CITY OF GROVE CITY, OHIO

COUNCIL MINUTES

August 01, 2022 Regular Meeting

The regular meeting of Council was called to order by President Berry at 7:00 p.m. in the Council Chambers, City Hall – 4035 Broadway.

Roll was called and the following members were present:

Mark Sigrist *Ted Berry* *Randy Holt* *Christine Houk*

1. Mr. Berry moved to excuse Mr. Schottke; seconded by Ms. Houk.

Mr. Sigrist	Yes
Mr. Berry	Yes
Mr. Holt	Yes
Ms. Houk	Yes

2. Ms. Houk moved to approve the Minutes from the previous meeting and approve as written; seconded by Mr. Sigrist.

Mr. Berry	Yes
Mr. Holt	Yes
Ms. Houk	Yes
Mr. Sigrist	Yes

3. President Berry recognized Mayor Stage who, with the assistance of the Dir. of Safety, administered the Oath of Office to six (6) new police officers – Kyle Crossley, Benjamin Watt, Parker Rembis, Drew Mayle, Aaron Collins, Dylan Eason.

4. The Chair read the agenda items and all items were approved by unanimous consent.

The Chair recognized Mr. Sigrist, in the absence of Mr. Schottke, Chairman of Lands, for discussion and voting under said Committee.

1. Ordinance C-47-22 (Approve a Special Use Permit for a Daycare for Primrose School at Beulah Park located on Farm Bank Way) was given its second reading and public hearing.

Mr. Brian Weaver stated that before we add another Day Care, he wants to make sure that the City is enforcing and upholding Section 2151.24 of the Ohio Revised Code.

There being no additional questions or comments, Mr. Sigrist moved it be approved; seconded by Mr. Berry.

Mr. Holt	Yes
Ms. Houk	Yes
Mr. Sigrist	Yes
Mr. Berry	Yes

2. Ordinance C-49-22 (Authorize the City Administrator to enter into a Community Reinvestment Area Agreement/New Community Authority Agreement with Buckeye Ranch Inc.) was given its second reading and public hearing and Mr. Sigrist moved it be approved; seconded by Ms. Houk.

Ms. Houk	Yes
Mr. Sigrist	Yes
Mr. Berry	Yes
Mr. Holt	Yes

3. Ordinance C-51-22 (Amend Ordinance C-18-83 describing the Boundaries of Community Reinvestment Area No. 1 to Include Additional Parcels) was given its first reading. Second reading and public hearing will be held on August 15, 2022.

4. Resolution CR-44-22 (Set Forth, as required by Section 709.023 of the Ohio Revised Code, the Municipal Services that can be furnished to 10.63 acres located at 2110 White Road in Jackson Township upon its Annexation to the City of Grove City) was given its reading and public hearing and Mr. Sigrist moved it be approved; seconded by Mr. Berry.

Mr. Sigrist	Yes
Mr. Berry	Yes
Mr. Holt	Yes
Ms. Houk	Yes

The Chair recognized Ms. Houk, Chairman of Service, for discussion and voting under said Committee.

1. Ordinance C-52-22 (Accept a Public Utilities Easement on the Pinnacle Quarry Site) was given its first reading. Second reading and public hearing will be held on August 15, 2022.

The Chair recognized Mr. Holt, Chairman of Finance, for discussion and voting under said Committee.

1. Ordinance C-50-22 (Appropriate $212,100.00 from the General Fund and Authorize the City Administrator to enter into an Agreement with EMH&T for an alignment and Feasibility Study for an I-71 Overpass and submit application for Mid-Ohio Regional Planning Commission Attributable Funds) was given its second reading and public hearing.

Mr. Mike Keller, Consulting Engineer w/EMH&T, explained that the City has evaluated an I-71 overpass for the last decade. He said this funding supports the preliminary engineering and Ohio Dept. of Transportation approval for the alignment of an overpass and possible partial freeway ramps in the Mt. Carmel area, between Haughn and Hoover Roads. This will also provide the information necessary to submit an application to the Mid-Ohio Regional Planning Commission for funding opportunities.

Mayor Stage commented that Congressman Carey was in town today and this project was reviewed with him. There in a Federal Infrastructure Bill that might also be available for some funding.

There being no additional questions or comments, Mr. Holt moved it be approved; seconded by Mr. Sigrist.

Mr. Berry	Yes
Mr. Holt	Yes
Ms. Houk	Yes
Mr. Sigrist	Yes

2. Resolution CR-45-22 (Waive the bidding provisions of Section 139.05 of the Codified Ordinances for the 4444 Broadway Complex located at the corner of Ventura and Broadway) was given its reading and public hearing.

Mr. Smith, Dir. of Law, explained that the City needs to renovate the building at this location. An architect was secured for the initial stages and after receiving his estimates, it was decided to have the City assume the general contractor duties. He said multiple proposals will still be obtained for this project. Getting bids in the current environment is terrible. By waiving the bidding process, the project will go much faster and they believe will be more cost effective.

