Finance Committee Meeting
Tuesday, October 18, 2022 - 5:00 PM
AGENDA

1. Call to Order
2. Action on Minutes
    a. September 27, 2022 Special meeting
3. CIP (Construction in Progress) - Open Projects
4. Debt Service
5. Potential Road Project Financing
6. OPWC Application 2023 Kasson Street Area Roadway
7. Transient Occupancy (Bed) Tax
    a. **ORDINANCE 50-2021** AN ORDINANCE ENACTING CHAPTER 194 OF THE CITY OF JOHNSTOWN CODIFIED ORDINANCES TO ESTABLISH A TRANSIENT OCCUPANCY TAX. Passed December 14, 2021
8. American Legion Post 254; Building maintenance consideration
9. Water & Sewer Plant Expansion
10. Wages
11. Other Business
12. Adjourn

Special Finance Committee
Tuesday, September 27, 2022 - 5:00 PM
MINUTES

1. Call to Order

    Committee Chair Don Barnard called the Finance Committee meeting for September 27, 2022 to order at 5:00 pm

    Members Present - Jon Merriman, Don Barnard
    Absent - None

    Staff present - Jack Liggett, Sean Staneart, Rusty Smart, Teresa Monroe.

    Public present - Lewie Main, Ben Lee

2. Action on Minutes

ACTION:	Jon Merriman moved to approve both en bloc; Donald Barnard seconded and the vote was as follows:
AYES:	Jon Merriman, Donald Barnard
NOES:	None
ABSTAIN:	None
	Passed 2 - 0

    a. August 16, 2022

    b. September 6, 2022

3. Draft Budget 2023 Discussion

    Work toward the 2023 city budget. Department Directors turned in their budgets, committee initial review of Sewer, Water, Street and Police Department.

4. Discussion - Ordinances 26-2021 and 29-2021

    Sean Staneart asks for a clear directive on the water and sewer ordinances and interpretation on tap and capacity fees and whether or not a separate meter will be required for each address. Jack Liggett said he believed the intent behind the ordinance was to have a separate fee for each apartment address. The question is, with that fee for each apartment address, are we going to require each to have a separate meter and meter pit, which would be a lot more maintenance for the utility department, or will we allow a vault with a two inch master meter to take care of each building. Sean said it was not specified what line size should be charged, plans may say a 2 inch line coming in but split to 3/4 to each apartment. Jack said the intent was that each apartment would pay a 3/4 inch tap and capacity fee. Sean said he has a new ordinance drafted to clean up the wording, can send to Law Director for review.

It was noted that an overview of the new Coughlin apartment complex for the public was scheduled for the October 11th Planning Commission meeting.

5. Other Business

   None

6. Adjourn

ACTION:	Donald Barnard moved to adjourn; Jon Merriman seconded and both were in favor.
AYES:	Jon Merriman, Donald Barnard
NOES:	None
ABSTAIN:	None
	Passed 2 - 0

Meeting adjourned at 6:32 pm

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CITY OF JOHNSTOWN

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ORDINANCE 50-2021

AN ORDINANCE ENACTING CHAPTER 194 OF THE CITY OF JOHNSTOWN CODIFIED ORDINANCES TO ESTABLISH A TRANSIENT OCCUPANCY TAX

WHEREAS, the Council of the City of Johnstown desires to impose a transient occupancy tax upon lodging accommodations with the limits of the City of Johnstown.

NOW THEREFORE, be it ordained by the Council of the CITY OF JOHNSTOWN, Licking County, Ohio, as follows:

Section One. That Chapter 194 of the City of Johnstown Codified Ordinances is hereby enacted as follows:

CHAPTER 194

CITY OF JOHNSTOWN TRANSIENT OCCUPANCY TAX

194.01 - DEFINITIONS.

Accommodations remarketer: means a person that reserves, arranges for, conveys, or furnishes occupancy, whether directly or indirectly, to a transient guest for a rental amount determined by the accommodations remarketer, directly or indirectly, whether pursuant to a written or other agreement, or who contracts with a vendor to market the hotel or transient accommodation and to accept payment from the transient guest for the accommodation. Examples of accommodations remarketers include, but are not limited to, online travel companies and discount travel services.

Exempted entity: means the government of the United States, the government of the State of Ohio, the governments of States other than Ohio, the governments of political subdivisions in the State of Ohio, the governments of political subdivisions of states other than Ohio, and organizations that are exempt from federal income taxation under Internal Revenue Code Section 501(c)(3).

