

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

In Council Chambers @ 6:00 P.M.

Monday, June 5, 2017

CALL TO ORDER

President of Council Karen Wintrow called the meeting to order at 5:58pm.

ROLL CALL

Present were Wintrow, Vice President Brian Housh, Gerry Simms, Judith Hempfling and Marianne MacQueen.

EXECUTIVE SESSION

At 6:00pm, Simms MOVED and Hempfling SECONDED a MOTION TO ENTER EXECUTIVE SESSION For the Purpose of Discussion of Potential Litigation, the Potential Sale of Real Estate and the Hiring of a Public Employee. Manager Bates was present, as were Assistant Village Manager Dodd. Conard joined the session at 6:15pm, and Dodd entered the session at 6:50pm.

At 7:04pm, MacQueen MOVED and Simms SECONDED a MOTION TO EXIT EXECUTIVE SESSION.

ANNOUNCEMENTS (7:05pm)

AMP Presentation of Richard H. Gorsuch Scholarship to Tristan Giardullo. AMP's Director of Marketing, Harry Phillips, presented a \$2,500.00 scholarship to Tristan Giardullo.

Housh announced the following: June 15th, the Little Art Theater will hold a retirement party for Andy Holyoke; June 10th is the Strawberry Festival and Street Fair, and June 24 Yellow Springs Pride Celebration will be held.

CONSENT AGENDA

1. Minutes of May 15, 2017 Regular Meeting
2. Minutes of May 16, 2017 Special Meeting (Executive Session)

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

REVIEW OF AGENDA

PETITIONS/COMMUNICATIONS

Housh reviewed communications received as follows:

Rachel McKinley re: Treasurer's Report
Dawn Johnson re: Proposed Medical Marijuana Facility
Kathryn Van der Heiden re: Proposed Medical Marijuana Facility
Mary Stukenberg re: Thank You for Bike Lights

PUBLIC HEARINGS/LEGISLATION

Second Reading and Public Hearing of Ordinance 2017-11 Granting a Permanent Conservation Easement on a Portion of the Glass Farm. Simms MOVED and Housh SECONDED a MOTION TO APPROVE.

Bates noted that this describes the easement around the wetland area. The area allows for a trail, and allows for a culvert, should another be needed.

Wintrow OPENED THE PUBLIC HEARING. There being no discussion, Wintrow CLOSED THE PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 5-0 on a roll call vote.

Reading of Resolution 2017-26 Authorizing the Appointment of a Permanent Chief of Police. Simms MOVED and Housh SECONDED a MOTION TO APPROVE.

Bates announced her decision to appoint Brian Carlson as the permanent Chief. Bates added her appreciation for the other two candidates, Meister and Spradlin.

Bates noted that the contract will be in effect as of Tuesday morning,

Simms commented that the process has shown the community to be resilient and active. He expressed hope that the Village can become a model with regard to community policing.

MacQueen expressed her regard for all of the candidates, noting that this was one of the best search results in recent history. She urged that their skills be utilized moving forward.

Hempfling thanked Carlson for his work as the interim chief and expressed her hope for a progressive compassionate department and her thanks to the other candidates.

Housh noted his hope that the positive forward momentum will continue and his expectation that Chief Carlson will effectively use the skilled officers he has serving with him.

Wintrow expressed congratulations.

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

Reading of Resolution 2017-27 Authorizing the Village Manager to Enter into an Option Agreement for the Sale of Eight Acres of Real Estate. The Clerk read the resolution into the record.

Wintrow introduced the legislation, giving an overview of the Cresco Corporation and noting that the firm is seeking a location for a cultivation and processing facility, which must be completed by June 30th, per the Ohio application process. This dictates that a properly zoned site is selected prior to that time.

Wintrow commented that Cresco representatives had spent two days in the Village last week providing information and gathering information. Village legal counsel and counsel for Cresco have been in communication, she said.

Wintrow moved through a power point presentation showing photos of the facilities visited by two Council members (Housh and Wintrow) as well as Patti Bates and Denise Swinger last week.