There being no additional questions or comments, Mr. Holt moved it be approved; seconded by Mr. Sigrist.

Mr. Holt	Yes
Ms. Houk	Yes
Mr. Sigrist	Yes
Mr. Berry	Yes

The Chair asked that any new business to be brought before the attention of Council be done so at this time.

1. Mr. Brian Weaver commented that he believes taxpayer dollars have been wasted due to ADA ramps being installed, removed, and then re-installed, claiming that they were not properly inspected. He then played an audio tape (also played at the 7/18/22 meeting) of a portion of a staff meeting where he claims Lt. Lawless is speaking about someone calling Mr. Weaver a *.* idiot and telling him to turn up his *.* Beltones. *Mr. Smith*, Dir. of Law, clarified for the audience that the tape that was being played was not from a Grove City Police Staff meeting. It may be a former employee speaking, but the incident being heard did not take place in Grove City.

2. Ms. Sandy Francis read two pieces of scripture and said a prayer for the Council Members who govern over the people of Grove City and asked for them to know right from wrong.

The Chair recognized members of Administration and Council for closing comments.

1. Mayor Stage commented on the success of the Homecoming Celebration and the Alumni Softball Tournament. He said it was nice to have the Friday night event back downtown, on Broadway and the estimate about 5,000 people attended. He reported on the Rotary's recognition of Sharon Downs as the Service Above Self recipient; the GCHS Alumni Hall of Fame inductees; the planting of a tree from George larger; the Ecofest happening this weekend; the Purple Heart Ceremony taking place this coming Friday; and Election day tomorrow. He then provided a number of letters regarding the Grove City Visitors and Convention Bureau, which he passed to the Clerk of Council to be placed on file for the record.

2. Mr. Turner, Dir. of Finance, announced that the 2021 Annual Financial Report is out and on the City's website for all to review.

3. Mr. Sigrist expressed condolences on the passing of Our Lady of Perpetual Help Church – Sister Nancy Miller.

4. After closing comments from Council and Administrative staff members, a motion to adjourn was approved by unanimous consent.

Adjourned at 7:47 p.m.

Tami K. Kelly

Tami K. Kelly, MMC
Clerk of Council

Ted A. Berry

Ted A. Berry
President of Council

For The Record
8/1/2022

The Behal Law Group LLC

July 18, 2022

Rec - hand delivered
7/26/2022 11:15AM

501 South High Street
Suite 200
Columbus Ohio 43215

Attorneys:

Robert J. Behal

John M. Gonzales

Jack D'Aurora

John P. Johnson II

Gilbert J. Gradisar

Jeffrey A. Eyerman

DeAnna J. Duvall

Brandon A. Finley

▲ ▲ ▲

Phone:
(614) 643-5050

Facsimile:
(614) 340-3892

Website:
www.behallaw.com

Grove City Mayor Stage, City Council Members and Law Director Smith
4035 Broadway
Grove City, OH 43123

Re: Grove City Area Convention and Visitor's Bureau

Dear Mayor Stage, City Council Members and Law Director Smith:

My office represents *The Grove City Area Convention and Visitor's Bureau* ("*Visit Grove City*"). The funding for the next fiscal year for this Ohio not-for-profit corporation will be before you later this year. *Visit Grove City* believes that the law of Ohio is clear as to how it is to be funded. I would like to bring to your attention some of the laws and policies pertaining to this issue.

As you know, O.R.C. 5739.08(A) gives the legislative authority of a municipal corporation the ability to levy an excise tax on transactions involving lodging by a hotel to transient guests—the bed tax. O.R.C. 5739.08(B) permits a further excise tax (not to exceed 3%) on those same business transactions—herein referred to as a "5739.08(B) tax." In 1989, Grove City passed such a law in Ordinance C123-88.

O.R.C. 5739.08(B) goes on to state:
"The legislative authority of the municipal corporation ... **shall** deposit at least fifty percent of the revenue from the tax levied pursuant to this division into a separate fund, which shall be spent solely to make contributions to convention and visitors' bureaus operating within the county in which the municipal corporation ... is wholly or partly located, and the balance of that revenue shall be deposited in the general fund."

O.R.C. 5739.092 provides useful guidance as to what defines a convention and visitors' bureau. It states that money collected by a county and distributed under O.R.C. 5739.09 to a convention and visitors' bureau "shall be used solely for tourism sales, marketing and promotion, and their associated costs, including operational and administrative costs of the bureau, ~~sales~~ and marketing, and maintenance of the physical bureau structure." This is precisely and solely the purpose of *Visit Grove City*.

Though the term "convention and visitors' bureau" is not specifically defined in the Ohio Revised Code, the term "bureau" is defined in O.R.C. 307.678 as an Ohio not-for-profit corporation that is a convention and visitors' bureau that currently receives revenue from existing lodging taxes.