Hotel: means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guest(s), in which five (5) or more rooms are used for the accommodation of such guests, whether such rooms are in one (1) or several structures. The term "Hotel" shall include "Motel".

Transient accommodations: means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests in which four (4) or fewer rooms are used for the accommodation of such guests, whether such rooms are in one (1) or several structures.

Transient guests: means person(s) occupying a room or rooms for sleeping accommodations for less than thirty (30) consecutive days.

Vendor: means the person who is the owner or operator of the hotel or transient accommodation and who furnishes the lodging.

194.02 - IMPOSITION OF TAX.

(A) To provide for the purposes of general municipal operations, capital improvements, maintenance and repair of equipment, streets and other physical properties, purchase of new equipment, and the payment of principal and interest on bonds issued by the city, an excise tax of three percent (3%) is hereby levied on transactions by which lodging by a hotel or transient accommodations is or is to be furnished to transient guests, pursuant to ORC § 5739.08(A) and furthermore, an additional excise tax of three percent (3%) is hereby levied on transactions by which lodging by a hotel or transient accommodation is or is to be furnished to transient guests pursuant to ORC § 5739.08(B). Purchase of a room or rooms by a transient guest through an accommodations remarketer is a transaction by which a hotel or transient accommodation is to be furnished to transient guests and is subject to tax at the price paid by the transient guest to the accommodations remarketer.

(B) Although the above levies are separate and distinct for purposes of determining distribution, the combined amounts of six percent (6%) are hereby referred to as the "Hotel/Motel Excise Taxes".

(C) The tax applies and is collectible at the time the lodging is furnished regardless of the time when the price is paid. The tax does not apply to lodging furnished to exempted entities. Lodging shall be considered to be furnished to an exempted entity only if the lodging is purchased by an agent of the exempted entity and directly purchased with the exempted entity's funds. For purposes of this section, lodging purchased with a credit card on which the exempted entity is the primary accountholder shall be considered to have been directly purchased with the exempted entity's funds.

(D) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax it is presumed that all transactions for lodging furnished by hotels or transient accommodations in the city to transient guests are subject to tax until the contrary is established by the transient guest.

(E) All revenues generated by this excise tax will be distributed as follows:

(1) The entire excise tax collected pursuant to ORC § 5739.08(A) shall be deposited into the general fund.

(2) The additional excise tax collected pursuant to ORC § 5739.08(B) to be distributed as follows: 50% shall be deposited into the Johnstown Visitors' Bureau Fund, which is hereby created, and which shall be spent solely to make contributions to convention and visitors' bureaus operating within Licking County as directed by city council. The remaining 50% shall be deposited into the general fund.

194.03 - TRANSIENT GUEST TO PAY TAX.

The tax imposed by this chapter shall be paid by the transient guest to the vendor and each vendor shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging.

If the tax is claimed to be exempt, the transient guest must furnish to the vendor, and the vendor must obtain from the transient guest, a statement specifying the reason that the sale is not legally subject to the tax. If no statement is obtained, it shall be presumed the tax applied.

194.04 - REFUND OF ILLEGAL OR ERRONEOUS PAYMENTS.

The director of finance shall refund to vendors the amount of taxes paid illegally or erroneously or paid on any illegal or erroneous assessment where the vendor has not reimbursed himself from the transient guest. When such illegal or erroneous payment or assessment was not paid to a vendor but was paid by the transient guest directly to the city, the finance director shall refund the appropriate amount to the transient guest. Applications shall be filed with the finance director on the form prescribed by the finance director, within ninety (90) days of the date it is ascertained that the assessment or payment was illegal or erroneous. However, in any event such application for refund must be filed with the finance director within four (4) years from the date of the illegal or erroneous payment of the tax. On filing of such application, the finance director shall determine the amount of refund due and issue the refund to the person claiming such refund.

194.05 - REQUIRED RECORDS.

Each vendor shall keep complete and accurate records of lodging furnished, together with a record of the tax collected thereon, which shall be the amount due under this chapter and shall keep all invoices and such other pertinent documents. If the vendor furnishes lodging not subject to the tax, the vendor's records shall show the identity of the transient guests, if the sale was exempted by reason of such identify, or the nature of the transaction if exempted for any other reason. Such records and other documents shall be open during business hours to the inspection of the finance director and shall be preserved for a period of not less than four (4) years, unless the finance director, in writing, consents to their destruction within that period, or by order requires that they be kept longer.

194.06 - RETURNS REQUIRED.

