

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

**Virtual Meeting @ 6:30 P.M.**

**Tuesday September 7, 2021**

**CALL TO ORDER**

President of Council Brian Housh called the meeting to order at 6:30pm.

**ROLL CALL**

Present were President Housh, Vice President Marianne MacQueen and Council members Kevin Stokes, Lisa Kreeger and Laura Curliss. Also present were Village Manager Josue Salmeron and Solicitor Breanne Parcels.

**EXECUTIVE SESSION**

At 6:31, Kreeger MOVED and Stokes SECONDED a MOTION TO ENTER EXECUTIVE SESSION for the Purpose of the Discussion of Pending Litigation and for the Discussion of the Purchase or Sale of Public Property. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

At 6:48, Kreeger MOVED and MacQueen SECONDED a MOTION TO EXIT EXECUTIVE SESSION.

**ANNOUNCEMENTS**

Curliss announced Porchfest coming up on September 18<sup>th</sup>.

Housh noted that Lebanon, Ohio is the first municipality in the US to adopt legislation designating it as a “Sanctuary City for the Unborn”.

Housh lauded Samantha Stewart and the Pool Crew for an excellent season.

Housh noted a letter in the YS News complaining about vendor set ups forcing pedestrians off of the sidewalk. He encouraged awareness of this situation by Village police officers and encouraged creative booth design that might alleviate the crowding.

Housh remarked upon the news of Chief Carlson’s resignation, recognizing his responsive and forward-thinking leadership as well as his willingness to step in as Chief during a trying time.

**CONSENT AGENDA**

1. Minutes of August 9, 2021 Emergency Meeting
2. Minutes of August 16, 2021, Regular Session
3. Minutes of August 30, 2021, Joint Meeting of Planning Commission and Council

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

**REVIEW OF AGENDA**

Resolution 2021-42 was added to Legislation.

**PETITIONS/COMMUNICATIONS**

The Clerk will receive and file:

- Lori Askeland re: Bike Boulevards in YS
- GCCHD re: Third Dose of COVID Vaccine

Laura Curliss re: NYT Article on Delta Variant  
Laura Curliss re: Porchfest  
Brian Housh re: 2021 Council Rules and Procedures  
Mayor's Clerk re: Mayor's Court Report

MacQueen reviewed the materials received.

## **PUBLIC HEARINGS/LEGISLATION**

**Second Reading and Public Hearing of Ordinance 2021-25** Establishing a Fee Schedule for Residential and Commercial Building Permits and Declaring an Emergency. Stokes MOVED and Curliss SECONDED a MOTION TO APPROVE.

Salmeron provided a presentation on the topic, reiterating information from prior meetings regarding the need for the department to support economic development. He noted that the Village Building Department will be operational beginning tomorrow. The requested fees, he noted are lower than those of Greene County.

Kreeger reminded Salmeron of the increased burden on staff, noting that price point was not a primary concern for stakeholders. She wondered if the fees are set with room for any contingencies that may occur.

Salmeron expressed confidence that the fees are adequate, and stated that he could return to Council for a fee increase should that turn out not to be the case.

In response to a question from Housh, Salmeron noted that there is a 60-day transition period to shift operations entirely out of Greene County.

Housh OPENED THE PUBLIC HEARING. There being no comment, Housh CLOSED THE PUBLIC HEARING.

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

**First Reading of Ordinance 2021-18** Prohibiting Housing Discrimination Based Upon Source of Income in the Village of Yellow Springs. Stokes MOVED and Curliss SECONDED a MOTION TO APPROVE.

Debra Lavey of Abel Law explained the measure, and spoke to the importance of the legislation.

Stokes stressed the importance of this measure, expressing his strong support.

In response to a question from Curliss, Lavey noted that a majority of voucher holders are African American women, and that the legislation will make discrimination against voucher holders illegal.