Not only does state law require that 50% of the 5739.08(B) tax go to a convention and visitors' bureau like *Visit Grove City*, but it also requires such an entity to account for all of its funds and to spend those funds in a way that promotes tourism and visitors, in this case to Grove City (and for no other purpose). It also subjects each bureau spending those funds to an annual audit by the Auditor of State. These requirements make *Visit Grove City* totally accountable and transparent to the City and to the Auditor of State.

In the 1990's, *Visit Grove City* made grants to certain groups and events in Grove City, but it was advised in 1997 and again in 2000 by the Auditor of State that such grants were not appropriate for groups or events not directly related to the scope of *Visit Grove City*'s not-for-profit mission, and that such actions run counter to IRS regulations for this type of not-for-profit organization.

The other business and civic groups that the City budget contemplates funding using the bed tax have different mission statements. The Chamber of Commerce's mission, for example, includes "advancing the agricultural, economic, industrial, professional, cultural and civic welfare of the Grove City area." Heart of Grove City's mission is to "combat community deterioration" and "lessens burdens of the government through public improvement activities." These goals may be worthy and important, but neither group qualifies for 5739.08(B) tax revenue—they are not purposed to advance tourism in Grove City. Moreover, neither group is subject to oversight by the Auditor of State.

These organizations also do not operate under the well-defined purposes or stringent oversight that convention and visitors' bureaus such as *Visit Grove City* do. Finally, they simply are not qualifying convention and visitors' bureaus. Therefore, they are not appropriate recipients of the 5739.08(B) tax revenues.

We would ask that you consider the laws set forth above and the information provided, and confirm to *Visit Grove City* that one-half of the 5739.08(B) taxes collected in 2022–23 and into the future, will be paid to *Visit Grove City* as required by Ohio law.

Visit Grove City would much rather spend its resources by continuing to follow its mission statement and working hard to bring more tourism to Grove City, than by litigating the issues subject of this letter.

If you wish to have a meeting to discuss this matter, we are certainly glad to sit down with you and go over all aspects of this issue. Thank you for your courtesy and consideration in this matter.

Very truly yours,

Robert J. Behal
Attorney for The Grove City Area Convention and Visitor's Bureau

RJB: lab

Visit Grove City

The Grove City Area Convention and Visitors Bureau

3995 Broadway, Suite 100, Grove City, Ohio 43123 | visitgrovecityoh.com | (614) 539-8747

July 18, 2022

Mayor Stage & Members of City Council
City Hall
4035 Broadway
Grove City, Ohio 43123

Dear Mayor Stage and Members of City Council:

We, the Board of Trustees for Visit Grove City (the Grove City Area Convention and Visitors Bureau) are writing in consideration of the City's recent ordinance that redirects money from the City bed tax to groups other than the CVB. It is our opinion that the City's recent actions have violated Ohio law, and we have engaged legal counsel to explore our options.

As written, the new City legislation allows a whole host of entities—other non-profits, sporting events, and even churches—to share in the bed tax revenue intended by state law to go to the convention and visitors bureau. There is simply no legal authority for the City to designate a church as a CVB, nor is there authority for the City to give money to a general business organization like the Chamber of Commerce. Both the Chamber of Commerce and Heart of Grove City have expressed concern that they do not wish to become a Convention and Visitors Bureau, nor stand up to the scrutiny and oversight as outlined in the Ohio Revised Code regarding "true Convention and Visitors Bureaus."

These groups will certainly take any money the City deigns to give them, but neither group desires to change their mission to that of a Convention and Visitors Bureau. The O.R.C. says clearly these revenues go to a convention and visitors bureau. This is for the straightforward reason that CVBs generate tourism—and tourism leads visitors to put their heads in beds.

Visitors staying overnight is the only way that bed tax is generated. The day visitor (to festivals and events) does not generate bed tax. Respectfully, however meritorious and valuable the other institutions may be, the City has to find some other legal revenue source if it wishes to provide them with additional funding.

We believe the City has opened the door to serious legal challenges—not the least of which are a violation of the Ohio Revised Code; implications relating to favoritism; and separation of church and state. Also, to give away the funds that it intends to, the City needs to follow an open and fair process, and it has not. Our group was the only group asked to fully open their books, neither the Chamber nor Heart of Grove City had to divulge a bank balance on hand, if those funds are committed and to whom, nor specifically provide how the funds are spent. (An examination of the budget for the Heart of Grove City does not even offer a line item for alcohol purchases.)

Our efforts are earmarked to generate and be the catalyst for overnight stays at our 18 hotels. Those hotels generate close to two million dollars in additional bed tax revenue. Who will represent our lodging community if our group is dissolved, and money is diverted to other groups who are not in the visitor and tourism business?

These legal considerations aside, the City should consider the CVB a partner and not a place to cut spending. The Convention and Visitors Bureau provides invaluable—and unique—services to the City. We are the only group with marketing at all levels: local, statewide, and the Midwest.

