

**Council of the Village of Yellow Springs
Special Meeting Minutes**

In Council Chambers @ 6:00 P.M.

Monday, May 18, 2015

CALL TO ORDER

President of Council Karen Wintrow called the meeting to order at 6:00 pm.

ROLL CALL

Present were President Karen Wintrow, Vice President Lori Askeland, Gerry Simms, Brian Housh and Marianne MacQueen. Village Manager Patti Bates was present, as were Assistant Village Manager John Yung and Streets and Parks Supervisor Jason Hamby. Village Solicitor Chris Conard was also present.

PETITIONS AND COMMUNICATIONS

Askeland reviewed the communications received.

The Clerk will receive and file:

Rudawski/Askeland re: Utility Policy

Marie Slattery re: Utility Policy

Slattery/Vanzant re: Utility Policy

Carol Hicks re: Utility Policy

Paul Abendroth re: Utility Policy

Judy Kintner re: Draft Minutes of May 4 (for reference only)

PUBLIC HEARINGS/LEGISLATION

Second Reading and Public Hearing of Ordinance 2015-07 Accepting Planning Commission's Recommendation to Rezone 104 Xenia Avenue from C-1 with Gateway Overlay to B-1 with Gateway Overlay. Simms MOVED and Askeland SECONDED a MOTION TO APPROVE.

Staff found that the property at 104 Xenia Avenue, which is the location of a restaurant known as Peach's Grill, was rezoned C6 Conservation when the zoning map was adopted in September, 2013. The property has contained a restaurant for over a decade. Staff identified the conflict and asked the Planning Commission to initiate a rezoning. The Commission voted unanimously in February of 2015 to rezone the property from C6 Conservation with a Gateway Overlay District to B-1 Central Business with a Gateway Overlay District.

Wintrow OPENED THE PUBLIC HEARING.

There being no questions or comments from those present, Wintrow CLOSED THE PUBLIC HEARING.

Wintrow CALLED THE VOTE, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Second Reading and Public Hearing of Ordinance 2015-09 Amending Section 1042.01 of the Codified Ordinances with Respect to Determination of the Power Supply Cost Adjustment. Simms MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Bates explained that, in the past, the Village's power supply cost was based upon a rolling 12-month period, and is always adjusted to one year prior to the date. Bates stated that the method is costing the Village money, and that an every-three-month method will help the Village to realize savings in a more timely fashion.

Wintrow OPENED A PUBLIC HEARING.

Jo Dunphy received assurance that the ordinance would not change billing in any way.

Wintrow CLOSED THE PUBLIC HEARING.

Wintrow CALLED THE VOTE, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

First Reading of Ordinance 2015-10 Second Quarter Supplemental Appropriations. Simms MOVED and Housh SECONDED a MOTION TO APPROVE.

Bates explained the appropriations as delineated in the explanations sheet provided by Vanzant. Bates noted that the funds are available, but that they need to be appropriated for proper expenditure.

There being no questions or comments from those present, Wintrow CALLED THE VOTE, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Reading of Resolution 2015-18 Authorizing a Contract with the Clerk of Council. MacQueen MOVED and Simms SECONDED a MOTION TO APPROVE.

Wintrow commented that the Clerk's contract was overdue, and stated that a process is now in place to assure that Clerk and Manager contract evaluations are implemented annually even in the event of change in Council makeup. She commented further that the Clerk's work had been exemplary, and that Council was pleased to offer a merit-based salary increase.

Wintrow CALLED THE VOTE, and the MOTION PASSED 5-0 on a VOICE VOTE.

Third Reading and Public Hearing of Ordinance 2015-06 Amending Sections 1040.02 and 1040.03 of the Codified Ordinances of Yellow Springs, Ohio to Assign Responsibility for Utility Delinquencies to the Owner of any Rental Property. Simms MOVED and Housh SECONDED a MOTION TO APPROVE.

Bates noted that there had been no changes made to the ordinance (Bates later noted that the ordinance will not take effect until January 1, 2016, as stated in the ordinance) , but that there had been some changes made to the policy, in that the ordinance will apply only to new leases.

Bates stated that Vanzant had included a ðhow to calculate your billö worksheet in the materials and will be holding a workshop on May 28th.

There were no comments from Council.

Wintrow OPENED THE PUBLIC HEARING.

Judith Hempfling stated that she supported Askeland's changes to the policy, and opined that now that the collections policy is cleaned up, the Village is likely to see significant improvement in payment for utilities such that, coupled with a collections process that includes a outside collection agency, would make the change in ordinance unneeded.

