

**Council for the Village of Yellow Springs
Regular Session Minutes**

In Council Chambers @ 7:00 P.M.

Monday, July 19, 2021

CALL TO ORDER

President of Council Brian Housh called the meeting to order at 7:00pm. He noted that the meeting is a hybrid model incorporating both in-person and zoom platforms.

ROLL CALL

Present were President Housh, and Council members Marianne MacQueen, Kevin Stokes, Lisa Kreeger (participating virtually) and Laura Curliss. Also present were Village Manager Josue Salmeron, Solicitor Breanne Parcels, Public Works Director Johnnie Burns, Planning and Zoning Administrator Denise Swinger, Chief Carlson and Finance Director Matt Dillon.

ANNOUNCEMENTS

MacQueen announced a new article in the YS News entitled “Down to Earth”, which highlights environmental issues, and noted a recent article regarding recycling.

Salmeron announced temporary closure of a portion of Dayton Street due to detection of a major water leak in that area.

Salmeron announced a community outdoor showing of “Ghostbusters” sponsored by the Library Association set for July 31. He also announced a Community Picnic hosted by the YS Development Corporation set for July 29th. Last, Salmeron introduced Lacey Fox as the new Community Access Station Manager.

Kreeger provided more detail regarding the Community Picnic.

Kreeger noted that the ACC has started an in-depth series of conversations regarding Yellow Springs culture and how to support art and music in the Village.

Housh announced the increases in COVID in 45 states, and stressed the need to improve the ability to physically distance in the downtown area. He noted two issues, those being limiting vendors in downtown spaces, and the second being better enforcement of those vendors who are directly competing with brick and mortar businesses. He asked that the existing ordinances be enforced.

CONSENT AGENDA

1. Minutes of July 6, 2021 Regular Session

MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE the Consent Agenda. The MOTION PASSED 5-0 ON A VOICE VOTE.

REVIEW OF AGENDA

Housh added the topic of Street Vendors to New Business.

Kreeger added a conversation regarding the Black Lives Matter Banner to New Business.

Curliss added Health Insurance for Elected Officials to Old Business.

PETITIONS/COMMUNICATIONS

The Clerk will receive and file:

Moriel Rothman re: BLM Banner Request
David Mader re: Traffic Study Request
Patrick Lake re: Resource and Traffic Study Requests
Linda Mates re: Traffic Study Request
Joseph Amend re: Objection to Development on South End
Mary Cargan re: Sidewalk Safety
Mayor's Court Report (2)
Marianne MacQueen re: Rezoning Article
Connie Richeson re: Neighborhood Safety
Susan Jennings re: Support for CASP Resolution

MacQueen reviewed the materials received.

PUBLIC HEARINGS/LEGISLATION

Second Reading and Public Hearing of Ordinance 2021-20 Accepting Annexation from Miami Township to the Village of Yellow Springs of 33.816 Acres of Property Located North of East Hyde Road and West of Spillan Road. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Salmeron again noted the importance of annexation to the Village because of the requirement that the Village provide utilities to that area as the result of a past lawsuit. He stressed that Oberer has the right to build in the Township without the annexation, and that annexation is the only way for the Village to have any input into the development, through the planning and zoning process.

Salmeron described the area proposed for annexation. Salmeron stated that both water production and sewer capacity are sufficient to provide services, and stated that the capacity and ability to meet demand are available from the Village electric utility. He also noted the need of Village schools to increase local enrollment.

Salmeron stated that without annexation, 113 homes could be built, with 138 homes possible if the area is annexed. He noted that any rezoning is a separate issue.

Salmeron commented that the Village has a great deal of overhead involved in its infrastructure, and this will be offset through an increased customer base. This is true for the water and wastewater systems. The electric utility, he said, has the capacity to expand as needed.

Housh stated that Oberer has committed to a traffic study.

Curliss asked for a cost-benefit analysis, speculating on the cost of road improvement, PD services, etc. She speculated that revenue might be higher if the area was not annexed, given that the Village charges double for utilities in non-annexed areas of service.

Salmeron clarified that the amount charged is a 50% increase for utilities in non-annexed areas of service, and asserted that the numbers shown in his presentation do contemplate those matters, and more money is made if the area is annexed. Salmeron asserted that this area is one of the best areas in town for service provision, given proximity of the utilities.

MacQueen stated support based on her belief that pressure needs to be taken off of the Village housing market in general.

Kreeger noted the information that the sanitary system would not need to run through the lift station. She stated that she wants the Village to be able to have some control over the development, which requires the annexation.

Matthew Kirk commented on the “intangible cost” being a reduction in walkability. He characterized the development as automobile-centered and lacking in ingress/egress option.

Housh OPENED THE PUBLIC HEARING.