Housh remarked that once the legislation passes, getting the word out will be critical. He asked that further information be provided regarding the number of voucher-holders in the Village, and how this differs from numbers of voucher holders in other municipalities.

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

**First Reading of Ordinance 2021-24** Establishing a Public Utility for Municipal Broadband by Enacting New Chapter 1043: Municipal Broadband of the Codified Ordinances and Approving Creation of a Utility Fund. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Salmeron provided a presentation on the topic, updating several items from the last several presentations.

Salmeron noted differences in the projected cost and time to profit based upon whether or not the Village is able to obtain grant funding, for which it is applying.

He noted that the pilot will be launched in November 2021, with the build out scheduled for 2022, with a total of three phases.

Salmeron noted that the project is designed to provide higher speed internet at lower cost, with three available pricing ranges and speed from 100mb/s to 1Gb/s. He projected breaking even after month ten of completion, and profitability after month 23.

Salmeron presented a pro forma that assumes a full build out.

Thor Sage, from MVECA, noted that while there will be a money savings, the network speeds will be significantly faster for both incoming and outgoing data. He referenced a past assessment which noted the importance of internet performance to Village households, stating that the pandemic has only increased this importance. He suggested those interested in municipally provided broadband visit “fairlawn.net”

Curliss asked whether, if the 4 million dollar grant is received, there would be no cost to the Village, and Salmeron confirmed this.

Salmeron addressed a further inquiry, stating that if the interest and buy-in is not there, the Village might not continue in the same vein. He noted that the project will be under continuous study.

Salmeron noted that the Village would take on billing and collection. MVECA would perform the hook-up and maintenance aspect.

Kreeger stressed that a balanced business plan includes the negatives, and that she is not hearing these. She requested that Salmeron address the potential down side of the project.

Salmeron noted that it has and will take up some of his time, and that the Village will be in direct competition with a giant telecom corporation. He noted that there are some challenges in service delivery and the need to build knowledge and expertise.

Kreeger noted her concerns regarding the capacity of the team, and asked what Village work will not get done as a result of building out this utility.

Salmeron characterized the greater time loss as his, and indicated that this is an effort towards increasing capacity which he sees as an investment in economic development.

Tim Barhorst noted that build out of the project itself will result in additional jobs.

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

**First Reading of Ordinance 2021-26** Creating a New Fund for the Purpose of Receiving and Expending American Rescue Plan Dollars. Stokes MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Salmeron explained the necessity for the fund's creation.

Dillon explained the distribution schedule.

Housh declined to call a vote.

**Reading of Resolution 2021-38** Authorizing and Directing the Village Manager to Execute a Letter of Intent and to Negotiate and Execute a Contract for Sale of a Portion of Real Property Owned by the Village of Yellow Springs. Curliss MOVED and Stokes SECONDED a MOTION TO APPROVE.

Salmeron explained that Planning Commission has approved an expansion for Cresco, and the plans necessitate the purchase of the additional property.

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

**Reading of Resolution 2021-40** Authorizing the Village Manager to Apply for a Grant from the Board of County Commissioners for a Road Extension at the Center for Business and Education. Curliss MOVED and Stokes SECONDED a MOTION TO APPROVE.

Salmeron explained that there are 22 acres at the CBE, and one challenge to sale of the acreage is the lack of a road. The application requests a grant to complete such a road extension.

Housh noted that he had provided a letter of support, as Council President, as required by the grant.

Housh CALLED THE VOTE, and the MOTION PASSED 5-0 on a ROLL CALL VOTE.

**Reading of Resolution 2021-41** Authorizing and Directing the Village Manager to Execute a Letter of Intent and to Negotiate and Execute a Contract for Purchase of Real Estate. Kreeger MOVED and Curliss SECONDED a MOTION TO APPROVE.

Salmeron noted that this will allow the Village to obtain the land at the entrance to Keith's Alley. Total cost will be \$1,000.00.

