for rezoning from C-G(PD) (Commercial General Planned Development) to C-G (Commercial General) on 7.63 acres known as 4500 Atlanta Highway and 125, 135 and 145 Bedgood Road. Proposed use is commercial automobile dealership. Type II

Planning Commission recommendation: Approval (5-1)

#### Resident input

1. Frank Pittman – supported.

A motion was made by Commissioner Houle, seconded by Commissioner Thornton, to adopt the following ordinance (#23-10-76) which was presented by title only. The motion passed by unanimous vote.

**AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA, WITH RESPECT TO REZONING FOUR PARCELS OF LAND (OR PORTIONS THEREOF) COMPRISING APPROXIMATELY 7.63 ACRES IN TOTAL LOCATED AT 4500 ATLANTA HIGHWAY AND 125, 135, AND 145 BEDGOOD ROAD FROM C-G (PD) (COMMERCIAL-GENERAL, PLANNED DEVELOPMENT) TO C-G (COMMERCIAL-GENERAL); AND FOR OTHER PURPOSES.**

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. The map constituting the component part of the Zoning Ordinance of Athens-Clarke County, Georgia, by virtue of and in compliance with Sections 9-3-3 and 9-3-6 thereof, is hereby amended by changing the zoning of four parcels of land (or portions thereof), comprising approximately 7.63 acres in total, located at 4500 Atlanta Highway, Bogart, Georgia (portion of the larger 207.90-acre parcel), and 125, 135, and 145 Bedgood Road, Bogart, Georgia, from C-G (PD) (Commercial-General, Planned Development) to C-G (Commercial-General).

The subject parcels (or portions thereof) are more particularly described according to that certain document labeled in the lower-right hand corner as "Composite Plat," Project No. 2023-045, dated July 26, 2023, made by William J. Greer, Georgia registered landscape architect, and being on file and available for public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia. Said parcels are also known as parcel numbers 044 025 (4500 Atlanta Highway), 044B 029 (125 Bedgood Road), 044B 030 (135 Bedgood Road), and 044B 0031 (145 Bedgood Road) on the Athens-Clarke County tax maps being on file and available for public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia. The date of this amendment to the Official Zoning Map of Athens-Clarke County as shown by Attachment A shall be noted on said Official Zoning Map in the office of the Clerk of Commission, 301 College Avenue, Athens, Georgia, and duly noted in the minutes of the Commission meeting.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

A public hearing was held on request of Michael B. Thurmond/Armentrout, Matheny, Thurmond PC, owner CJB Athens LLC, for rezoning from RM-1 (Mixed-Density Residential) to RM-2 Mixed-Density



Residential) on 6.11 acres known as 160 Talley Crossing and 1049 Hull Road. Proposed use is multi-family residential. Type II

Planning Commission recommendation: Approval (unanimous)

#### Resident input

1. Brett Thurmond – supported.

A motion was made by Commissioner Thornton, seconded by Commissioner Link, to adopt the following ordinance (#23-10-77) which was presented by title only. The motion passed by unanimous vote.

**AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA, WITH RESPECT TO REZONING A PARCEL OF LAND COMPRISING APPROXIMATELY 6.11 ACRES LOCATED AT 160 TALLEY CROSSING AND 1049 HULL ROAD FROM RM-1 (MIXED-DENSITY RESIDENTIAL) TO RM-2 (MIXED-DENSITY RESIDENTIAL); AND FOR OTHER PURPOSES.**

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. The map constituting the component part of the Zoning Ordinance of Athens-Clarke County, Georgia, by virtue of and in compliance with Sections 9-3-3 and 9-3-6 thereof, is hereby amended by changing the zoning of a parcel of land, comprising approximately 6.11 acres, located at 160 Talley Crossing & 1049 Hull Road, Athens, Georgia, from RM-1 (Mixed-Density Residential) to RM-2 (Mixed-Density Residential).

Said parcel is more particularly described as “Tract B,” in that certain document entitled “Subdivide Survey For: CJB Athens, LLC” last revised as of July 5, 2023, made by Chris M. Patton, Georgia registered land surveyor, and being on file and available for public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia. Said parcel is also known as parcel number 213 018P on the Athens-Clarke County tax maps being on file and available for public inspection in the office of the Athens-Clarke County Planning Department, 120 West Dougherty Street, Athens, Georgia. The date of this amendment to the Official Zoning Map of Athens-Clarke County as shown by Attachment A shall be noted on said Official Zoning Map in the office of the Clerk of Commission, 301 College Avenue, Athens, Georgia, and duly noted in the minutes of the Commission meeting.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

#### Old business -Discussion

#### Resident input

The following public input was received on Affordable Housing Strategy and/or Plan to Reduce and Prevent Homelessness.