Hempfling commented that the Auditor's comments seem to have spurred the change in ordinance, and stated that the Auditor is not an Economic Development or Housing specialist, and must be considered in that context.

Hempfling quoted Ellis Jacobs, stating that it is standard process for communities to add a little to everyone's bill to cover these delinquencies.

Hempfling stated that in turning collection over to landlords, it circumvents the prohibition against running credit checks or increasing the deposit for some utility users.

Hempfling asked why Council would consider a policy that allows landlords to engage in practices that make renting more difficult for low income persons.

Regarding Economic Development, Hempfling stated that her brother who is an economic development specialist has stated that the practice will put the Village at a disadvantage in comparison to surrounding communities who do not have such a policy, given the potentially very large utility bills likely to be incurred by business rentals.

Finally, Hempfling said, she was concerned that Council would choose to follow Staff recommendation ðin a way that would make it difficult for Council to have an open discussion with the community about the matter.ö

Askeland responded, stating that Hempfling's opening statement was prefaced on a written

statement made by Askeland on her e-mail list, and should be explained.

Askeland stated that she planned to return to her former ðnoö vote, based upon her position on affordability and economic development.

Askeland enumerated changes she was suggesting to the policy which she thought would resolve the issue, as follows:

- Owner-occupied properties would be guaranteed by property tax
- Non-owner-occupied properties must provide proof that they are not owner-occupied
- Renters must provide a lease to the Village
- Landlords must provide leases to renters
- The Village should collect higher deposits as permitted by law

Sam Young stated that he believes the ordinance is anti-business in nature. He stated that he, Pat Ertl and Sheila Dunphy had asked to meet with Village officials, but that they were told that the subject was not relevant to future economic development efforts.ø

Young stated that while impact on housing might be disputed, it could be agreed-upon that the ordinance would prove a disincentive to commercial real estate. Young noted the past presence of five major consumers, of which, he asserted, only Millworks continues to sustain the utility consumption of past years.

Young argued that the gain from commercial real estate would far outstrip any gain from increase in collection of utility bills, and that the ordinance is, for that reason, ill advised.

Young praised Askeland's suggestions, and asked that Council support them.

Sandy Love asked that Council listen first to citizens instead of to staff, the Auditor or ðevery other Village in the area.ö She characterized the Council as slavishly following the example of others, to the detriment of citizens and future business. Love praised Askeland's suggestions as pro-business.

Bob Baldwin received clarification regarding the number of days a bill can be late before services are cut off (30 days), and clarification around how a payment plan can be obtained.

Baldwin stated his objection to payment plans generally.

Baldwin noted his love for the Village, and praised the Village for seeking out economies. He stated that he considers the current ordinance ðoverblownö. Baldwin stated that the Village would gain more from a 5% penalty. He stated that nothing good will come from the ordinance. He asked that the ordinance go on hold for 90 days to see if the tightening up of procedures has been effective.

Betty Ford commented that the matter is on the news. She asked that the Village consider cutting tenants off if they exceed their deposit amount, and taking any overage out of the deposit and requiring that it be reimbursed.

Jo Dunphy asked that all work together to resolve the issue.

Paul Abendroth stated his understanding that the driving motivations for the ordinance are compliance with the auditor and a zero loss. He expressed objection to any zero loss policy.

Bates commented that all tightening up procedures have been in place long enough to have realized the effect of those improvements. She stated also that the 5% policy has been in place for some time.

MacQueen followed up on Young's earlier comment regarding a meeting, asking with whom a meeting was requested.

Young stated that Sheila Dunphy had requested a meeting with Yung, Pat Ertl, Dunphy and Young to discuss a letter to the editor written by Ertl regarding impact of the legislation on economic development, and stated that she was told that the meeting was not necessary.

Yung responded that while he had met with Sheila Dunphy, he had not been asked to meet with the above named group. Yung apologized for any possible misunderstanding.

MacQueen commented that she would have liked to see a better forum for discussion, it does not mean that she or other Council members were not listening to all parties. MacQueen commented that she does not believe that all citizens should bear the responsibility for delinquent utilities. She stated that she would like to see organizations formed to assist utility users, both commercial and residential, in meeting their obligations through difficult times.

MacQueen stated that the Village needs more rental property generally, and stated that the Glass Farm should be developed for this purpose.

Housh pointed out that affordability has become a central issue, and stated that a difficulty for him is that each argument seems to have an equivalent counter argument. Housh commented that if the Village remains with the status quo, everyone's bill will increase, which, coupled with the planned rate increases, will further pressure homeowners and renters who are now struggling.