Housh CALLED THE VOTE, and the MOTION PASSED 5-0 on a ROLL CALL VOTE.

**Reading of Resolution 2021-42** Authorizing the Village Manager of Yellow Springs to Join the Power a Clean Future Ohio group to support the development of the Climate Action and Sustainability Plan. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

MacQueen explained that PFCO is a consortium of governmental entities meant to assist communities in reducing production of greenhouse gasses and in improving their carbon footprint overall through methods best suited to that community. Yellow Springs would be the 18<sup>th</sup> Ohio community to join, she noted. She noted that there is no cost to joining the group.

Housh CALLED THE VOTE, and the MOTION PASSED 5-0 on a ROLL CALL VOTE.

## **CITIZEN CONCERNS**

There were no Citizen Concerns.

## **SPECIAL REPORTS**

**Home, Inc. Annual Activities Report.** Executive Director Emily Seibel presented the Annual Report. She concluded by remarking that she would like Council to be involved in Home, Inc.'s goal setting, and that they would like to participate in Council's goal setting activities.

Seibel commented that obtaining grants is becoming more competitive, and noted that donation of either funds or land on the part of municipality is highly valued in the process.

Curliss stated that the Village has the ability to donate land, potentially, but that the land may or may not have or be readily accessible to infrastructure.

Seibel responded to a question from Curliss, stating that serving the homeless population was a "broad discussion" that she did not have time to engage in during the meeting.

Kreeger noted that land in the Township is less costly, and asked whether Home, Inc. was or would consider land in the Township.

Seibel noted zoning and infrastructure challenges, but stated that these would not rule out consideration of a Township location.

**Treasurer's Report.** Kintner reported on current investment activity.

## **OLD BUSINESS**

**Glass Farm Wetland Restoration Conceptual Study Proposal.** Curliss noted conversation with several entities regarding a wetland restoration project at the Glass Farm, stating that this would inform the Village as to which areas could be developed, and which would be better suited to restoration.

Curliss cited the ability to assess the land for its highest and best use. She commented that past studies have started from a presumption of development, which tends to drive the study.

The proposal, she said, would be to issue an RFP for up to \$15,000.00 for a Wetland Delineation Study, due in early 2022. This would provide information to permit decision-making around development. Curliss suggested that the funds be taken from the Commissions line.

MacQueen noted that several areas of the Glass Farm have consistently been slated for housing, and she recognizes the worth of re-assessing the area for its best use, whether that is housing or wetland, or a combination of the two. She agreed that a Wetland Delineation Study would serve this end. She noted the possibility of Conservation Development for the area, and expressed interest in pursuing this possibility.

MacQueen addressed Curliss with a complaint.

Curliss responded that she would have preferred that MacQueen address the concerns with her directly.

Curliss reiterated the need for a study to drive informed future action.

Housh noted that the issue was not initially on the agenda because it is not in the 2021 Village goals and had not been budgeted –for. Housh stated that the matter is not urgent, and that the Village Manager and staff are stretched thin at this point and he was reluctant to add anything more to their duties. Housh then supported MacQueen's assertion that Curliss had characterized her as obstructive,

stating that he found these allegations disappointing. He commented that the Wetland Study could easily be moved to the 2022 goals.

Curliss objected to Housh's line of reasoning, and argued that issuance of a RFP is not an egregious duty. Curliss noted that this item was not originally on the agenda for the meeting and expressed gratitude that it had been added.

Housh asked that Council take a vote on the request to fund an RFP.

Kreeger made note of a recently approved "unfunded, unbudgeted and unplanned" request related to Environmental Commission, and asked how this request relates to the prior request for a CASP Coordinator and that work.

MacQueen stated that it is relevant because the CASP should address management of Village owned properties.

Stokes pointed out that there is some tension around what should be done with the Glass Farm, and asked whether construction and wetland studies can be conflated.

MacQueen stated that this was recommended-against.