1. Bruce Menke - supported
2. Fred Smith - supported
3. David Lyle – supported
4. Ivy Gray – supported
5. Virgil Yarbrough –concern for seniors
6. Ricke Willis – supported
7. Tim Denson – concerns on affordable housing
8. Madison Sanders – supported
9. Dylan Woolsey – supported
10. Jacob Hays – supported
11. Hampton Barrineau – supported
12. Bran Dean – supported
13. Elleni Samaltanos – feels homeless deserve a building
14. Joseph Waryll – opposed
15. Sarah Gehring – in favor of CDO Thornton, Fisher, Link and Myers
16. Joe Lavine – supported
17. Aaron Joslin – supported
18. Robert Gorman – supported
19. Brendan Dula – supported
20. Julie Jaeger – supported

21. Blake Tanner – supported
22. Dan Laurence – supported
23. Catherine Goodrum – supported
24. Rev. Laura Patterson – supported
25. Elise Stangle – supported
26. Brent Temple – supported
27. Lisa Walker – supports homeless
28. Laura McCoy – supported
29. Teresa Vowers – supported
30. Jason Jacobs – concerned about consequences of what could go wrong w/ homeless plan
31. Geraldine Brewer (Big Mama) – supported
32. Gordon Rhoden – concern with homelessness
33. Irene Reynoldfort – spoke in support of Charles Hardy
34. Richard Dean Wingfield – supported
35. Joan Rhoden – opposed
36. Mara Zuniga – spoke about affordable housing program
37. Kathy Kenny – supported
38. John Morris – supported
39. Linda Karatke – spoke about affordable healthcare v/s affordable housing
40. Karen Gerow - supported
41. Sarah Peterson – concerned with mental health
42. Chris Blount – concerned with being a sanctuary city/service hub
43. Charles Hardy – supported

The following public input was received on other issues.

1. Valarie Bell -supported solar photovoltaic system for library
2. Lisa Millott – supported pet registration
3. Michael McClendon – questioned legislative process

A motion was made by Commissioner Link, seconded by Commissioner Wright, to adopt the following ordinance (#23-10-78) related to ownership requirements for alcohol license applicants (Section 6-3-1 and 6-3-3 (c), (d), and (e) as per Attachment #1 of agenda report dated August 31, 2023 and authorize the Mayor and appropriate staff to execute all related documents. The motion passed by unanimous vote.

## AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA WITH RESPECT TO **ALCOHOLIC BEVERAGES**; AND FOR OTHER PURPOSES.

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. Section 6-3-1 entitled “*Definitions*” of the Code of Athens-Clarke County, is hereby amended by adding a definition for the term “substantial control” as follows:

“*Substantial control*: When used in reference to a business entity, such as a corporation, partnership, joint venture, or limited liability company (LLC), means any of the following:

- (a) an individual person who possesses or controls at least twenty-five percent of the equity or ownership interest in the business entity;
- (b) an individual person who possesses or controls any equity or ownership interest in the business entity and who also serves as a managing partner, managing member, chief executive officer, chief operating officer, president, vice-president, or similar executive-level position for the entity;
- (c) an individual person who possesses or controls any equity or ownership interest in a business entity and who also serves as a voting member of the business entity’s board of directors or an equivalent governing body; or
- (d) an individual person who possesses or controls at least twenty-five percent of the voting shares, voting units, voting partnership or membership interests, or similar voting rights in a business entity.”

SECTION 2. Section 6-3-3 entitled “*Same—Application procedure*” of the Code of Athens-Clarke County, subsection (c) thereof entitled “*Entities—Ownership*” is hereby amended by deleting the first clause of the first sentence of subsection (c) in its entirety and inserting a new clause as follows:

“(c) *Entities—Ownership*. All applicants other than individual persons shall list the names, addresses and percentage of ownership interest of all individual persons who have an ownership interest in such entity and who exercise substantial control over such entity, unless:”

SECTION 3. Section 6-3-3 entitled “*Same—Application procedure*” of the Code of Athens-Clarke County, paragraph (1) of subsection (d) thereof entitled “*Same—Additional data*” is hereby deleted in its entirety and the following new paragraph (1) is inserted in lieu thereof:

“**Section 6-3-3. Same—Application procedure.**

(d) *Same—Additional data.*

(1) *Corporate, partnership, sole proprietors, and limited liability company applications*. All corporate applicants shall list the names and addresses of the officers of the corporation. All sole proprietors shall apply in the name of the sole proprietor. All limited liability applicants shall provide the names and addresses of all members who exercise substantial control over the entity and all managers of the limited liability company. In addition thereto, all applicants, including sole proprietors and partnerships if the sole proprietor or at least one partner is not working full-time in a managerial capacity on the premises, shall name a manager, whose name shall appear as such on the license issued to the corporation. The corporation, partnership, sole proprietor, or limited liability company shall provide the name and address of said manager, who shall be a full-time employee of the corporation, partnership, sole proprietorship, or limited liability company and who shall be the individual who does in fact have regular, managerial and supervisory authority over the business conducted on the licensed premises. In addition, the manager shall be an agent for service for the corporation, partnership, sole proprietorship, or limited liability company in addition to all other methods allowed for serving a corporation or other entity by the laws of Georgia. Any person who has been a manager of a corporation, partnership, sole proprietorship, or limited liability company whose license has been revoked is ineligible to act as manager for any licensee thereafter. A change in ownership shall require a new application if such change in ownership will result in a new individual who was not previously listed on the application and who exercises substantial control over the entity.”