Megan Bachman, Yellow Springs News, asked for more information regarding the Development Agreement and who is on the committee.

Salmeron stated that the group had addressed the “broad issues”.

Housh noted MacQueen, Housh, Burns, Swinger, Matthew Kirk and Josh Miller as well as Salmeron as committee members. He noted that the agreement will come to Council once it is more fully fleshed out.

Greg Smith from Oberer responded to a question from Stokes regarding the Oakbrook development, stating that the development has 99 homes on about 100 acres, with one point of ingress and egress. He commented that he has never had to wait to enter or exit the development.

Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Second Reading and Public Hearing of Ordinance 2021-21 Amending Chapter 1262 re: Expiration and Specific Requirements – Transient Guest Lodging. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

Swinger explained the ordinance as changing the expiration for a conditional use approval to 24 months, and allowing the Zoning Administrator to extend it for an additional 12 months if no changes to the original plan have changed.

She explained each section of the ordinance as follows:

1262.08 (e) (7) B. – Planning Commission wanted clear guidelines regarding the location of TGL’s in neighborhoods. The Planning Commission recommends the following language to Council: *In no case, can a transient guest lodging be located closer than 500 feet from another transient guest lodging, as measured from closest property line to closest property line.*

1262.08 (e) (7) C. – Correcting an error as the building official is currently Greene County Building Regulations and not the health department.

1262.08 (e) (7) N. – Creates a designated smoking area on the property if the operator allows smoking.

1262.08 (e) (7) O. – Commercial insurance required for non-operator occupied transient guest lodgings.

Housh commented that 500 feet seems like too much distance for a small community.

Swinger stated that this could be amended. In response to a follow-up question from Housh, Swinger stated that if a home owner wants to rent out an ADU long-term, these restrictions do not apply.

Parcels responded to a question from Housh, stating that PC was seeking a concrete recommendation regarding “proximity”, and advised setting a specific number. She noted that the decision could then be appealed to the BZA.

Parcels confirmed that at present, no non-owner occupied TGLs can be approved by the Village.

Housh noted that there is still a process for appeal, but he asked that a message be conveyed to PC that Council’s priority with regard to ADUs is affordability for residents of the Village. He asked that a joint meeting of Council and Planning Commission be set up to discuss these matters. He stated a perceived “disconnect” between policy and weighing factors for decisions. He commented that PC “may be taking liberties.”

Megan Bachman commented that the way the code is currently written seems to hamstring PC with regard to denial.

Curliss seconded this comment, stating that PC is trying to find a way to prevent ADUs from becoming TGLs, and that PC needs specific measures.

Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Second Reading and Public Hearing of Ordinance 2021-22 Amending Chapter 1268 re: Expiration. Curliss MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Swinger stated that the ordinance increases the time permitted to begin construction on a conditionally permitted structure from 12 to 24 months.

Housh OPENED THE PUBLIC HEARING.

Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Second Reading and Public Hearing of Ordinance 2021-23 Amending Chapter 1278 re: Decisions of the Board – Board of Zoning Appeals. Stokes MOVED and Curliss SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

Swinger explained that this was changing the word “expire” to the word “lapse” to provide consistency.

Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Reading of Resolution 2021-29 Authorizing the Village Manager to Execute a Contract with Piper Fernway to Provide the Village with a Climate Action and Sustainability Plan. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Salmeron stated that this resolution and contract is coming at the request of the Environmental Commission. He noted that the recommendation of the EC is to hire Fernway.

MacQueen stated that it is a Council Goal to create a CASP. She noted that the endeavor will be inclusive of several groups.

Kreeger expressed deep concern that only two candidates were considered. She asked why the matter was “so rushed” and asked what efforts were made to secure a diverse, broadly representative candidate pool.

Salmeron responded that the Village had accessed the standard local channels, and had reached further, contacting Wright State, the Handley Sustainability Institute and three other entities by email.

Megan Bachman asked for Fernway’s qualifications.

MacQueen enumerated Fernway’s qualifications.

Housh CALLED THE VOTE. The MOTION PASSED 3-2 ON A ROLL CALL VOTE, with Kreeger and Curliss voting against.

Reading of Resolution 2021-30 Committing a Total of \$12,000 to the Yellow Springs Home, Inc. Major Repair Initiative from the Village 2022 Fiscal Budget in Support of a USDA Housing Preservation Grant Contingent upon Award of Grant Funds. Stokes MOVED and Curliss SECONDED a MOTION TO APPROVE.

Salmeron stated that the resolution formalizes Council’s motion from the previous meeting, assuring that funds are requested during the 2022 budget process. The grant, if obtained, will leverage over \$200,000.00 for repair funds to local homeowners.

Housh noted that these repairs will have direct impact upon energy efficiency.

Housh CALLED THE VOTE. The MOTION PASSED 5-0 ON A ROLL CALL VOTE, with Kreeger and Curliss voting against.