Wintrow commented regarding the resource sensitivity of the set ups, from nearly no-waste water usage, to the absence of light or odor pollution.

Wintrow and Housh described the variety of products Cresco produces, and described the process eligible purchasers must go through in order to be deemed eligible to be prescribed medicinal cannabis.

Wintrow noted the potential local impact of tax revenue, and noted that Cresco has pledged to a profit sharing model as well as to local involvement through volunteerism.

Dodd provided numbers regarding income tax potential, which fell in the range of \$23,000.00/annually in property taxes, and noted that schools, in this model would receive about \$94,000.00, based upon a 50,000 square foot facility.

Chris Schrimpf, Cresco's area representative, clarified that to start, the facility would be a 50,000 square foot facility with a total investment of about 11 million dollars.

Wintrow noted that Cresco has already reached out to Enviroflight and Community Solutions to look as composting with their materials.

Housh commented that within a week of contacting the Village regarding the purchase of the land, Cresco had already made contact with these local entities.

Schrimpf noted that the initial investment would be six million dollars, for a 50,000 square foot facility, and any buildout would occur at a later point.

Conard explained the process at hand, noting that the resolution on the table allows the Village Manager to enter into an option agreement with Cresco for the land. Should Cresco receive the licenses it seeks, they can choose to pursue their option to purchase the land. Should they fail to receive said license(s), they may choose not to exercise the option to purchase the land. Council will need to proceed with an ordinance permitting the purchase of the land should Cresco agree to the terms of the option agreement. Conard stated that they may see an ordinance on the next agenda should Cresco agree at that point.

Wintrow noted that MacQueen, Simms, Dodd and Johnnie Burns would be visiting Cresco's Illinois facilities in a week.

Deborah Magee asked whether the fertilizer would be organic.

Wintrow explained that because the final product may be ingested, the materials used for fertilization and pest reduction is natural.

Housh stated that the same restrictive standards used in Cresco's Illinois facilities would be employed in the proposed YS facility, and described these as natural products such as cinnamon oil, and noted that there is nearly zero runoff. Housh noted that this was well covered by Charlie Bachtell in the previous meeting.

Magee expressed concern about the level of security for employees.

Paul DeLaVergne commented that he had heard both pros and cons for the idea among citizens. He commented that due to an inherited ocular condition, he would potentially be an eligible consumer of the product. DeLaVergne stressed the medical nature of the product, and noted that Ohio seems to be doing a good job of regulating it so far. He related the healing properties of marijuana and spoke strongly in favor of this business as both an ethical response to a medical need and as a boon to the local economy.

Chrissy Cruz expressed her enthusiasm for the proposal, and spoke of the benefit of medicinal marijuana products to children with seizure disorders. Cruz commended Council for seizing the opportunity.

Dorothee Bouquet wondered whether having Cresco on the CBE property would prevent any future uses for the AUM building, which is now for sale, including that of a location for a Village K-12 school.

Christine Roberts asked whether Cresco has a stand against or for full legalization of marijuana, expressing that if Cresco is opposed to full legalization that would be in conflict with Village values.

Chief Carlson addressed Magee's earlier concern regarding safety at the proposed facility.

Carlson stated that he and Sheriff Gene Fisher had met with Cresco representatives regarding security and had "been impressed". Carlson stated, "Speaking as a person who has worked on the Air Force Base for years, it was as secure as any place I've ever been."

Housh described the facilities he and Wintrow had toured and the number of security measures in place.

Wintrow noted that a security fence would be needed, but that Cresco would work with the Village to "soften" the look of the fencing.

Housh addressed Bouquet's earlier, stating that such a facility must be located a minimum of 500 feet from a K-12 school, day care, church or public park. After the plant is built, however, the use is "grandfathered in" and such entities can be located in closer proximity.

Wintrow commented that the school system has already run the numbers on potential tax income, and have expressed support for the endeavor.