SECTION 4. Section 6-3-3 entitled “*Same-Application procedure*” of the Code of Athens-Clarke County, subsection (e) thereof entitled “*Investigation*” is hereby deleted in its entirety and the following new subsection is inserted in lieu thereof:

“**Section 6-3-3. Same—Application procedure.**

(e) *Investigation*. The Director of Finance or his designated representative shall submit the application after filing to the police department. Each applicant authorizes Athens-Clarke County and its agents to secure from any court, law enforcement agency, or other public agency his criminal history and the criminal history of all individuals required to be listed on the application, including but not limited to sole proprietor, partners, LLC members who exercise substantial control over the entity, corporate officers, corporate stockholders, and managers, and authorizes Athens-Clarke County to use such information in determining whether the license applied for shall be issued. Each applicant waives any right that he would otherwise have to preclude Athens-Clarke County or its agents from obtaining and using such information and each applicant further waives any liability of Athens-Clarke County or its agents for obtaining and using such information, and agrees to indemnify and hold Athens-Clarke County harmless against the claims of any person listed by the applicant on the application and by doing so has authorized Athens-Clarke County to investigate. The police department shall make an arrest and conviction investigation concerning any applicants hereunder and all individuals required to be listed on the application, including but not limited to sole proprietor, partners, LLC members who exercise substantial control over the entity, corporate officers, corporate stockholders, and managers. The police department shall submit the results of the investigation to the Director of Finance or his designated representative within 30 days of submission.”

SECTION 5. Should any provision, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, paragraphs, sentences, or words of this Ordinance as hereby issued shall remain in full force and effect. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6. This Ordinance shall become effective immediately upon its approval by the Mayor or its adoption into law without such approval.

SECTION 7. The Clerk of Commission, in consultation with the County Attorney, shall have the power to correct scrivener’s errors.

A motion was made by Commissioner Wright, seconded by Commissioner Houle, reference 2022 Bridge Investment Program Grant acceptance per agenda report revised September 28, 2023.

- a) Accept the 2022 Bridge Investment Program (BIP) Planning Grant Award from the Federal Highway Administration (FHWA) in the amount of \$648,000;
- b) Authorize the Mayor to execute a Memorandum of Agreement (MOA) with Federal Highway Administration (FHWA) and with the Georgia Department of Transportation (GDOT) on the Bridge Investment Program Planning Grant Project;
- c) Authorize the Mayor to execute Frame of Work Agreement with GDOT and compensate for GDOT's project management fees encumbered by GDOT consultant;
- d) Adopt the following ordinance (#23-10-79) which was presented by title only to accept FHWA 2022 BIP Grant funding in the amount of \$648,000 as shown in Attachment #1; and
- e) Authorize the Mayor and appropriate staff to execute any and all other project related document to facilitate planning and feasibility studies following GDOT Plans Development Process and FHWA guidelines.

The motion passed by unanimous vote.

**AN ORDINANCE TO AMEND THE FY2024 ANNUAL OPERATING AND CAPITAL BUDGET FOR ATHENS-CLARKE COUNTY, GEORGIA SO AS TO PROVIDE GRANT FUNDING, IF AWARDED, TO THE TRANSPORTATION & PUBLIC WORKS DEPARTMENT FROM THE FEDERAL HIGHWAY ADMINISTRATION (FHWA) 2022 BRIDGE INVESTMENT PROGRAM (BIP) PLANNING GRANT TO PROVIDE FUNDING FOR PLANNING, FEASIBILITY ANALYSIS, AND REVENUE FORECASTING; AND FOR OTHER PURPOSES.**

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. The Commission of Athens-Clarke County, Georgia desires to amend the Grants Special Revenue Fund to provide grant funding, if awarded, to the Transportation & Public Works Department from the Federal Highway Administration (FHWA) 2022 Bridge Investment Planning Grant (BIP) to provide funding for planning, feasibility analysis, and revenue forecasting; and for other purposes.

Said Operating and Capital budget is hereby amended as follows:

**Grants Special Revenue Fund:**

REVENUES: Increase:

FHWA Bridge Investment Program Planning Grant	\$648,000
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Expenditures:

Increase:

Transportation & Public Works Department:	
Operating Expenses	\$648,000

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

A motion was made by Commissioner Link, seconded by Commissioner Houle, to approve as per agenda report dated August 22, 2023 intergovernmental agreement between the Unified Government of Athens-Clarke County (ACCGov) and Advantage Behavioral Health Services (ABHS) for the previously allocated \$4M of ARPA behavioral health funds to support SPLOST 2020 Project 28, Mental Health Recovery Facility Project; and authorize the Mayor and appropriate staff to execute all related documents. The motion passed by unanimous vote.

A motion was made by Commissioner Myers, seconded by Commissioner Thornton, to adopt Legislative Review Committee recommendation of August 14, 2023 to pass out with no action the review of Chapter 4-1 Animal Control Ordinance related to pet registration.

The motion passed by roll call vote with Commissioners Davenport, Wright, Fisher, Culpepper, Myers, Thornton, and Hamby voting YES and Commissioners Link, Taylor, and Houle voting NO. (7 YES; 3 NO)

A motion was made by Commissioner Houle, seconded by Commissioner Fisher, to approve with reference SPLOST 2020 Project 03, Classic Center Arena – a not to exceed change order to JE Dunn in the amount of \$2,350,000 for the change order work as described in Facts and Issues #3 of agenda report dated September 12, 2023; and authorize the Mayor and appropriate staff to execute all necessary related documents. The motion passed by unanimous vote.

A motion was made by Commissioner Wright, seconded by Commissioner Taylor, to approve the schematic design for the SPLOST 2020 Project 28, Mental Health Recovery Facility Project, as generally shown on Attachment #1 of agenda report dated September 5, 2023; and authorize staff to advance Phase 1 of the Project to the bid and award phase in accordance with the proposed schematic design. The motion passed by unanimous vote.