We strongly support our stakeholders, which include the City, but more directly, our local hotels and tourism businesses. There are 18 hotels within city limits right now. Without the CVB's work, fewer visitors will come to the city—and that will ultimately decrease tax revenue. Cutting the CVB's budget will impact not just bed tax revenue, but additionally employment, income tax revenue, and indeed our city's population as opportunities are lost.

We have attempted to work constructively with the Mayor and all members of the Council to express our concerns. The door remains open on our end. We would like to arrange a round table discussion with local stakeholders, including hotels and other affected businesses, with City Council and administration to explain the CVB's valuable local role.

We are asking City Council to repeal its legislation and reinstitute the original funding formula as mandated by state law. We have always complied with state law, following the law is utmost in our mission, and we believe it should be for the City as well.

With City tax revenue on the increase (recently stated as 17% at a council meeting), surely there is another source to "reward other groups," which is what the Mayor has stated he desires to do. Rewarding one group, while punishing another group, and pitting the groups against each other serves no one. It is not just our opinion, but it is Ohio State statutory law.

Please be aware there is no other city or municipality in Ohio that has "multiple CVBs". Our work is outstanding, or we would not have earned numerous awards over numerous years from tourism experts.

Enclosed is additional information and a letter from our attorney, Robert Behal. Please keep in mind this matter has been carefully reviewed and discussed by this Board of Trustees. We are producing exemplary results. All our years of effort can and will go away with the new legislation that enables Council to grant funding to any number of organizations that are not legally designated Convention and Visitors Bureaus.

The State of Ohio law is clear, and our mission is clear. The mission of the other groups is clear, in that they are not Convention and Visitors Bureaus, no matter what the current legislation may state. We own this marketing and this realm, we are truly experts. In protecting our interests, we are protecting the hotels and motels who generate the bed tax, which aides the City via the other **75%** of bed tax that goes directly into the City budget.

We would appreciate the favor of a written response.

Regards,

Beverly Babbert (Jul 15, 2022 16:54 EDT)

Beverly Babbert, CTA
President

Jodi Burroughs (Jul 15, 2022 17:22 EDT)

Jodi Burroughs, CTA
Vice-President

G K Cash (Jul 16, 2022 09:46 EDT)

Karin Cash, CTA
Secretary

Gregory Solt (Jul 16, 2022 10:18 EDT)

Greg Solt
Treasurer

Chad Dennewitz (Jul 16, 2022 16:43 EDT)

Chad Dennewitz
Trustee

Joe Forte (Jul 16, 2022 17:03 EDT)

Joe Forte
Trustee

Brian Garvine

Brian Garvine
Trustee

Steve Rinehart (Jul 17, 2022 18:22 EDT)

Steve Rinehart
Trustee

CYNTHIA SAMS (Jul 18, 2022 08:47 EDT)

Cindy Sams, CTA
Trustee

Form C-102 Corporation Not For Profit
Prescribed by Secretary of State–Ted W. Brown

EC367-1018

APPROVED FOR FILING
By KH – Ewz
Date 4/9/78
Amount $25.00
FOR OFFICIAL USE ONLY

Articles of Incorporation

-OF-

THE GROVE CITY AREA CHAMBER OF COMMERCE
(Name of Corporation)

The undersigned, desiring to form a corporation, not for profit, under Sections 1702.01 et seq., Revised Code of Ohio, do hereby certify:

FIRST. The name of said corporation shall be THE GROVE CITY AREA CHAMBER OF COMMERCE

SECOND. The place in Ohio where the principal office of the corporation is to be located is GROVE CITY (City, Village or Township), FRANKLIN County.

THIRD. The purpose or purposes for which said corporation is formed are:

FOR THE PURPOSE OF ADVANCING THE AGRICULTURAL, ECONOMIC, INDUSTRIAL, PROFESSIONAL, CULTURAL, AND CIVIC WELFARE OF THE GROVE CITY AREA: ENCOURAGING THE GROWTH OF EXISTING INDUSTRIES AND BUSINESSES WHILE GIVING ALL PROPER ASSISTANCE TO ANY NEW FIRMS OR INDIVIDUALS SEEKING TO LOCATE IN THE GROVE CITY AREA; AND SUPPORTING ALL THOSE ACTIVITIES BELIEVED TO BE BENEFICIAL TO THE COMMUNITY AND AREA WHILE OPPOSING THOSE WHICH MIGHT BE DETRIMENTAL.

DOC ID —-> 201821201232

BYLAWS

of

Heart of Grove City

3378 Park Street, Suite D, Grove City, OH
43123

ARTICLE I Name and Principal Office

1. The name of the organization shall be Heart of Grove City Inc. (the "Organization").

2. The principal office shall be at 3378 Park St., Suite D, Grove City, OH 43123, or as otherwise determined by the Board of Trustees (the "Board").

3. "Town Center" means the area bounded by Haughn Road to the east, the railroad tracks to the west, Southwest Boulevard to the north, and Casa Boulevard to the south.