Curliss responded to a comment from Stokes, noting that there are past studies that a wetland delineation study could incorporate.

Curliss asked how much is currently in the Commissions line,, and Dillon stated that he would check.

The Clerk CALLED THE VOTE ON THE MOTION TO APPROVE UP TO \$15,000.00 for a Wetland Delineation Study. The VOTE FAILED 2-3, with Curliss and MacQueen voting for the motion.

**Citizen Review Board Proposal Update.** Curliss introduced the topic, stating that she saw no problem with including the citizen comments on the CRB proposal, and in fact thought them valuable in terms of context for the legal review. She said that there had been two reviews of the proposal by the 365 Group, and that both were valid, although the one Housh referred to and preferred did not contain the citizen comments.

Curliss stated that both she and Kreeger wish to meet with the lawyer conducting the legal review and that both wished to shepherd any legislation related to the proposal.

Kreeger clarified her vote in the prior meeting (to use the version not containing the citizen comments), stating that whatever version of the CRB proposal was reviewed by 365 was the version she wanted reviewed by legal counsel. She offered that she would like to be able to provide information and context to the legal reviewer.

Kreeger responded to Stokes' memo which referred to the CRB proposal as "heavy-handed", stating that the version being submitted for review is far from final and may well change with feedback received. She expressed concern that Council does not in fact want a CRB, and expressed her strong support for a CRB. She stressed the amount of time that has gone into the process, and asked that if Council does not want to pursue the CRB, it should be delayed until after the election.

Stokes responded that there is a process in place to handle complaints against the police currently, and that in the last year, there were three complaints. He asked that the process be used before it is changed. Stokes referred to the \$40 thousand plus budget in the proposal.

Kreeger noted that the amount will change depending upon the volume of complaints.

Housh commented that the legal review should be confined to the specifics of the proposal to maximize efficiency.

Housh stated a preference for the entire Council meeting with outside counsel rather than a sub-group conducting that meeting.

Curliss stated that the CRB started out as a demand from the BLM protestors last summer and that she and Kreeger have moved the idea forward.

Housh rejected Curliss' assertion that the process began with the BLM protestors, stating that the call for a CRB predated the protests and has involved a number of Council members.

Housh MOVED THAT ALL COUNCIL MEMBERS WHO SO WISH BE INVOLVED IN THE MEETING WITH OUTSIDE COUNSEL. Stokes SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

#### **NEW BUSINESS**

There was no New Business.

#### **MANAGER'S REPORT**

Salmeron reported that the Youth Center is currently closed due to a child testing positive for covid.

Salmeron noted that the engine brake prohibition signs are now up in the Township.

Salmeron noted new picnic benches on the Bryan Center grounds.

Salmeron noted invasive species removal at Glass Farm.

Salmeron stated that of the nine identified leaks in the Village system, four have been addressed, resulting in a saving of 92,000 gallons/day.

Salmeron stated that another almost \$25,000 is needed to complete the Wheeling Gaunt Sculpture project. He noted that the Village has already done about \$7,500.00 worth of work in preparing the area.

Burns stated that he has been communicating with Nadia Malarkey about the installation.

Housh noted that there is an unveiling ceremony scheduled for October 2<sup>nd</sup>, at which point the project will be about half-way complete.

Kreeger noted that the area as designed creates a gateway to the Village.

Council discussed the nature of the \$25,000.00 request. The total cost of the project is over \$49,000.00.

Available budget was discussed, with the assumption being that the amount determined would come out of the Commissions budget line.

Curliss stated that there is about \$27,000.00 remaining in the Commissions budget, and since Council did not vote to fund the Wetland Delineation study, she said, the funds could be used for this project.

Dillon confirmed that Curliss had asked him to see how much remained in the Commissions line sever minutes prior, and that he was seeing about \$27,000.00 available.

Housh MOVED TO SUPPORT THE Wheeling Gaunt Sculpture Project REQUEST. Curliss SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Salmeron referenced a document provided with particulars regarding the Chief of Police search.