A motion was made by Commissioner Wright, seconded by Commissioner Link, as per agenda report dated September 7, 2023

- a) Approve the submittal of all necessary documents to Georgia Department of Public Safety for renewal and update of the current Athens-Clarke County Speed Detection Device Permit; and
- b) Authorize the Mayor to sign all documents associated with the renewal of the current Speed Detection Device Permit under a new Speed Zone Ordinance/Resolution #059-06-2023, as shown in Attachment #1.

The motion passed by unanimous vote.

A motion was made by Commissioner Thornton, seconded by Commissioner Myers, with reference to acceptance of Affordable Housing Investment Strategy (AHIS).

1. Accept plan as presented in agenda report dated August 11, 2023.
2. Direct manager to work with staff to ensure that the affordable housing plan is reflected as having been considered in the preparation of the future land use plan.
3. Direct the manager to bring forward a strategy within 180 days for engaging for profit and additional non-profit organizations, educational institutions and national nonprofits (for example, Enterprise and the Neighborhood Assistance Corporation of America), as well as major employers, financial institutions (for example, Peach State Federal Credit Union), property owners, faith based organizations, & philanthropists in becoming affordable housing partners .
4. Direct the manager to provide options for funding the plan recommendations within 180 days
5. Direct manager to work with staff to help expedite the execution of contracts to enable the release of funding to housing projects funded within the last year and have entities report back to the commission on their progress within 180 days, included the following:
  - o Habitat for Humanity's new construction (\$1,500,000)
  - o Athens Land Trust, new construction (\$2,750,000)
  - o East Athens Development Corporation two new homes (\$800,000)
  - o Athens Land Trust, repair and weatherization (\$415,000)
  - o Athens Council on Aging, repair and weatherization (\$415,000)
  - o Acceptance Recovery Center Prince Ave Project (\$250,000)
  - o \$1,250,000 awarded as recommended by the Athens Justice and Memory Project, for home repair and down payment assistance and repair.

Commissioner Thornton offered an amendment to the motion to add the following provision:

Direct the manager to compile a summary report for all previous studies and/or or reports undertaken by ACCGov related to housing (such as the East Athens Revitalization Study from 1993, the Network for Southern Economic Mobility from 2019, the GICH report from 2019, and the Workforce Housing Study from 2016) which summary shall also include the funding costs and outcomes of any resulting program and why the program ended.

The amendment was accepted.

A motion was made by Commissioner Houle, seconded by Commissioner Link, to amend the motion as follows.

1. Direct the manager to, regarding proposals resulting from this plan, include Permanent Supportive Housing among the options to be considered for use of the Local Housing Fund, LIHTC-funded projects, and/or properties acquired with the Strike Fund.

The motion was withdrawn.

A substitute motion was made by Commissioner Houle, seconded by Commissioner Link, to

1. Accept plan as presented in agenda report dated August 11, 2023.
2. Direct manager to work with staff to ensure that the affordable housing plan is reflected as having been considered in the preparation of the future land use plan.
3. Direct the manager to bring forward a strategy within 180 days for engaging for profit and additional non-profit organizations, educational institutions and national nonprofits (for example, Enterprise and the Neighborhood Assistance Corporation of America), as well as major employers, financial institutions (for example, Peach State Federal Credit Union), property owners, faith based organizations, & philanthropists in becoming affordable housing partners .
4. Direct the manager to provide options for funding the plan recommendations within 180 days
5. Direct manager to work with staff to help expedite the execution of contracts to enable the release of funding to housing projects funded within the last year and have entities report back to the commission on their progress within 180 days, included the following:
  - o Habitat for Humanity's new construction (\$1,500,000)
  - o Athens Land Trust, new construction (\$2,750,000)
  - o East Athens Development Corporation two new homes (\$800,000)
  - o Athens Land Trust, repair and weatherization (\$415,000)
  - o Athens Council on Aging, repair and weatherization (\$415,000)
  - o Acceptance Recovery Center Prince Ave Project (\$250,000)
  - o \$1,250,000 awarded as recommended by the Athens Justice and Memory Project, for home repair and down payment assistance and repair.

Direct the manager to compile a summary report for all previous studies and/or or reports undertaken by ACCGov related to housing (such as the East Athens Revitalization Study from 1993, the Network for Southern Economic Mobility from 2019, the GICH report from 2019, and the Workforce Housing Study from 2016) which summary shall also include the funding costs and outcomes of any resulting program and why the program ended.

Direct the manager to, regarding proposals resulting from this plan, include Permanent Supportive Housing among the options to be considered for use of the Local Housing Fund, LIHTC-funded projects, and/or properties acquired with the Strike Fund.

The substitute motion passed by roll call vote with Commissioners Davenport, Link, Taylor, Wright, Houle, Culpepper, Myers, Thornton, and Hamby voting YES and Commissioner Fisher voting NO. (9 YES; 1 NO)

A motion was made by Commissioner Myers, seconded by Commissioner Link, reference acceptance of Strategic Plan to Reduce and Prevent Homelessness.

1. Accept plan as presented in agenda report, modeled after nationally-recognized homelessness programs like Built for Zero and others dedicated to caring for and reducing the homeless population.
2. Accept funding requests with the addition of \$195,000 from ARPA homeless funds for the physical health care of the homeless in accordance with key strategy #4 related to establishing

comprehensive street outreach and use \$195,000 ARPA workforce funds for “partnerships for employment” (strategy 10).

