

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

**Council Chambers @ 7:00 P.M.**

**Monday, November 7, 2022**

**CALL TO ORDER**

President of Council Brian Housh called the meeting to order at 7:00pm.

**ROLL CALL**

Present were President Housh, Vice President Kevin Stokes and Council members Gavin DeVore Leonard, Carmen Brown and Marianne MacQueen. Also present were Village Manager Josue Salmeron, Public Works Director Johnnie Burns, Planning and Zoning Administrator Denise Swinger, Chief Paige Burge and Village Solicitor Amy Blankenship.

**ANNOUNCEMENTS**

MacQueen reported on a discussion held at the Township meeting in which Senate Bill 52 was addressed. She also announced a "Meet and Greet" for the new Village Mediation Coordinator set for November 16<sup>th</sup>.

Salmeron congratulated the High School boys' soccer team on having won Regionals. He also announced that flour/sugar deliveries to Village widows and widowers will get underway shortly.

Housh noted that Friday is Veterans Day, and reminded all that the Village is a member of the Miami Valley Military Affairs Association, which highlights area events.

Housh thanked the Village team for a great Halloween. He noted an upcoming special meeting to discuss the budget set for November 9<sup>th</sup>. Housh reminded viewers to vote on Tuesday.

**CONSENT AGENDA**

1. Minutes of October 17, 2022 Regular Session
2. Minutes of October 27, 2022 Special Session: Work Session: Budget
3. Credit Card Statements for October 2022

MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE THE MINUTES OF October 17, 2022. The MOTION PASSED 5-0 ON A VOICE VOTE.

DeVore Leonard MOVED and MacQueen SECONDED a MOTION TO APPROVE THE MINUTES OF October 27, 2022. The MOTION PASSED 5-0 ON A VOICE VOTE.

Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE THE CREDIT CARD STATEMENTS FOR October 2022. The MOTION PASSED 5-0 ON A VOICE VOTE.

**REVIEW OF AGENDA**

MacQueen asked to add Ellis Pond to the Manager's Report.

**PETITIONS/COMMUNICATIONS**

The Clerk will receive and file:

GCPHD re: Bivalent Boosters Available  
GCPHD re: Community Health Survey  
GCPHD re: Covid Transmission Increases to Medium  
GCPHD re: Test Kits Available

GCPHD re: Respiratory Illness on the Rise  
Chief Burge re: Officer Harris  
Judith Hempfling re: Sidewalk Policy  
Jane Presutti re: Thank You to COS Randolph  
Brian Housh re: Issue Two Article  
Gyamfi Gymerah re: Support of Iranian Women's Movement  
Laura Curliss re: Opposition to Busking Ordinance  
Lisa Abel re: Opposition to Proposed Township Ordinance

MacQueen reviewed the materials received.

## **PUBLIC HEARINGS/LEGISLATION**

Prior to hearing Ordinance 2022-36, Housh noted that he had been going over the Charter, and had determined that Council needs to vote as to whether they can read in an ordinance by title only for the second reading. He asked for a voice vote on that matter regarding Ordinance 2022-36, and received a 5-0 voice vote in affirmation.

Jessica Thomas, Yellow Springs News, asked for an explanation and received one.

**Second Reading and Public Hearing of Ordinance 2022-36** Creating Chapter 635 and Regulating Public Performance in the Village of Yellow Springs. Stokes MOVED and Brown SECONDED a MOTION TO APPROVE.

Salmeron explained that passage of the ordinance would allow the YSPD to uphold some aspects of the Street Performers' Agreement through revocation of permits, for example, and that without passage that will not be possible.

Will Cook stated that the ordinance is antithetical to the feel of the Village. He opined that banning amplification is unnecessary, since it can be managed by the noise ordinance. He characterized the issuance of permits as "a waste of time" and noted that "no one is getting rich out here." Cook commented that the issue creating the complaints is bars having amplified performances, which, again, he commented, is handled by the noise ordinance.

Gyamfi Gymerah characterized the ordinance as "an overreach" on the part of Council.

Amy Wamsley, stating that she was speaking "as a citizen, not as a member of PACC", complained that PACC had been asked to review the Performers Agreement but had not yet had time to do so. She asked why Council would not wait to hear back from PACC before bringing the ordinance.

Teresa Misty spoke against the amplification ban, noting that she has a soft voice and requires amplification to be heard when performing.

Laura Curliss opined that "this fixes something that is not a problem." She commented that "officers should not tell artists where to perform." She added that this runs counter to the effort to decriminalize misdemeanors.

DeVore Leonard commented that the permitting process "feels onerous" and that amplification can be handled with the noise ordinance.

DeVore Leonard, MacQueen and Stokes expressed some unease with taking a vote at this juncture, and advocated for gathering more information.

Brown stated that she did not want to see an adversarial relationship between the YSPD and artists created. She commented that she has seen similar ordinances in conservative communities, and this is a concern.