CITIZEN CONCERNS

Diane Diller asked that the BLM Banner be put back up, and read a letter to the Editor from Moriel Rothman.

Megan Bachman asked for an update on the Ellis Pond matter.

Salmeron responded that barley bales are being placed to inhibit algae growth, and the laying of conduit to provide aeration, which will soon be installed.

Burns added that the aeration should be in place by the end of July.

Salmeron stated that testing indicated low oxygen levels, which had contributed to the recent fish kills.

Matthew Kirk commented that outside entities seem to be buying houses and “just letting them sit”, which is affecting affordability.

Several Council members commented on this phenomenon.

SPECIAL REPORTS

There were no Special Reports.

OLD BUSINESS

Continued Discussion of Creation of a Citizen/Community Review Board. Curliss stated that she and Kreeger had been working with Ellis Jacobs to identify an entity capable of providing a legal review of the document. She asked what funds are available for this project.

Curliss opined that the amount should be minimal and would not need Council approval.

Housh stated his desire that Council approve any such allocation.

Curliss ASKED FOR APPROVAL OF UP TO \$2,000.00 FOR THE PURPOSE OF OBTAINING OUTSIDE LEGAL COUNSEL TO REVIEW THE CRB PROPOSAL.

Salmeron stated that this would require a resolution, and indicated that funds are stretched at present, but that he could come back with numbers when the resolution returns to Council.

Kreeger expressed incredulity at Salmeron's comments, stating that votes tonight indicate Council's flexibility with regard to funding projects they wish to see completed. She pointed out that creation of a CRB is on Council's goals, that the amount in question is minimal, and that the hold up of another month will be unnecessarily detrimental to the CRB process.

Kreeger MOVED to APPROVE \$2,000.00 for Legal Counsel to review the CRB. Curliss SECONDED.

Curliss stated that she has been trying since May to meet with the Village Manager on this matter, and has been unable to do so. This "is not a last-minute matter" she stated. She stated further that she could be ready with an ordinance for the next meeting.

Kreeger related that she had met with Salmeron on the matter and that he had agreed with her that external legal review was necessary to move the proposal forward. She stressed that this is a proposal that has been pending since she joined Council. Kreeger noted that she and Curliss have been speaking with Atty. Ellis Jacobs regarding the matter, for his insight as to a qualified outside entity to review the CRB proposal.

Stokes commented that his understanding was that there would be a legal review.

MacQueen commented that she is not ready to see an ordinance.

Housh commented that the process has been confusing in some ways.

This led to a spirited exchange, with Parcels insisting that the CRB needs the scrutiny of an outside counsel because she, as the Village Solicitor, would be in the position of assuring its proper implementation. She stated that she is able to make such a recommendation.

Housh stated that he would like the recommendation to come from Parcels, and suggested that Curliss and Kreeger pass along to her any prospects gained from their conversations with Jacobs.

MacQueen proposed a friendly amendment to the preceding motion that the recommendation for outside legal counsel come from Parcels. Housh SECONDED.

The Clerk called the roll on the amendment, with the MOTION PASSING 3-2, with Kreeger and Curliss voting against.

The Clerk called the roll on the amended motion for funding, and the MOTION PASSED 5-0.

Curliss completed her report, noting that oversight of law enforcement has been recommended as a best practice.

Follow-Up Discussion Re: Busking and Street Vendors/Ideas for Sidewalk Space. Housh reiterated that there are two specific issues, one being to address the return to more normal function as it relates to public space. Housh opined that it would be best to continue to disallow street vendors or other sidewalk obstruction at present. Moving forward, he said, action should be taken based upon feedback from merchants.

Housh commented that vendors are “not paying property tax, are probably not paying income tax, and are crowding the downtown sidewalks.”

Housh asked that the PD enforce current ordinances, which require a permit for vending. He noted that businesses need to be responsible when permitting vendors to use spaces on their properties.

MacQueen received clarification that only vendors, and only those selling products not made by themselves, are required to obtain permits.

Chief Carlson noted that part of the problem is that there are vendors throughout downtown who are on private property.

Salmeron noted that vendors on private property still sometimes block the public ROW due to customers.

Curliss stated that the matter is being overblown, and many business owners place tables, chairs and signboards that obstruct sidewalks.

Salmeron stated that business owners have to receive PC permission to place these items on the sidewalks.

Curliss asserted that the COVID situation is not as bad as Housh is making it seem, and this crackdown is unwarranted.

Housh asked for more information to be brought forth at the next meeting.

NEW BUSINESS

Discussion of Health Insurance Option for Elected Officials. Curliss stated that she has been asking for the matter to be considered by Council since December, and just needs an indication as to whether Council wants the resolution to come forward.