3. Direct the manager to create RFPs for funding #2 within 90 days, after having reviewed them with commissioners in a work session.
4. Direct the manager to work with the mayor to identify opportunities for regional coordination to reduce homelessness and report back to the commission within 180 days.
  - a. Direct the manager to communicate with surrounding hospitals, local governments, and local authorities that Athens-Clarke County intends to enforce the provisions of Senate Bill 62<sup>\*</sup> that went into effect on June 1, 2023, as it pertains to dropping off homeless individuals in counties other than such person's county of residence or the area or the area of operation or jurisdiction of the hospital, local government, or local authority.
5. Request that hired Homeless Coalition staff a) explore opportunities with faith-based organizations to help with our homeless population, b) work with neighboring community leaders and state representatives for regional coordination, and c) engage philanthropic and additional non-profit entities, including educational & healthcare institutions and neighborhood organizations, as well as for-profit entities including major employers, financial institutions, developers, and property owners to invest in strategies to reduce homelessness in Athens-Clarke County.
6. Request that the Homeless Coalition report back to the commission every 180 days.

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<sup>\*</sup> To amend Titles 31, 36, and 50 of the Official Code of Georgia Annotated, relating to health, local government, and state government, respectively, so as to prohibit hospitals, local governments, and local authorities from dropping off homeless individuals in counties other than such person's county of residency or the area of operation or jurisdiction of the hospital, local government, or local authority.

The motion passed by unanimous vote.

A motion was made by Commissioner Wright, seconded by Commissioner Taylor, reference transition plan for sanctioned homeless encampment.

- a) Approve proposed transition plan Attachment #1 of agenda report dated September 20, 2023 for the sanctioned homeless encampment operated by Athens Alliance Coalition in anticipation of contract termination date of December 31, 2023;
- b) Approve a new MOU between ACCGov and ABHS to provide hotel voucher services through the April 30, 2024;
- c) Adopt a budget ordinance to allocate: \$25,000 of General Funds originally allocated for SHE operator capacity building; up to \$100,000 of General Capital Projects Fund remaining balance of Homeless Encampment setup; up to \$152,288 of ARPA Funds for Sanctioned Homeless Encampment, and, if needed, up to \$150,000 of ARPA Funds from Homelessness SPRPH “all other strategies” to fund the total required \$277,288 for the ABHS Hotel Voucher Program; and
- d) Authorize the Mayor and appropriate ACCGov staff to execute all related documents.

A substitute motion was made by Commissioner Link, seconded by Commissioner Fisher, to hold this item until Tuesday, October 17, 2023.

The substitute motion failed by roll call vote with Commissioners Link, Fisher, and Houle voting YES and Commissioners Davenport, Taylor, Wright, Culpepper, Myers, Thornton, and Hamby voting NO. (3 YES: 7 NO)

The original motion passed by roll call vote with Commissioners Davenport, Taylor, Wright, Fisher, Culpepper, Myers, Thornton, and Hamby voting YES and Commissioners Link and Houle voting NO. (8 YES 2 NO)

The following ordinance (#23-10-80) which was presented by title only was declared adopted.

**AN ORDINANCE TO AMEND THE FY2024 ANNUAL OPERATING AND CAPITAL BUDGET FOR ATHENS-CLARKE COUNTY, GEORGIA SO AS TO PROVIDE FUNDING TO THE HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT (HCD) FOR ADVANTAGE BEHAVIORAL HEALTH SERVICES (ABHS) HOTEL VOUCHER SERVICES; AND FOR OTHER PURPOSES.**

The Commission of Athens-Clarke County, Georgia hereby ordains as follows:

SECTION 1. The Commission of Athens-Clarke County, Georgia desires to amend the General Fund, General Capital Projects Fund and American Rescue Plan (ARP) Coronavirus State and Local Fiscal Recovery Funds Special Revenue Fund to provide funding to HCD for ABHS hotel voucher services; and for other purposes.

Said Operating and Capital budget is hereby amended as follows:

**General Fund:**

EXPENDITURES:

Decrease:	
Transfers to General Capital Proj. Fd	up to \$100,000
Resiliency Package – Capacity Building	<u>\$25,000</u>
Total	\$125,000
Increase:	
HCD – ABHS Hotel Voucher Services	\$125,000

**General Capital Projects Fund:**

REVENUES:

Decrease:	
Transfers from General Fund	up to \$100,000

EXPENDITURES:

Decrease:	
Central Services Capital:	
Sanctioned Homeless Encampment	up to \$100,000

**American Rescue Plan – CSLFRF Special Revenue Fund:**

EXPENDITURES

Decrease:	
Sanctioned Homeless Encampment	up to \$152,288*
Homelessness SPRPH – All Other (if needed)	up to \$150,000*
Increase:	
ABHS Hotel Voucher Services	\$152,288*

(\*Note: the ARPA funding would be used to fill the funding gap between available General Funds described above, and the total project cost of the ABHS Hotel Voucher Services program (\$277,288). The total combined transfer from the two ARPA program budgets would not exceed \$252,288.)

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**New business – Consider under suspension of Rules**

A motion was made by Commissioner Hamby, seconded by Commissioner Taylor, to suspend Rules of Commission for items of new business. The motion passed by unanimous vote.

A motion was made by Commissioner Hamby, seconded by Commissioner Thornton, to adopt the following ordinances (#23-10-81 and #23-10-82) which were presented by title only. The motion passed by unanimous vote.

**AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA WITH RESPECT TO EXCISE TAXATION OF DISTILLED SPIRITS; AND FOR OTHER PURPOSES.**

WHEREAS, the Georgia Alcoholic Beverage Code, specifically O.C.G.A. § 3-4-80, permits local governments to impose “an excise tax on the sale of distilled spirits by the package at either the wholesale



or retail level, which tax shall not exceed 22¢ per liter of distilled spirits, excluding fortified wine, and a proportionate tax at the same rate on all fractional parts of a liter”; and

WHEREAS, the Commission of Athens-Clarke County, Georgia, through an ordinance adopted and approved on or about August 8, 1991, imposed this 22¢ per liter liquor excise tax upon “every retail dealer of distilled spirits as defined in OCGA section 3-1-2”; and

WHEREAS, said ordinance has been codified as Section 6-4-2 of the Code of Athens-Clarke County, Georgia, and has not been amended since 1991; and

WHEREAS, the Commission of Athens-Clarke County, Georgia, desires to amend this Section 6-4-2 of the Code of Athens-Clarke County, Georgia, to modernize the language; and

WHEREAS, the Commission of Athens-Clarke County, Georgia, recognizes the three-tier system of distribution for alcoholic beverages in Georgia, as described in state statutes such as O.C.G.A. §§ 3-3-1.1 and 3-4-24.2, and enacts this ordinance recognizing the three tiers of manufacture, wholesale distribution, and retail sale; and

WHEREAS, it is the intent of the Commission of Athens-Clarke County, Georgia, that this excise tax shall be imposed at the wholesale level, and shall be paid by all persons selling or furnishing distilled spirits at the retail level, whether by the package or by the drink, to wholesalers at the time that the wholesaler delivers the distilled spirits; and

NOW THEREFORE, the Commission of Athens-Clarke County, Georgia, hereby ordains as follows:

SECTION 1. Section 6-4-2 of the Code of Athens-Clarke County, Georgia, entitled “Same—Distilled Spirits,” found in Title 6, Chapter 6-4 of said Code, is hereby deleted in its entirety and replaced as follows:

**Sec. 6-4-2. – Excise Taxes—Distilled Spirits.**

(a) In accordance with O.C.G.A. § 3-4-80, there is hereby levied an excise tax on the sale of distilled spirits by the package at the wholesale level, at the rate of 22¢ per liter of distilled spirits, excluding fortified wine, and a proportionate tax at the same rate on all fractional parts of a liter.

(b) Persons selling or furnishing distilled spirits at the retail level, whether by the package or by the drink, shall pay the excise tax imposed in this code section to wholesalers at the time of delivery of the beverages. It shall be the duty of wholesalers to receive the proper amount of tax and to remit such tax as described elsewhere in this code section.

(c) All persons selling or delivering distilled spirits at the wholesale level in Athens-Clarke County shall remit by the tenth (10th) of each calendar month, less a three percent (3%) collection fee, all excise taxes imposed in this code section. Along with this monthly remittance, each wholesaler shall submit a report or return on a form approved by the director of finance.

(d) All persons selling or furnishing distilled spirits at the retail level, whether by the package or by the drink, and all persons selling distilled spirits at the wholesale level shall keep correct and accurate records of all purchases, transfers, or distributions of distilled spirits within Athens-Clarke County.

(1) Each person selling or furnishing distilled spirits within Athens-Clarke County at the retail level must obtain an invoice from wholesalers for each purchase, and such person must keep such invoices at the person’s place of business. Furthermore, each person selling or furnishing distilled spirits at the retail level must keep an accurate record of each date such person receives a delivery of distilled spirits and the type and amount of distilled spirits delivered to such person on that date.

(2) Each person selling or distributing distilled spirits at the wholesale level must keep accurate records of all sales and distributions of distilled spirits within Athens-Clarke County. At a minimum, such wholesale records must contain the following: (i) the identity and location of each person to whom distilled spirits were sold or distributed; (ii) the type and amount of distilled spirits distributed to each person; (iii) the date of each sale and delivery of distilled spirits; (iv) the amount of excise tax collected for each sale or distribution and from whom collected; and (v) any other information as may be required by the director of finance.

(3) The records described herein must be kept and maintained for a period of not less than three (3) years from the date of purchase or sale. Such records shall be open to inspection or audit by the director of finance and his or her designee(s).

(4) The director of finance is hereby authorized to require that other books and records be kept relating to the excise tax assessed in this code section, and he or she may issue written policies concerning the same.

(e) The following shall be unlawful and a violation of this code section:

(1) For any person to furnish, sell, or offer to sell distilled spirits at the retail level, whether by the package or by the drink, if the excise tax imposed in this code section has not been paid on such beverages.

(2) For any person to sell or deliver any distilled spirits at the wholesale level in Athens-Clarke County unless that person collects the tax imposed in this code section at the time of delivery.

(3) For any person furnishing, selling, or offering to sell distilled spirits at the retail level, whether by the package or by the drink, to receive any such beverages from another person selling such beverages at the retail level unless the tax herein imposed shall have been paid and properly remitted to the director of finance.

(4) To deny the director of finance or his or her designee(s) access to the records required by subsection (d) of this code section during normal business hours at the place of business.