Salmeron stated that he is in the process of assembling a Citizen Advisory Committee comprised of 7 citizens who broadly represent Village residents. He noted that the group would need 4-6 meetings and would engage in the following tasks:

1. Review the YS Guideline for Village Police, Job Description and Posting, and provide feedback to the Village Manager.
2. Review candidate vetting and provide feedback to the Village Manager on criteria-based assessments.
3. Participate in interviewing top applicants and share impressions and scoring with the Village Manager.
4. Help with planning public forum and other community interactions for the final candidates.

Salmeron described a process that would conclude on about November 5<sup>th</sup>, as follows:

September 3, 2021 – Finalize general strategy & Call for citizen participants  
September 24, 2021 – Close the Job Announcement  
September 27, 2021 – Begin Screening process and preliminary interviews with candidates  
October 11- 25, 2021 – Conduct Final Interviews and One Public Forum.  
November 5, 2021 – Select a new Chief of Police

Curliss asked for a say in selecting the citizen members of the Committee.

Jessica Thomas of the Yellow Springs News was assured that the group pre-selected for the Committee are, in fact, broadly representative.

Kreeger asked how wide the search would be.

Salmeron noted some limitations to a National search because of Ohio credentialing needs, but stated that he would make as “broad a search as possible”, and would use several distribution channels.

Curliss expressed discomfort at the idea that Council members are not more involved.

MacQueen and Stokes expressed their confidence in the Manager’s search process as described.

Housh commented that he assumes Salmeron will include Council members in the final interview process, and asked Salmeron what resources he was using to put together the search parameters and the Citizen Advisory Committee (CAC).

Salmeron stated that he was using “HR resources, the current Chief, other police officers and Village team members.

Housh offered to assist in the process and perhaps serve on the CAC, unless Salmeron wished to select another Council member.

Curliss stated her desire to be involved in the process, and cited her experience as a prosecutor and familiarity with police procedures.

Salmeron noted that Parcels would be present during the process for legal and procedural advice.

Curliss commented that the process seems staff driven rather than community driven.

MacQueen reiterated her confidence in the described process.

Stokes noted the community forums in the selection process.

Kreeger stated that she has a strong preference for being able to rank candidates and provide that feedback to the Village Manager.

Parcels indicated that this could be problematic in that it would create a public record.

#### **FUTURE AGENDA ITEMS**

- Sept. 20:**     **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 for Municipal Broadband by Enacting New Chapter 1043: Municipal Broadband of the Codified Ordinances and Approving Creation of a Utility Fund  
                  **Second Reading and Public Hearing of Ordinance 2021-25** Creating a New Fund for the Purpose of Receiving and Expending American Rescue Plan Dollars  
                  **Ordinance 2021-XX** Authorizing a Third Quarter Supplemental  
                  **Reading of Resolution 2021-39** Authorizing the Village Manager to Execute an Easement Agreement with Massie’s Creek Ventures LLC For Use of Village Property and Right-Of-Way Improvements Located Adjacent to 108 Cliff Street  
                  **Reading of Resolution 2021-43** Approving a Contract with Anixter Tantalus for Provision of Electric Meters and Software  
                  **Reading of Resolution 2021-44** Authorizing the Village Manager to Submit a Purchase Order to Insight Pipe Contracting, LLC, an H-GACBUY Contractor, for \$156,972.53 for the Relining of Select Sanitary Sewer Lines Situated in the Village of Yellow Springs
- Oct. 4:**       **First Reading of Ordinance 2021-XX** Authorizing a Third Quarter Supplemental  
                  **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)
- Oct. 25:**     Goals Work Session

#### **ADJOURNMENT**

At 9:58pm, Curliss MOVED, and MacQueen SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 on a voice vote.

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Brian Housh, Council President

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Attest: Judy Kintner, Clerk of Council