Housh reminded all that PACC had not been asked to review the Performers Agreement, but stated that he was glad they had done so. He stated that all concerns need to be weighed, and there have been complaints, and he noted that PACC had clearly recommended no amplification downtown as a response to some of these complaints. He alluded to confusion around citizens handing out cards as opposed to business owners doing this, and received confirmation from Chief Burge that if there is a complaint made following a failure of the ordinance that the YSPD has no standing to intercede unless there is a violation of some other ordinance.

Brown clarified that there was no expectation that citizens approach buskers, although they may.

Housh stated that the ordinance “closes the loop” and allows officers to respond if needed, but that there will be no changes in the overall soft approach normally taken by the YSPD.

Amy Wamsley stated strongly that it was her clear understanding that both Salmeron and Housh had, in separate Zoom meetings with PACC in 2021, requested that PACC review the Performers Agreement and the downtown busking situation.

Housh CALLED THE VOTE, and the MOTION FAILED 1-4 ON A ROLL CALL VOTE, with Housh voting for passage.

**First Reading of Ordinance 2022-37** Amending Solid Waste Rates. MacQueen MOVED and Brown SECONDED a MOTION TO APPROVE.

Salmeron explained that it is time to enter into a new contract for services for solid waste collection, and Rumpke had been selected as the lowest and best bid option, in part because they are the only provider offering recycling services.

Salmeron noted a 10% increase in fees across the board, and noted that the Spring Cleanup is included in the overall cost.

MacQueen asked whether the educational services would be included.

Salmeron stated that this would require an additional 2% fee, and that he had not added that option in to the ordinance presented.

A discussion around an additional fee was engaged in.

The Clerk cautioned that this change would constitute a substantive change, and suggested that the Village Manager bring two ordinances—one with and one without the educational option—both as emergencies, to the next meeting for consideration.

Housh requested a memo to accompany the ordinances for the 21<sup>st</sup>.

**First Reading of Ordinance 2022-38** Repealing and Replacing Chapter: 238 Treasurer. Stokes MOVED and DeVore Leonard SECONDED a MOTION TO APPROVE.

Blankenship explained that the ordinance offers a job description for the Treasurer that is up-to-date and accurate. She noted that the Charter language is quite dated, and has been updated through passage of ordinances over time.

Blankenship stated that she would be bringing a similar ordinance establishing the role of Finance Director.

Responding to a question from Housh, Blankenship agreed that at some point changes to the Charter should be considered, but acknowledged that this is a weighty undertaking, and the current ordinance does cure the problem.

Stokes received clarification that the change clears up the language to allow for less room for misinterpretation.

Housh declined to call the roll. He asked that the Investment Policy come to the next meeting for review given the requirement that it be reviewed annually.

**Reading of Resolution 2022-61** Approving the Annual Distribution of Flour and Sugar to Village Widows and Widowers. Stokes MOVED and DeVore Leonard SECONDED a MOTION TO APPROVE.

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

**Reading of Resolution 2022-62** Authorizing the Yellow Springs Police Department to Develop and Administer a Therapy Dog Program. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Chief Burge explained that of the \$13,000 needed to start the program, the department has received \$10,000, and that she is seeking grant funds for the remaining amount and to cover annual ongoing costs, which are estimated to be \$2,500.

Burge thanked Officers Kinkaid and Meister who have been instrumental in conceiving of and gathering information for the program.

Housh expressed appreciation for the policy language included in the packet.

Burge responded to a query from Stokes, stating that the dog currently on trial with the department has been temperament tested and selected for the role by the rescue agency.

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

**Reading of Resolution 2022-63** Amending the Employment Agreement with Michelle Robinson as Accounting and Payroll Manager. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Salmeron explained that because Robinson is a contract employee, her sick-time carry-in had been restricted as part of her contract terms. That practice, however, was not implemented as part of the Personnel Policy Manual (PPM), however, and all other employees hired before and since, even part-time employees, have received all sick time hours as part of the terms of employment. Salmeron stated that the resolution would restore equity in that area until—and if—Council votes to amend the PPM, when the policy would be established for all entering employees.

After some discussion of the situation, Housh requested that an amendment to the PPM be brought to Council as soon as possible, and that accompanying information from other communities be included.

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

**Reading of Resolution 2022-64** Approving a Contract with Judy Kintner for Continued Employment as Treasurer. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Housh explained that a new contract containing updated language and an increase in compensation was needed.

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

**Reading of Resolution 2022-65** Approving a Contract with Amy Kemper as Finance Director. Stokes MOVED and DeVore Leonard SECONDED a MOTION TO APPROVE.

Housh noted that he and DeVore Leonard had participated in the interview with Kemper.

Salmeron noted Kemper's credentials and stated that he is eager to have her onboard.

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

**Reading of Resolution 2022-66** Approving a Then and Now for the Fourth Quarter of 2022. Stokes MOVED and Brown SECONDED a MOTION TO APPROVE.

Salmeron explained that the amount was to cover approved audit expenses, as the expense had not been encumbered in January.

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

## **CITIZEN CONCERNS**

Jessica Thomas received clarification that the 2% education fee would be added to the rate structure for Rumpke services if approved by Council.