(f) Any person who violates this code section, or who willfully aids or abets another in the violation of the same or in the evasion of the collection of the taxes due hereunder shall be subject to the penalties imposed by section 1-1-5 of this Code. Furthermore, any distilled spirits found on the premises of any person selling, or offering to sell, distilled spirits at the retail level, whether by the package or by the drink, on which the excise tax has not been paid as provided herein may be confiscated, with the right of such person to petition the administrative hearing officer for the return of such beverages upon a showing that the requisite taxes have been paid.

(g) Any person holding a license to furnish or sell alcoholic beverages at the retail level in Athens-Clarke County, whether by the package or by the drink, who is found to violate this code section may be subject to having such license revoked, suspended, put on probation, or other penalties as may be lawfully imposed by the administrative hearing officer.

(h) Any person holding a license to sell or distribute alcoholic beverages at the wholesale level in Athens-Clarke County who is found to violate this code section may be subject to having such license revoked, suspended, put on probation, or other penalties as may be lawfully imposed by the administrative hearing officer.

(i) The director of finance is hereby authorized to inspect and audit the returns or reports of wholesalers and the records of persons selling distilled spirits at the retail level, whether by the package or by the drink, to determine whether the correct amount of excise tax imposed in this code section has been remitted and reported to the director of finance. The director of finance may designate persons to act in his or her place for such audits. The director of finance is further authorized to issue assessment notices when he or she finds that such taxes have not been properly remitted or reported.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. The Clerk of Commission is authorized, in consultation with the Athens-Clarke County Attorney, to correct any scrivener's errors that may be found in this Ordinance after the adoption and approval hereof.

SECTION 4. The recitals in the preamble of this Ordinance provide necessary context, are an integral part of this Ordinance, and are hereby adopted into the Ordinance as if fully set forth herein.

SECTION 5. The provisions of this Ordinance are severable, and should any part of this Ordinance be deemed by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part declared to be invalid.

SECTION 6. This Ordinance shall become effective once approved by the Mayor or as otherwise set forth in Section 2-204 of the Charter of the Unified Government of Athens-Clarke County, Georgia.

**AN ORDINANCE TO AUTHORIZE THE MANAGER'S OFFICE TO ISSUE EXCISE TAX REFUNDS AND TO SET ADMINISTRATIVE PROCEDURES FOR THE SAME; AND FOR OTHER PURPOSES.**

WHEREAS, O.C.G.A. § 3-4-80(a) authorizes local governments "levy an excise tax on the sale of distilled spirits by the package at either the wholesale or retail level, which tax shall not exceed 22¢ per liter of distilled spirits"; and

WHEREAS, in accordance with state law, the governing authority of the Unified Government of Athens-Clarke County, Georgia, which was then the CEO & Commission, enacted an ordinance in 1991, now codified in Title 6, Chapter 6-4 of the Code of Athens-Clarke County, Georgia, as Section 6-4-2; and

WHEREAS, said ordinance imposes an excise tax of 22¢ per liter “[u]pon every retail dealer of distilled spirits as defined in O.C.G.A. § 3-1-2”; and

WHEREAS, several businesses in Athens-Clarke County holding Class D licenses for retail liquor by the drink have submitted claims for refunds of said excise tax, claiming (at least in part) that these businesses are not “retail dealers of distilled spirits as defined in O.C.G.A. § 3-1-2”; and

WHEREAS, the Commission of Athens-Clarke County, Georgia, hereby determines that such refunds may be appropriate for those businesses defined as a “retail consumption dealer” under O.C.G.A. § 3-1-2(18) and Ga. Comp. R. & Regs. r. 560-2-2-.01(pp); and

WHEREAS, the Commission of Athens-Clarke County, Georgia, desires to delegate the administration of refunds to the Manager’s Office in accordance with O.C.G.A. § 48-5-380(e) and intends to do so through this duly adopted and approved Ordinance; and

WHEREAS, the Commission of Athens-Clarke County desires to set basic rules and regulations for receipt, review, auditing, and processing of refund claims, and intends to do so through the adoption of this Ordinance;

NOW THEREFORE, the Commission of Athens-Clarke County, Georgia, hereby ordains as follows:

SECTION 1. The Manager’s Office is hereby delegated the authority to receive, review, audit, and process any claims for refunds of the 22¢ per liter liquor excise tax described in O.C.G.A. § 3-4-80 and Athens-Clarke Co. Code § 6-4-2.

SECTION 2. The Manager, as the full-time administrative officer of the Unified Government of Athens-Clarke County, Georgia, may designate in writing certain personnel or departments, as necessary or appropriate in the Manager’s discretion, to receive, review, process, and audit any refund claims described in Section 1 of this Ordinance. The Manager is also authorized to issue administrative rules and policies, not otherwise in conflict with this Ordinance or state law, for the processing of refund claims as described herein.

SECTION 3. The following rules and regulations shall govern the processing of any claims for refunds of the 22¢ per liter liquor excise tax described in O.C.G.A. § 3-4-80 and Athens-Clarke Co. Code § 6-4-2. Whenever used in Section 3 of this Ordinance, the term “Manager” is intended to include any personnel or departments designated by the Manager in accordance with Section 2 of this Ordinance.