Each vendor shall file a quarterly return on forms prescribed by the finance director showing receipts from furnishing lodging, the amount of tax due from the vendor to the city for the period covered by the return, and such other information as the finance director deems necessary for the proper administration of this chapter. The quarterly return is due on or before the 15 th day of the following month during a calendar year. The finance director may extend the time for making and filing returns. Returns shall be filed by mailing the same to the finance director, together with payment of the amount of tax shown to be due thereon. The finance director shall record the date and amount of payment received with the return. Any vendor who fails to file a return under this chapter shall forfeit and pay into the city treasury the sum of one percent (1%) of the tax due. The director of finance, if deemed necessary in order to ensure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than in quarterly periods. The returns shall be signed by the vendor or authorized agent.

194.07 - LIABILITY, ASSESSMENT AND PETITION FOR REASSESSMENT: PENALTIES.

(A) If any vendor collects the tax imposed by or pursuant to this chapter and fails to remit the same to the city as prescribed, such vendor shall be personally liable for any amount collected which he failed to remit. The finance director may make an assessment against such vendor based upon any information in the finance director's possession. If any vendor fails to collect the tax or any transient guest fails to pay the tax imposed by or pursuant to this chapter on any transaction subject to the tax, such vendor or transient guest shall be personally liable for the amount of the tax applicable to the transaction. The finance director may make an assessment against either the vendor or transient guest as the fact may require, based upon any information in the finance director's possession. An assessment against a vendor in cases where the tax imposed by or pursuant to this chapter has not been collected or paid, shall not discharge the transient guest's liability to reimburse the vendor for the tax applicable to such transaction.

(B) In each case the finance director shall give to the vendor or transient guest assessed written notice of such assessment. Such notice may be served upon the vendor or transient guest personally or by registered or certified mail. An assessment issued against either pursuant to the provisions of this chapter shall not be considered an election of remedies, nor a bar to an assessment against the other for the tax applicable to the same transaction, provided that no assessment shall be issued against any vendor or transient guest for the tax due on a particular transaction if said tax has actually been paid by another.

(C) The director of finance may make an assessment against any vendor who fails to file a return required by this chapter or fails to remit the proper amount for the tax in accordance with this chapter. When information in the possession of the director of finance indicates that the amount required to be collected is, or should be, greater than the amount remitted by the vendor, the director of finance may, upon the basis of test checks of a vendor's business for a representative period, which are hereby authorized, determined the ratio which the tax required to be collected under this chapter bears to the hotel's or transient accommodations' lodging which determination shall be the basis of an assessment as herein provided in this chapter. Notice of such assessment shall be made in the manner prescribed in this chapter.

(D) Unless the vendor or transient guest, to whom said notice of assessment is directed, files within thirty (30) days after service thereof, either personally or by registered or certified mail a petition, in writing, verified under oath by said vendor, transient guest, or his authorized agent, having knowledge of the facts, setting forth with particularity the items of said assessment objected to, together with the reasons for such objections, said assessment shall become conclusive and the amount thereof shall be due and payable, from the vendor or transient guest so assessed, to the director of finance. When a petition for reassessment is filed, the director of finance shall assign a time and place for the hearing of same and shall notify the petitioner thereof by registered or certified mail, but the director of finance may continue the hearings from time to time if necessary.

(E) A penalty of ten percent (10%) shall be added to the amount of every assessment made under this chapter. The director of finance may adopt and promulgate rules and regulations providing for the remission of penalties added to assessments made under this chapter.

(F) When any vendor or transient guest files a petition for reassessment as provided in this chapter, the assessment made by the finance director, together with penalties thereon, shall become due and payable within three (3) days after notice of the finding made at the hearing has been served, either personally or by registered or certified mail, upon the party assessed.

194.08 - LIMITATION FOR ASSESSMENTS.

No assessment shall be made or issued against a vendor or transient guest for any tax imposed by or pursuant to this chapter more than four (4) years after the return date for the period in which the lodging was furnished, or more than four (4) years after the return for such period is filed, whichever is later. This section does not bar an assessment:

(A) When the director of finance has substantial evidence of amounts of taxes collected by a vendor from transient guest's lodging that were not returned to the city.

(B) When the vendor assessed failed to file a return as required.

(C) When the director of finance and the vendor or guest waives the limitation in writing.

194.09 - TAX PAID BY TRANSIENT GUEST; FALSE EVIDENCE OF TAX-EXEMPTION.

No transient guest shall refuse to pay the full and exact tax as required by this chapter, or present to the vendor false evidence indicating that the lodging as furnished is not subject to the tax.

194.10 - VENDOR TO COLLECT TAX; PROHIBITION AGAINST REBATES.