Gyamfi Gymerah requested that Council bring a resolution of support for the Iranian women protesting their oppression in Iran.

## **SPECIAL REPORTS**

**Yellow Springs Equity Update.** Angie Hsu presented the update, encouraging all to get the word out that the lottery opens on Friday for ten days, and ten families and/or individuals will be selected for the \$300/month income boost out of that process.

Hsu noted that this pilot project is the only one in the US that is set up as an endowment fund, which is meant to enable the project to continue into perpetuity.

## **MANAGER'S REPORT**

Salmeron reported that the Bryan Center is getting new windows in some areas as the building is incrementally upgraded.

Salmeron stated that the Broadband Project is moving forward.

Salmeron responded to the request for information on Ellis Pond, stating that he has planned to meet with Xylem representatives in the next several days.

MacQueen asked whether the waiver in the packet would suffice for volunteers for pond cleanup.

MacQueen stated that November 11 is Friday, and asked whether pond rakes could be purchased and delivered prior to that time.

Brown commented that her understanding was that the rakes were to be worked on over the past several weeks.

MacQueen stated that “there is still money in the EC line”.

Brown responded to a question, stating that Public Works does not need to be present for the cleanup effort.

Brown responded to a question concerning Xylem’s waivers, stating that those are available online. She stated that the pond rakes need to be purchased.

Brown commented that a prior meeting had been set up involving herself, Marianne and Josue, but “then that changed.”

Salmeron stated that he had set up a separate meeting, since he had not been part of the initial set up process.

Housh commented that it is not the role of Council to negotiate with staff.

MacQueen opined that “staff did not want to be involved in this” and so had engaged EC.

Housh stressed that it is still the job of Council to approve any actions of a commission.

Housh stated that he would purchase pond rakes if the situation can be worked out for the 11<sup>th</sup>. He stressed that “staff needs to talk with Xylem.” He also noted that EC’s budget did not include pond rakes, so this should be approved by Council before making such purchase.

Housh expressed frustration at the issue coming up repeatedly, and urged that staff be included in any further communications around Ellis Pond.

DeVore Leonard stated that the issue is coming closer to a solution, and expressed optimism.

DeVore Leonard asked for a Broadband update for the next meeting.

Jessica Thomas pointed out the Zoning Violations Report in the Manager’s Report and asked for a response.

Housh asked whether Council is interested in a discussion of the matter at the next meeting.

MacQueen asked whether the Active Transportation Committee should look into the matter.

Salmeron stated that sidewalk repairs are not funded, and stated that many of the complaints are essentially frivolous.

Housh pointed out that this is a policy issue, and noted that Council had been loath to permit any enforcement around busking citing objection to increased enforcement.

The Clerk attempted to clarify the position of the Zoning Administrator, stating that if Council were to affirm staff's ability to determine which violations to pursue or not pursue, the problem would be eliminated, since the bulk of the complaints submitted in the past 12 months have been non-safety related.

Housh stated that the issue of sidewalk complaints would be brought as an agenda item for the 21<sup>st</sup>.

## **OLD BUSINESS**

**Finance Committee Ongoing Conversation: Inflation, Taxation and Affordability: Vendor Registration Proposal.** Housh asked whether Council wanted vendor registration legislation brought to the next meeting. Council agreed that the legislation should be brought.

## **NEW BUSINESS**

**Committee Structure Proposal.** The Clerk suggested that a subcommittee be formed to assemble existing information and assemble a coherent proposal. MacQueen and Stokes volunteered for this effort.

**Public Safety Work Session Draft Agenda.** DeVore Leonard reported speaking with several to pull together the agenda, including Chief Burge. He asked that Council members view Burge's PD budget video and read any related materials prior to the work session. He expressed that the work session is meant to lay out a path for discussion and action in 2023.

## **FUTURE AGENDA ITEMS**

- Nov 21:**      **Emergency Reading of Ordinance 2022-37** Amending Solid Waste Rates  
                 **Second Reading and Public Hearing of Ordinance 2022-38** Repealing and Replacing Chapter 238: Treasurer  
                 **First Reading of Ordinance 2022-39** Repealing and Replacing Chapter 860: Solicitors and Itinerant Vendors  
                 Personnel Policy Manual Update Discussion  
                 AMP Rate Study  
                 Investment Policy Review
- Dec. 5:**      **First Reading of Ordinance 2022-XX** Approving the 2023 Budget for the Village of Yellow Springs and Declaring an Emergency  
                 **First Reading of Ordinance 2022-XX** Amending the Personnel Policy Manual to Incorporate Anti-Discrimination Language per OCRC Settlement  
                 **Reading of Resolution 2022-XX** Approving Preliminary Plat Plan for Millworks PUD and Declaring an Emergency
- Dec. 19:**      **Second Reading/Public Hearing of Ordinance 2022-40** Approving the 2023 Budget for the Village of Yellow Springs and Declaring an Emergency

## **ADJOURNMENT**

At 9:24pm, Stokes MOVED TO ADJOURN. Brown SECONDED, and 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