ARTICLE II Primary Responsibilities

The purpose of the Organization is to: (a) stimulate economic development in the Town Center; (b) develop leadership in the business community; (c) promote the Town Center as an exciting place to live, shop, and invest; (d) encourage improvements to and new development in the Town Center; (e) utilize funding resources to effectively market the Town Center; and (f) strengthen the overall community by building relationships throughout the City of Grove City (the "City").

ARTICLE III Financial Support

1. Any business, organization, or individual interested in supporting the Town Center can become a donor of the Organization, and donate any monetary amount or in-kind donation.

2. Monetary donations are nonrefundable.

ARTICLE IV Annual Meeting

1. A meeting of the supporters shall occur annually in January, weather permitting, or at date and time as determined by the Board.

2. The purpose of the annual meeting is to: (a) elect Trustees; (b) fill Board vacancies; (c) vote on Trustee's appointed during the previous year to fill an unexpired term; (d) present a financial report of the Organization; (e) consider business introduced by the Board; and (f) consider other business introduced by supporters.

3. A quorum is required for the annual meeting.
4. A majority vote shall decide any question brought before the Organization and Trustees shall have one vote.

5. The Organization shall provide notice of the annual meeting. Notices shall:

Formal Opinions Process

The Attorney General's Opinions Section prepares and issues numerous formal opinions each year on a wide range of legal subjects. A request for an opinion must be submitted, in writing, by an entity or official to whom the Attorney General may render advice. The Attorney General does not issue opinions to private citizens. A formal opinion cannot address questions committed to another branch of government, questions about the constitutionality of a state or federal statute, or matters that are in litigation. A formal opinion cannot resolve disputed matters of fact.

The formal opinions process begins when a person submits a letter to the Attorney General requesting a legal opinion on a specific question of law. The letter is acknowledged by the Opinions Section, docketed, and assigned to an attorney in the Section. A summary of the request's subject matter is published in the Ohio State Bar Association Report and posted on the Requests for Opinions page of the Attorney General's web site. Parties interested in a particular request are invited to submit comments or analysis to the Opinions Section by way of letter, memorandum, or other written format.

The attorney to whom the request is assigned will, if necessary, contact the requester for further factual or legal information, and then conduct a thorough and detailed review of the law pertinent to the questions presented. Once that research is completed, the attorney prepares a draft opinion, which then proceeds through several levels of review before it is presented to the Attorney General for approval and signature.

Following signature by the Attorney General, the opinion is issued to the requester. The opinion is also published in the appropriate annual volume of the *Ohio Attorney General Opinions*. Each formal opinion is also posted on the Attorney General's web site.

Frost Brown Todd LLC
ATTORNEYS

Stephen J. Smith
Member
614.559.7258 (t)
614.464.1737 (f)
sjsmith@fbtlaw.com

August 1, 2022

VIA ELECTRONIC MAIL

Robert J. Behal
501 South High Street, Suite 200
Columbus, Ohio 43215
rbehal@behallaw.com

RE: City of Grove City Response to July 18, 2022 Grove City Area Convention and Visitor's Bureau Letter

Dear Mr. Behal,

I am writing on behalf of the City of Grove City in response to your letter, on behalf of the Grove City Area Convention and Visitor's Bureau ("Visit Grove City"), dated July 18, 2022. The conclusions stated in your letter are incorrect.

The City of Grove City has authority to appropriate the required percentage of transient occupancy tax revenues to convention and visitors' bureaus operating in Franklin County. As your letter correctly notes, "convention and visitors' bureau" is not specifically defined in the Ohio Revised Code. The reference in your letter to R.C. 307.678 does not provide any greater specificity, because it simply provides that a "bureau," for purposes of cooperative agreements authorized by that section, is "a nonprofit corporation . . . that is, or has among its functions acting as, a convention and visitors' bureau." Likewise, R.C. 5739.092 cited in your letter has no bearing whatsoever on the City of Grove City, because by its express terms that section pertains only to "money collected by a county" under R.C. 5739.09. All of these sections apply only to counties, and none of them limits the ability of the City of Grove City, as a municipality with constitutional home-rule and charter authority, to make a reasonable determination of what entity or entities operate as "convention and visitor's bureaus" for purposes of the allocation of transient occupancy taxes required by Section 5739.08 of the Revised Code.

The Supreme Court of Ohio recently addressed the authority of taxing entities to determine the recipient of the "convention and visitor's bureau" earmark in the case of *State ex rel. Pike Cnty. Convention and Visitor's Bureau v. Pike Cnty. Bd. of Comm'rs*, 165 Ohio St.3d 590, 2021-Ohio-4031, 180 N.E.3d 1135. The Court, considering a petition for writ of mandamus filed by the Pike County Convention and Visitor's Bureau, held that the county commissioners had "discretionary authority under the statute" to "designate the entity that will receive the bed-tax revenue and thereby function as the convention and visitors' bureau for the county." *Id.* at ¶19, 20. According to the Court, the "absence of statutory guidance concerning how an entity is designated to receive bed-tax revenue 'should be read as a grant of discretion' on that point." *Id.* at ¶20, quoting *In re Application of Columbus S. Power Co.*, 128 Ohio St.3d 512, 2011-Ohio-1788, 947 N.E.2d 655, ¶68. Further, the Court stated that the commissioners could "withdraw that designation from one entity and confer it on another . . . [and] exercise discretion to designate a new entity to receive the bed-tax revenue in place of an entity that formerly received the revenue." *Id.* at ¶20.