Wintrow commented upon the integrity of the medicinal product produced, and opined that there is unlikely to be any crossover or competition for market share with any non-medical quality product. Given that situation, she said, she did not see any stance regarding legalization from Cresco.

Schrimpf commented that he did not see any conflict or competition.

Bates commented upon the infrastructure questions raised earlier, stating that Cresco has committed to covering the cost of bringing road and infrastructure into the facility.

Hempfling raised a concern brought in several communications which expressed that there had been no citizen vote on the matter. Hempfling noted that the land is currently owned by the Village, and that Council does have the authority to make a decision regarding use of the land. Hempfling commented that in this case, to involve citizens in the process of decision making would be to decide no, given the need for a prompt response.

Marie Miller asked whether Cresco would enter the schools to offer information on the facility or drug counseling.

Schrimpf commented that Cresco had not done so in other states, in part because of their distance from a city or town, but that that could be a part of their function in the Village.

Wintrow expressed confidence that a partnership around this matter could be addressed, and noted that this possibility has been discussed with the educational entities in the Village.

MacQueen stated that she had sent out a questionnaire on the matter, and that results had shown about a 75% approval rate. MacQueen commented that drug education is a critical issue in Ohio, and that funds generated by the facility could be in part used to provide such education.

The Clerk read in the resolution by title. Simms MOVED and Housh SECONDED a MOTION TO APPROVE.

Wintrow commented upon how well this use located on the CBE land fits with Village values, including those of agriculture, wellness, and even fine cuisine.

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

Reading of Resolution 2017-28 Appointing the Zoning Administrator to the Architectural Review Committee. Simms MOVED and Housh SECONDED a MOTION TO APPROVE.

Bates commented that the restrictive covenants on the CBE require the presence of an Architectural Review Committee (ARC). While the membership of the committee is directed by the covenants, it fluctuates dependent upon what entities own or control the property as a whole at any given point.

The ARC exists to preview any incoming use regarding site plan review, and any other visual or covenant-related concerns.

Because Swinger is the staff liaison to both Planning Commission and the Board of Zoning Appeals, Conard commented, it makes sense that she comprise the ARC. She would comprise the entirety of the ARC, he stated, unless Antioch University Midwest has an objection to a particular use, in which case they would be given a spot on the Committee.

MacQueen asked how much power this ARC would have.

Wintrow commented that the urgency is related to the zoning requirements with regard to Cresco's June 30th deadline.

Conard commented that the same information that will then come before Planning Commission will first come before the ARC.

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

SPECIAL REPORTS

MANAGER'S REPORT

Bates reported that:

Gaunt Park Pool is open. Pool passes are available only at the pool between 1 P.M. and 7 P.M. daily. Swimming for All passes must still be obtained from Ruthe Ann Lillich at the Village offices during normal business hours.

Bates read a rebuttal to a citizen statement, as follows:

At a recent meeting, a citizen stated that I had made a statement that, had it not been for the hotel construction, the Village would not have installed the infrastructure on Limestone Street in 2014. While it is true that I did respond in that way when asked the question, "Would we have installed that infrastructure were it not for the hotel?" it should also be noted that (1) it was done for economic development reasons, as recommended by my predecessor and (2) there were residents on Limestone who did benefit from the installation, even though it was specifically initiated for the purpose of assisting with the development of the hotel. Also, the new roof drainage from the Library was eventually tied into the storm water drain, as well.

ASSISTANT VILLAGE MANAGER/FINANCE DIRECTOR REPORT

Dodd reported on the following:

It is shaping up to be a very busy time in the Finance and Utilities offices with lots of big changes. The Utility Billing Clerks are undergoing training on the new billing system as this is read. Dodd reported that she will also be going through training on the new finance software at the end of the month.

The auditors have completed the bulk of their on-site work. The audit should be released by the end of June.

Dodd addressed the summer sewer ordinance as follows:

The issue of customers paying for water that does not enter the sewer system when used for watering and such during summer months was brought to Council and researched by Village Manager Mark Cundiff in 2011. He then provided a report with 4 options in which to address this issue. The option selected by Council at the time was for separate meters to be attached to homes or businesses to precisely meter water being used in that fashion and not entering the sewer system. They would then not be responsible for paying for the sewer portion of the bill and only billed for water used.