Parcels advised that the insurance could be considered a benefit in a legal sense, and recommended that if Council does vote on the matter that it be applied only to incoming or re-elected officials at the start of their new terms.

Salmeron commented that the Village goes out to bid in March for contracting in May. He anticipated a potential problem with a less than full-time participant in the insurance program. He indicated that this might kick the Village into a different pool, if the number of “employees” exceeds 50.

In response to a question from Curliss, Salmeron stated that there are currently no part-time employees utilizing the insurance program.

Kreeger commented that health insurance can be an excellent incentive to a more diverse group of people running for Council. She encouraged moving forward.

Housh asked for financial information specific to the Village being in a pool of greater than 50.

Black Lives Matter Banner. Housh expressed dismay that the banner had not been up for the Fourth of July. He asked for greater awareness as to what banners are up at what time.

Salmeron explained the rationale for the banner rotation.

Kreeger stated that the ACC had requested that the “Kind Ness” banner be put up, and that they had also requested that a Wheeling Gaunt banner be added to the rotation. She asserted that taking down the BLM banner was not arbitrary, but was in response to her/ACC’s request. Kreeger asked whether there is a third potential banner location that could permanently house the BLM banner.

Salmeron stated that this could be considered if Council is willing to meet the cost of such an effort. He suggested setting a policy for the banner hanging.

MacQueen suggested that the ACC take this on.

Kreeger asked that Staff give recommendations regarding feasibility and cost as well as location suggestions for the September meeting so that the ACC has those guidelines to work with.

Burns commented that Dayton Street would be a real challenge due to bad poles and street width, and stated that he would get together with Kreeger with suggestions.

Megan Bachman asked whether the BLM Banner could be placed at the south end of town immediately.

Kate Hamilton asked whether the Banner could be put up until the decision is made in September.

Kreeger agreed with these suggestions.

Matthew Kirk volunteered to put up BLM flags at his Corner Cone location.

MANAGER’S REPORT

Salmeron noted the Dayton Street closure again.

Stokes commented that the Mayor will be participating in coordination of the Block Party events.

Salmeron noted that the Block Parties are not funded this year.

Salmeron noted that the VCOPE training will take place for the Village team on August 17th at 10am.

Curliss stated that the VCOPE training is ironic given Council's punitive approach to vendors and buskers, who are often struggling financially. Housh responded that this is a mischaracterization of the actual situation, which has involved helping find alternative locations that do not impede sidewalks and pedestrian traffic, as well as highlighting that most of these individual's livelihoods do not rely on these activities.

Kreeger expressed concern regarding the capacity to safely support Street Fair.

Kreeger commented that there are memorial bricks at the Train Station that have never been installed, and asked that the Village follow up on these.

Kreeger asked that the Village Manager provide an update regarding the Police Encounter Data process, noting that this is critical to right-sizing the CRB based upon potential volume.

Burns responded that he will work with the Chamber to move ahead on the brick installation.

Chief commented that he thought he was to produce the Police Encounter Data for the August meeting, but that he can make this available to Council immediately.

Housh asked that the Village Manager have an "action item" list.

After much discussion, it was determined that this should be a section of the Manager's Report, as separate from the Council Goals.

BOARD AND COMMISSION REPORTS

MacQueen NOMINATED Rebecca Potter to the Environmental Commission. Housh SECONDED, and the NOMINATION PASSED 5-0.

FUTURE AGENDA ITEMS

August 16: Goals Review

Vendor Ordinance

First Reading of Ordinance 2021-18 Prohibiting Housing Discrimination Based Upon Source of Income in the Village of Yellow Springs

First Reading of Ordinance 2021-24 Establishing a Public Utility and New Chapter XXX for Municipal Broadband

Reading of Resolution 2021-XX Permitting Elected Village Officials to Buy In To Village Employee Health Care

Resolution to Contract with Outside Legal Counsel

Update on Police Encounter Data

Sept. 7: **Second Reading and Public Hearing of Ordinance 2021-18** Prohibiting Housing Discrimination Based Upon Source of Income in the Village of Yellow Springs

Second Reading and Public Hearing of Ordinance 2021-24 Establishing a Public Utility and New Chapter XXX for Municipal Broadband

First Reading of Ordinance 2021-XX Rezoning 33.816 Acres of Property Located North of East Hyde Road and West of Spillan Road to from Residence A to Planned Unit Development (PUD)

Sept. 20: **Second Reading and Public Hearing of Ordinance 2021-XX** Rezoning 33.816 Acres of Property Located North of East Hyde Road and West of Spillan Road to from Residence A to Planned Unit Development (PUD)

ADJOURNMENT

At 9:49pm, Stokes MOVED, and MacQueen SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 on a voice vote.

Brian Housh, Council President

Attest: Judy Kintner, Clerk of Council