Housh countered Askeland's assertion that Linda Rudawski had not endorsed the ordinance, and read from her letter stating that a rental agreement is essentially a private property owner subcontracting with a renter for payment for utilities. If subcontractors fail to pay, then landlords must pay. Housh stated his belief that this is an endorsement. He stated that Rudawski's reference to "affordable feasibility" is significant as well, in that it contains an imperative that landlords educate renters regarding the total cost of rental, not just regarding the cost of the unit.

Housh stated that in his opinion, costs for renters should not need to increase. He stated that there are currently landlords who are willing to rent to low-income persons, and commented that risk tolerance is something that has to be factored in to a landlord's decision. Housh stated that shifting the Village's \$200.00 deposit to the landlord should ameliorate the risk without creating undue hardship for the renter.

Housh spoke in favor of incentivizing investments in energy efficiency. He noted that the legislation in question tends to shed light on energy efficiency, which he sees as a positive. Housh stated that he sees a number of landlords who are committed to diversity, and encouraged this practice.

Housh noted that statistically, a single renter needs to be able to earn a minimum of \$25,000 per year to be able to afford a rental. He noted that by working together the goal can be achieved, and opined that most issues have been addressed through the policy document.

Simms stated that he has been listening, and made several clarifications in his understanding.

Askeland stated that she is planning to vote "no" and commented that there is pressure on long term rental units, given Air B&B and weekend rental options which carry less overall risk. She commented as well that those persons who rent units as a supplement to a retirement income will be threatened by the greater risk associated with renting under the proposed legislation.

Askeland commented that commercial rentals may also carry more risk under the legislation. Askeland stated that the Village has used utilities to support business in the past, including Home, Inc.

Askeland reiterated her suggestions for improving the current utility regulations. She noted the need for reasonable deposits, and alternatives to deposits.

Askeland MOVED that Council AMEND THE PROPOSED POLICY as follows: ALL OWNER-OCCUPIED PROPERTIES ARE GUARANTEED THROUGH PROPERTY TAX AS RECOMMENDED BY STAFF, AND THAT ALL RENTAL UNITS REVERT TO BEING ON DEPOSIT, WITH SOME IMPROVEMENTS MADE TO POLICIES RELATED TO RENTAL UNITS. MacQueen SECONDED.

Judith Hempfling commented that the policy is important and asked that Council table the discussion for consideration.

Sam Young commented in favor of Askeland's proposal.

Bob Baldwin stated that he saw no problem with postponing the decision for 90 days to give the Utility Department time to realize the benefit of changes.

Housh stated that in delaying implementation to January first, Council is essentially giving the changes six months.

Wintrow CALLED A VOTE ON THE AMENDMENT. The AMENDMENT FAILED 1-4, with Askeland voting in favor.

Wintrow commented that the ordinance has been discussed equitably with staff, and that there is no question of anyone feeling öledö. She noted that the policy of property owner responsibility through property tax is shared by a great majority of municipalities, attesting to its feasibility as a sound fiscal approach. Wintrow noted that the Village is not a for-profit government owned utility, and has, as such, been guaranteed by the State of Ohio the ability to hold property owners responsible for delinquencies so that fees can be collected equitably across all user groups.

Wintrow pointed out that property rental, while it may carry some risk, is entered into by property owners with the expectation of some degree of benefit, and with the advantage of tax deductions.

Wintrow placed responsibility on landlords for properly informing their tenants of the real costs of renting, including deposits and average utility bills. She noted that the proposed legislation sets up a more sustainable relationship between renter and landlord in that it requires that that information be given as part of the rental process.

Wintrow stressed that the ordinance will make energy efficiencies a part of profitability for landlords, and expressed her desire to involve Energy Board and Efficiency Smart in working with landlords to identify savings, efficiencies and other incentives for landlords seeking to improve properties.

In response to the perspective that the legislation is anti-business, Wintrow stated that she had spoken with economic development professionals, city managers and business representatives in Fairborn and Xenia, none of whom felt that the legislation would produce a negative effect.

Wintrow spoke to the difficulty of the decision for her, stating that her final decision was based upon the right decision for the Village as a whole, rather than upon association with any one faction.

Wintrow CALLED THE VOTE, and the MOTION PASSED 4-1 ON A ROLL CALL VOTE, with Askeland voting against.

ADJOURNMENT

At 7:05, Simms MOVED and Housh SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A VOICE VOTE.

Please note: These notes are not verbatim. A DVD copy of the minutes is available for viewing in the Clerk of Council’s office between 9am and 3pm Monday through Friday.

Karen Wintrow, President

Attest: Judy Kintner, Clerk