It should be noted that this ordinance was never codified.

In 2012, Village Manager Laura Curliss came across the same issue of addressing customers being charged for water not entering the sewer system in the summer months. She then implemented a pilot program for what is now known as our current Summer Yard and Garden Watering Program. This program allows customers to sign up and then their summer water usage is compared to their winter water usage and any difference which results in higher usage in the summer is reflected as a credit on the customer's bill.

In 2014 Village Manager Kent Bristol suggested that if the pilot program was to continue permanently, it needed to be enacted by ordinance. During the June 16, 2014 Council meeting Ordinance 2014-13 was passed.

The result is that there were two ordinances passed to address the same issue as it relates to water usage not entering the sewer system during the summer months. One is a precise, measured method, the other a rather inexact estimate which I was going to address with a number of corrections in legislation this evening.

Dodd stated that it is the recommendation of staff to keep in place Ordinance 2011-16 and require meters to be installed and repeal Ordinance 2014-13 which has been determined as problematic as it stands.

With these two ordinances both being active and in contradiction of one another Dodd asked Council to determine which method of calculating sewer adjustments, if either, they would like to keep.

Wintrow recalled that at the time of the 2011 ordinance, there had been sentiment that the meter system was too burdensome to provide any real solution to citizens with regard to summer water use. She opined that this was why Curliss had come up with a more simple approach.

MacQueen stated that she was fine asking for customers to provide the meters.

Burns then contributed that the cost of a meter is in the area of \$1,000.00.

Wintrow expressed discomfort with any solution requiring a significant investment on the part of the consumer, while stating her understanding of staff perspective on the matter. She stated a preference for an annual limit.

Hempfling agreed with Wintrow's position.

Macy Reynolds of the Tree Committee commented that the Tree Committee does use a great deal of water, and uses the tap at one of their members' home.

CHIEF REPORT

Chief Carlson reported the following:

On Wednesday, May 31st the department participated in the Senior Center flash mob dance at Xenia Avenue and Short Street: the dance moves of the Interim Chief were said to be transcendent, he reported. . . .

Carlson noted that the department has had to postpone their second de-escalation training due to the trainer being indisposed.

Newly hired dispatchers Ms. Dawn Ward and Ms. Jillian Douglas have completed the required field training for the position of police dispatcher.

Carlson related an e-mail from a citizen who received excellent assistance from the PD, thanking officers Beam and England.

CLERK'S REPORT

The Clerk reported for the record as follows:

There was an insubstantial error found in Resolution 2017-25 after its passage on May 15th. Because correction of the error does not affect any aspect of the legislation, it has been clerically corrected. The correction to the first “whereas” is as follows: **WHEREAS**, the *legislature* of the State of Ohio approved the cultivation, processing and dispensing of marijuana for medical purposes. . . . (The word *legislature* replaces the word *voters*).

The Village Manager reported that Richard Stockton passed his Wastewater II License with the highest score in the state, and Brad Ault passed his Water II License.

CITIZEN CONCERNS

Chrissy Cruz asked that the Village consider setting aside an acre of the CBE property for a dog park and consider a Dog Park committee.

Amy Maruyama introduced the idea of a resolution in support of the Paris Climate Agreement.

Dorothee Bouquet asked whether the Village could live stream Council meetings on an online platform.

Housh gave information on the youtube availability of Council meetings.

OLD BUSINESS

Memo re: Letter to Township and YS School Board. Wintrow commented that she has been in contact with Lamar Spracklin and Mario Basora regarding a joint meeting. She opined that she did not think a “summit on affordability” was likely at this point, but noted several agenda items such a joint meeting could effectively address, including affordability.

Hempfling commented that the issue of affordability is paramount to her, and that she feels a responsibility to address this issue in a joint manner.

Wintrow noted that the School Board is deep in the discussion regarding facilities, and that it seems like something that body needs to work through with regard to their future plans before meeting with the Village.