If Pike County—which, like all Ohio counties, is a creature of statute—could exercise discretion to designate the recipient of the convention and visitor's bureau earmark, then certainly the City of Grove City, empowered by the Ohio Constitution with all powers of local self-government, certainly could do the same. Even assuming that the statutory mandate relative to expenditure of municipal funds for a convention and visitor's bureau is constitutional notwithstanding the Home Rule Amendment, the statute's lack of specific authority should, as in *Pike County*, be read as a grant of discretion to the City. The City's recent action to define "convention and visitor's bureaus" in Ordinance C-65-21 was an exercise of its discretion.

The City Council and Mayor of the City of Grove City are empowered by the City Charter as the legislative authority and chief executive, respectively, of the City. As such, they—rather than unelected private entities—make the policy decisions on behalf of the City. With the adoption of Ordinance C-65-21, the City has determined that entities promoting tourism, convention, trade shows, economic development and other cultural, educational, religious, professional, sports and other activities enhancing the City's appeal to visitors and tourists should be eligible recipients of transient occupancy tax revenues. By operation of the Ordinance, qualifying entities are legally designated convention and visitor's bureaus for the City of Grove City's purposes. The funds provided to them are to be spent for the purposes of promoting tourism, convention, economic development, and other projects or expenditures which would enhance the City's appeal to visitors and tourists. These entities are accountable to the City's Finance Director, as provided in the Ordinance.

For these reasons, the backhanded threat of litigation in your July 18, 2022 letter is hollow. The City of Grove City, through its elected officials, will decide how its tax revenues are spent and, if necessary, the City will strenuously defend its rights under the Ohio Constitution and Revised Code. The City's lawful discretion will not be constrained by overheated threats of litigation from Visit Grove City, or anyone else.

Sincerely,

FROST BROWN TODD, LLC

/s/ Stephen J. Smith

Stephen J. Smith
Law Director, City of Grove City

cc: Mayor Richard L. Stage
President Ted A. Berry, City Council
Randy Holt, City Council
Christine A. Houk, City Council
Roby Schottke, City Council
Mark Sigrist, City Council
Charles W. Boso, Jr., City Administrator
William F. Vedra, Jr., Assistant City Administrator

The City of Grove City, Ohio
4035 Broadway Grove City, Ohio 43123
614-277-3000

Richard L. "Ike" Stage, Mayor

June 29, 2022

Amanda Davis, Executive Director
Grove City Area Convention and Visitors Bureau
3995 Broadway – STE 100
Grove City, OH 43123

Dear Amanda,

On behalf of the City Administration, thank you for your presentation to city council June 6, 2022.

We have all been through a very difficult time during the past 2 years, so we appreciate the effort you and your organization have put forth during this unprecedented time.

As I mentioned on the 6th, in order for the administration to begin formalizing the 2023 Appropriation Ordinance and to begin to project a possible additional appropriation for what looks like a significant increase in hotel/motel tax revenue for 2022, I asked the following questions:

1. As of April 30, 2022, what is the cash and cash equivalent balances of the GCACVB;
2. What is the budget forecast of needed revenue for the GCACVB for 2023;
3. Would the GCACVB please share the most recent hotel/motel contact list with the city to compare for accuracy;
4. Has the GCACVB engaged counsel to determine the legalities of disbursing bed tax revenue; (Your answer was yes. I am requesting a copy of the opinion);
5. When does your lease expire for your current location?

In addition, following the 6th meeting, I was informed that the city must sign an agreement with the GCACVB in order to use photos taken on behalf of the GCACVB at community events. Would you please explain this new requirement, since we have historically shared media releases, photos, promos between the Heart of Grove City, the Chamber and the GCACVB?

Grove City is still one of the most incredible communities in all of Ohio, we look forward to our continued relationship in promoting the city. I look forward to your response.

Sincerely,

Richard L. "Ike" Stage
Mayor

Mayor Stage asked Ms. Davis to provide answers to the following questions: 1. what is the cash balance as of 4/31/22; 2. a 2023 Budget Forecast is needed by the City; 3. will they please share their contact list for the hotel's/motels; 4. Has the VCB engaged Counsel to determine the legalities of disbursing bed tax funds; 5. does their lease agreement expire this year. Ms. Davis said she would get those answers to him, but could answer yes to sharing their contact lists; they have engaged an attorney; and said no, their lease does not expire this year.

Mayor Stage reported that the current collections of the Bed Tax are running about 17% over that 2019 collection – which is about $90,000.00 more than appropriated for this year.