No vendor shall fail to collect the full and exact tax as required by this chapter. No vendor shall refund, remit or rebate to a transient guest, either directly or indirectly any of the tax levied pursuant to this chapter, or make in any form of advertising, verbal or otherwise, any statements which might imply that he is absorbing the tax, or paying the tax for the transient guest by an adjustment of prices, or furnishing lodging at a price including the tax, or rebating the tax in any other manner.

194.11 - REPORT FILINGS.

No person, including any officer of a corporation or employee of a corporation having control or supervision of or charged with the responsibility of filing returns, shall fail to file any return or report required to be filed by this chapter, or file or cause to be filed any incomplete, false or fraudulent return, report or statement.

If any vendor required to file returns under this chapter fails on two (2) consecutive quarters, to file such returns when due or to pay the tax thereon, or if any other vendor authorized by the finance director to file returns at less frequent intervals, fails on two (2) or more occasions within a twenty-four-month period, to file such returns when due or to pay the tax due thereon, the finance director may: require such vendor to furnish security in an amount equal to the average tax liability of the vendor for a period of one (1) year, as determined by the finance director from a review of returns or other information pertaining to such vendor, which amount shall in no event be less than one thousand dollars ($1,000.00). The security may be in the form of a payment to be applied to pay the tax due on subsequent returns, or a corporate surety bond, satisfactory to the finance director, conditioned upon payment of the tax due with the returns from the vendor. The security must be filed within ten (10) days following the vendor's receipt of the notice from the finance director of its requirements.

A corporate surety bond filed under this section shall be returned to the vendor if, for a period of twelve (12) consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment therewith within the time prescribed in this chapter.

194.12 - PERSONAL LIABILITY OF CORPORATE OFFICERS OR EMPLOYEES.

If any vendor corporation required to file returns and to remit tax due to the city under the provisions of the chapter, fails for any reasons to make such filing or payment, any of its officers or employees charged with the responsibility of filing returns and making payments shall be personally liable for such failure. The dissolution of a corporation shall not discharge an officer or employee's liability for a prior failure of the corporation to file returns or remit tax due. The sum due for such liability may be collected by assessment in the manner provided in this chapter.

194.13 - INTEREST ON UNPAID COLLECTED TAXES.

All taxes collected by a vendor from a transient guest and remaining unpaid after they become due pursuant to this chapter shall bear interest computed daily on the amount of such unpaid taxes at the maximum statutory rate permitted by ORC § 5703.47.

194.90 - VIOLATIONS.

(A) No transient guest shall fail, neglect or refuse to pay the tax, interest and penalties imposed by this chapter.

(B) No vendor shall fail, neglect or refuse to collect from a transient guest the taxes imposed by this chapter.

(C) No vendor shall fail, neglect or refuse to pay the taxes collected from a transient guest or the interest and penalties imposed by this chapter.

(D) No person shall violate any of the provisions of this chapter.

194.99 - PENALTIES.

(A) (1) Except as otherwise provided herein, a violation of C.O. § 194.90(A), (B), or (D) shall be a minor misdemeanor as defined in C.O. ch. 501. The court shall sentence the offender to a fine of not less than fifty dollars ($50.00) for each violation.

(2) If the offender has previously been convicted of or pleaded guilty to a violation of C.O. § 194.90(A), (B), (C), or (D), a violation of C.O. § 194.90(A), (B), or (D) shall be a misdemeanor of the third degree as defined in C.O. ch. 501. The court shall sentence the offender to a fine of not less than one hundred dollars ($100.00) for each violation.

(B) (1) Except as otherwise provided herein, a violation of C.O. § 194.90(C) shall be a misdemeanor of the third degree as defined in C.O. ch. 501. The court shall sentence the offender to a fine of not less than one hundred dollars ($100.00) for each violation.

(2) If the offender has previously been convicted of or pleaded guilty to a violation of C.O. § 194.90(A), (B), (C), or (D), a violation of C.O. § 194.90(C) shall be a misdemeanor of the first degree as defined in C.O. ch. 501. The court shall sentence the offender to a fine of not less than two hundred dollars ($200.00) for each violation.

Section Two. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that meetings of any of its committees that resulted in such formal action where meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and the Charter for the CITY OF JOHNSTOWN.

Date of Introduction: December 7, 2021
Public Hearing/Passage: December 14, 2021
Effective Date: January 13, 2022

BY: Robertson

Mayor Chip Dutcher

ATTEST TO:

Teresa Monroe, Clerk of Council

APPROVED AS TO FORM:

Yazan Ashrawi, Law Director