- (a) Any such claims for refunds must be made in writing and submitted to the Manager or to the personnel or departments designated by the Manager to receive such refund claims. Written refund claims shall be marked or stamped as to the date such claims are received.
- (b) At a minimum, a written claim for refund must contain the following information: (1) the identity of the claimant; (2) the identity of claimant’s authorized representative, if any; (3) the mailing address, phone number, and email address for the claimant and/or the claimant’s authorized representative; (4) the type of tax at issue; (5) the amount of the claimed refund; (6) the dates or time periods for which a refund is claimed; (7) supporting documentation of payment of the excise tax to wholesalers; and (8) a summary statement of the grounds upon which the taxpayer relies.
- (c) Upon receiving a claim for refund, the Manager shall review and audit the claim to determine the validity of the claim.
- (d) The Manager may request additional supporting documentation or information from the claimant as is necessary in the Manager’s discretion. Claimants are encouraged to submit sufficient supporting documentation with the initial written refund claim, or to supplement written refund claims with sufficient supporting documentation.
- (e) After reviewing and auditing a claim for refund, the Manager shall issue a written determination to the claimant as to the disposition of the refund claim. Any such written determination shall indicate the date of issuance.
- (f) Any claimant dissatisfied by the Manager’s written determination on a claim for refund may appeal the written determination to the Athens-Clarke County Administrative Hearing Officer (“AHO”) as described in Athens-Clarke Co. Code § 1-5-1. Any such appeal must be in writing and must describe the specific items appealed or the errors alleged. The claimant must submit the appeal to the AHO c/o the Municipal Court of Athens-Clarke County, 325 East Washington Street, Suite 170, Athens, Georgia 30601, within fourteen (14) days of the date that the Manager issues the written determination. After an administrative hearing on the appeal, the AHO must issue written findings of fact and conclusions of law to the claimant and the Manager. Any such findings of fact and conclusions of law issued by the AHO shall constitute the final decision of the Unified Government of Athens-Clarke County, Georgia, concerning its subject matter, and is appealable as set forth in state law.

- (g) If it is determined that a refund is properly due and owing to the claimant, such refund shall be processed in accordance with O.C.G.A. § 48-5-380.

SECTION 4. This Ordinance shall be construed to confer upon the Manager's Office all incidental authority necessary and proper to review and process claims for refunds of the 22¢ per liter liquor excise tax described in O.C.G.A. § 3-4-80 and Athens-Clarke Co. Code § 6-4-2.

SECTION 5. The Clerk of Commission is authorized, in consultation with the Athens-Clarke County Attorney, to correct any scrivener's errors that may be found in this Ordinance after the adoption and approval hereof.

SECTION 6. The provisions of this Ordinance are severable, and should any part of this Ordinance be deemed by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part declared to be invalid.

SECTION 7. The foregoing recitals in the preamble of this Ordinance provide necessary context, are an integral part of this Ordinance, and are hereby adopted into the Ordinance as if fully set forth herein.

SECTION 8. This Ordinance shall become effective once approved by the Mayor or as otherwise set forth in Section 2-204 of the Charter of the Unified Government of Athens-Clarke County, Georgia.

A motion was made by Commissioner Myers, seconded by Commissioner Hamby, with reference to solar photovoltaic systems at the Athens-Clarke County Library.

1. Approve the selection of two firms – Solar Sun World, LLC and Cherry Street Energy, LLC to provide On-Call Solar Photovoltaic Systems Services for ACCGov Projects;
2. Approve Option 1 as described in Facts and Issues #11 and #13 of the Agenda Report, to provide the maximum equipment that can be supplied using the \$280,000 in SPLOST 2011 Project 23 and MRR Grant funding, while incorporating recommendations from the Athens-Clarke County Community Forestry Coordinator on how to select locations that reduce impacts on parking lot trees;
3. Direct project staff to work with library staff *and* county forester to utilize up to \$240,000 in SPLOST 2020 Project 11 funding to support additional solar arrays, educational materials, and native landscape restoration for the project, so long as the additional solar arrays do not necessitate the removal of additional healthy trees and;
4. Authorize a total project cost of up to \$520,000, including the \$280,000 in match funding, using an on-call Construction Service Contract with Solar Sun World, LLC for the construction services to install solar photovoltaic systems as described above;
5. Direct staff to plant at least one medium or large canopy tree for each tree removed from this project, prioritizing replanting on the library property or within adjacent areas before considering locations elsewhere in the county; and
6. Authorize the Mayor and appropriate staff to execute all related documents.

The motion passed by unanimous vote.

Resident input on items other than those listed on the agenda

1. Tawana Maddox – expressed appreciation for youth program funding.

FROM MAYOR GIRTZ:

1. Assigned to Government Operations Committee: Develop a plan to re-start the Land Bank Authority.
2. Assigned to Legislative Review Committee: Revise the ACC smoking ordinance, using recommendations from the American Heart Association as a model.

FROM MANAGER WILLIAMS:

1. Received for information was a report of contract awards over \$10,000 for August 2023.

FROM COMMISSIONER HOULE:

1. Requested discussion on use of remaining ARPA funds.
2. Encouraged participation upcoming November 7 election.

FROM COMMISSIONER FISHER:

1. Encouraged participation in upcoming school district parent/teacher conferences October 11, 12, and 13.

FROM COMMISSIONER TAYLOR:

1. Announced a voter education forum Wednesday, October 4, 5:30 – 7:00 p.m. at Miriam Moore Community Center.

FROM COMMISSIONER LINK:

1. Requested update on alternative plans for First Step program.

A motion was made by Commissioner Davenport, seconded by Commissioner Taylor, to adjourn. The motion passed by unanimous vote.

The meeting adjourned at 10:42 p.m.

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Clerk of Commission