4. Ms. Chris Moore, resident, stated that she grew up here and loves the small town feel. She shared concerns over so many bars and the carousing around town. She said she heard that Grove City wants more LGBTQ residents and she believes we have plenty of diversity here. She would like to get back to the basics, with family based values.

The Chair recognized members of Administration and Council for closing comments.

1. Mayor Stage reported that the G.C. High School Boys Baseball team is headed to the State semi-finals; Ms. Ester came in 1st in the 100 meter dash; today is the 70th anniversary of D Day; and Governor DeWine will be here tomorrow afternoon.

2. After closing comments from Council and Administrative staff members, a motion to adjourn was approved by unanimous consent.

Adjourned at 8:23 p.m.

Tami K. Kelly

Tami K. Kelly, MMC
Clerk of Council

Ted A. Berry

Ted A. Berry
President of Council

Frost Brown Todd LLC
ATTORNEYS

Stephen J. Smith
Member
614.559.7258 (t)
614.464.1737 (f)
sjsmith@fbtlaw.com

August 1, 2022

VIA ELECTRONIC MAIL

Robert J. Behal
501 South High Street, Suite 200
Columbus, Ohio 43215
rbehal@behallaw.com

RE: City of Grove City Response to July 18, 2022 Grove City Area Convention and Visitor's Bureau Letter

Dear Mr. Behal,

I am writing on behalf of the City of Grove City in response to your letter, on behalf of the Grove City Area Convention and Visitor's Bureau ("Visit Grove City"), dated July 18, 2022. The conclusions stated in your letter are incorrect.

The City of Grove City has authority to appropriate the required percentage of transient occupancy tax revenues to convention and visitors' bureaus operating in Franklin County. As your letter correctly notes, "convention and visitors' bureau" is not specifically defined in the Ohio Revised Code. The reference in your letter to R.C. 307.678 does not provide any greater specificity, because it simply provides that a "bureau," for purposes of cooperative agreements authorized by that section, is "a nonprofit corporation . . . that is, or has among its functions acting as, a convention and visitors' bureau." Likewise, R.C. 5739.092 cited in your letter has no bearing whatsoever on the City of Grove City, because by its express terms that section pertains only to "money collected by a county" under R.C. 5739.09. All of these sections apply only to counties, and none of them limits the ability of the City of Grove City, as a municipality with constitutional home-rule and charter authority, to make a reasonable determination of what entity or entities operate as "convention and visitor's bureaus" for purposes of the allocation of transient occupancy taxes required by Section 5739.08 of the Revised Code.

The Supreme Court of Ohio recently addressed the authority of taxing entities to determine the recipient of the "convention and visitor's bureau" earmark in the case of *State ex rel. Pike Cnty. Convention and Visitor's Bureau v. Pike Cnty. Bd. of Comm'rs*, 165 Ohio St.3d 590, 2021-Ohio-4031, 180 N.E.3d 1135. The Court, considering a petition for writ of mandamus filed by the Pike County Convention and Visitor's Bureau, held that the county commissioners had "discretionary authority under the statute" to "designate the entity that will receive the bed-tax revenue and thereby function as the convention and visitors' bureau for the county." *Id.* at ¶19, 20. According to the Court, the "absence of statutory guidance concerning how an entity is designated to receive bed-tax revenue 'should be read as a grant of discretion' on that point." *Id.* at ¶20, quoting *In re Application of Columbus S. Power Co.*, 128 Ohio St.3d 512, 2011-Ohio-1788, 947 N.E.2d 655, ¶68. Further, the Court stated that the commissioners could "withdraw that designation from one entity and confer it on another . . . [and] exercise discretion to designate a new entity to receive the bed-tax revenue in place of an entity that formerly received the revenue." *Id.* at ¶20.

If Pike County—which, like all Ohio counties, is a creature of statute—could exercise discretion to designate the recipient of the convention and visitor's bureau earmark, then certainly the City of Grove City, empowered by the Ohio Constitution with all powers of local self-government, certainly could do the same. Even assuming that the statutory mandate relative to expenditure of municipal funds for a convention and visitor's bureau is constitutional notwithstanding the Home Rule Amendment, the statute's lack of specific authority should, as in *Pike County*, be read as a grant of discretion to the City. The City's recent action to define "convention and visitor's bureaus" in Ordinance C-65-21 was an exercise of its discretion.

The City Council and Mayor of the City of Grove City are empowered by the City Charter as the legislative authority and chief executive, respectively, of the City. As such, they—rather than unelected private entities—make the policy decisions on behalf of the City. With the adoption of Ordinance C-65-21, the City has determined that entities promoting tourism, convention, trade shows, economic development and other cultural, educational, religious, professional, sports and other activities enhancing the City's appeal to visitors and tourists should be eligible recipients of transient occupancy tax revenues. By operation of the Ordinance, qualifying entities are legally designated convention and visitor's bureaus for the City of Grove City's purposes. The funds provided to them are to be spent for the purposes of promoting tourism, convention, economic development, and other projects or expenditures which would enhance the City's appeal to visitors and tourists. These entities are accountable to the City's Finance Director, as provided in the Ordinance.

For these reasons, the backhanded threat of litigation in your July 18, 2022 letter is hollow. The City of Grove City, through its elected officials, will decide how its tax revenues are spent and, if necessary, the City will strenuously defend its rights under the Ohio Constitution and Revised Code. The City's lawful discretion will not be constrained by overheated threats of litigation from Visit Grove City, or anyone else.

Sincerely,

FROST BROWN TODD, LLC

/s/ Stephen J. Smith

Stephen J. Smith
Law Director, City of Grove City

cc: Mayor Richard L. Stage
President Ted A. Berry, City Council
Randy Holt, City Council
Christine A. Houk, City Council
Roby Schottke, City Council
Mark Sigrist, City Council
Charles W. Boso, Jr., City Administrator
William F. Vedra, Jr., Assistant City Administrator

Grove City Area Convention and Visitors Bureau

Statement of Revenues, Expenses and Changes in Net Assets
Modified Cash Basis

For the Twelve Months Ended December 31,

Project 8/1/2022 2022

4 yrs #1.6 # 2.1 5 years

	2021		2020	2019	2018	2017
Revenues:						
Bed Tax 500,000	$422,094		$309,828	$460,306	$415,096	$375,000
Interest Income	691		2,372	1,452	1,587	1,832
Other Income	971		2,493	6,411	8,674	4,645
Rent	0		0	0	0	0
Total Revenues	423,756		314,693	468,169	425,357	381,477
% Increase from 2017 to 2020	**11%**					
Expenses		39% of Revenue				36.6
Marketing and Promotion	166,492	**19%**	78,086	121,230	123,827	139,960
% Increase from 2016 to 2020						
Professional Fees	1,710		1,921	3,961	3,846	6,736
Travel and Meetings	1,344		1,193	4,092	10,049	7,479
Website	4,173		5,335	17,504	14,906	13,986
Office Expense	5,152		5,276	12,510	15,627	10,021
Wages	142,558		111,381	180,264	162,318	124,925
Payroll Taxes	11,665		8,485	15,072	12,694	10,511
Payroll Service Fee	1,537		1,235	1,533	1,346	1,222
Rent	72,613		37,176	50,640	47,950	40,800
Repairs and Maintenance	3,968	**10%**	2,915	6,157	14,081	3,870
Depreciation	539		758	1,418	2,281	885
Telephone/Internet	3,579		3,760	6,170	6,425	4,460
Dues and Subscriptions	3,755		2,685	5,635	11,863	10,675
Insurance	1,793		1,348	1,613	1,795	1,613
Employee Benefits	12,807		13,194	8,596	17,043	2,953
Community Grants	0		0	0	0	0
Public Display	267,193 0		0	0	0	0
Utilities	0		0	0	823	3,460
Total Expenditures	433,685		274,748	436,395	446,874	383,556
CHANGE IN NET ASSETS	(9,929)		39,945	31,774	(21,517)	(2,079)
NET ASSETS AT JANUARY 1,	270,751		230,806	199,032	220,549	222,628
Prior Year Adjustment	6,476					
NET ASSETS AT DECEMBER 31,	267,298	**21%**	270,751	230,806	199,032	220,549
NET ASSETS TO BED TAX	**63%**		**87%**	**50%**	**48%**	**59%**
Cash	337,518	**59%**	261,856	213,497	195,541	212,427
Net Property and Equip	422		961	1,719	3,491	5,772
Deposits	0		0	0	0	2,350
Prepaid Exp / (Current Liabilities)	(70,642)		7,934	15,590	0	0
Net Assets	**267,298**		**270,751**	**230,806**	**199,032**	**220,549**

CITY OF GROVE CITY, OHIO
COUNCIL CAUCUS NOTES

August 01, 2022

Council met at 6:30 p.m. in the Council Chambers, City Hall, 4035 Broadway.

Council Members reviewed the Agenda items.

Ms. Kelly and Mr. Smith explained that the city adopted resolutions to create a Housing Council for each Community Reinvestment Area, which is required by the Ohio Revised Code, but it has been superseded by the County Housing Authority, which reviews the same data. Mr. Smith stated that the local authority is not necessary and does not meet. Therefore, it is not necessary for Council to appoint members to this committee.

Ms. Conrad, Dir. of Parks & Rec., updated Council on the naming of the park where the old library stood, on Park Street. She said the Park Board suggested naming it after the first librarian or the first owner of that property. She said they would like to get public input and proceed with a survey of the community to select the name. She asked Council Members to let her know if they had any questions or concerns.

Council retired to the Chambers to begin the Regular meeting.

Tami K. Kelly
Tami K. Kelly, MMC
Clerk of Council

Ted A. Berry
Ted A. Berry
President