MacQueen agreed with Hempfling, stating that her understanding of the purpose of a joint meeting was affordability. The idea is not to target the schools, she said.

Wintrow asked that Hempfling handle the coordination of the meeting, given her strong feeling on the matter.

Tree City Designation Update. Bates noted that there was a discussion at the prior meeting regarding becoming a Tree City, and that Council had asked her to move ahead with application for that designation. She stated that she has not, however, had time to complete the application.

Anna Bellasari, Tree Committee President, expressed that she was unaware that the Village had gone so far as to apply for the designation. She expressed that the designation carries significant demands, and questioned the ability of the Village to fully meet the standards without adding to the budget and perhaps to staffing.

Bellasari related the nature of the work that the Tree Committee does and noted that after the first three years of a tree’s life, the tree becomes the responsibility of the Village.

Bellasari related the willingness of the Tree Committee to assist.

Hempfling stated that this was something she had introduced to Council as an offshoot of Energy Board work, noting the cooling effect of trees, and that she had intended some plan that would encourage tree planting when the Village Manager introduced the idea of Tree City designation. Hempfling indicated that she had been unaware that the designation was as complex as it appears now to be. Hempfling stated that she was concerned with encouraging citizens to plant trees in their yards and not cutting down trees in their yards.

Housh asked whether there would be a benefit to a more formal relationship between the Tree Committee and the Village, to which Bellasari enthusiastically agreed.

Housh stated that a relationship needs to be formalized, and that the Tree Committee (TC) and the Village need to work together.

Bates commented that some of the standards for Tree City designation are now met. Hempfling asked whether the Village could order trees and provide education.

Bates offered that she and Dodd could work with the TC to work out details.

Robert Gage, a member of the TC, spoke in strong terms of the work of the TC and stated that the Village is exceptionally well forested. We are at a saturation point and have to search for planting locations, Gage stated.

Gage spoke against becoming a Tree City, stating that the TC has been doing excellent work in maintaining the Village tree canopy over the years.

Wintrow asked staff to work with the Tree Committee.

Hempfling asked about the education and her concern about residents cutting down trees.

CBE Conversation Update. Housh stated that the Economic Sustainability Commission (ESC) has selected June 28 from 7-9pm as their date for a Community Conversation regarding the CBE land use. This Conversation will cover the restrictive covenants.

Housing Needs Assessment Update. MacQueen reported on a meeting with local stakeholders and noted that the Village is aging rapidly as an entity. All types of housing is needed, with modest small homes and apartments as a high priority.

Wintrow asked that MacQueen to continue to move forward with the HNA process.

NEW BUSINESS

Lodging Tax Discussion. Wintrow turned the chair to Housh and recused herself for reason of potential conflict of interest.

Dodd reported on the topic, stating that lodging tax can be implemented by the County as well as the municipality and there are regulations with both taxes. Currently Greene County has been collecting a lodging tax of 3% from lodging establishments within the Village. Since the county has their own lodging tax, that creates a different set of regulations for us as a municipality if we were to implement our own.

Dodd stated that she is working to pinpoint exactly what these regulations would mean for the Village if it were to wish to pursue such a tax. Dodd stated that she was unable to gather all of the answers for the current discussion since it requires clarification from various resources. Dodd stated that she has reached out to the county, Ohio Municipal League and other municipalities in the county to try to understand the nuances of this tax and its effects on the Village budget if implemented.

Dodd noted that the law has changed such that lodging tax now can be applied to establishment with fewer than five rooms, while previously it applied only to establishments with five or more rooms.

In answer to a question from MacQueen, Dodd stated that most communities have had their lodging tax in place for a very long time, and she has not had the opportunity to speak with Cedarville, which currently does not impose a lodging tax.

Dodd was unable to confirm as to whether the tax the county is levying applies to establishments with fewer than five rooms.

Dodd confirmed that the maximum total tax is 3% for both the county and the municipality, for a potential total tax of 6%.

Dodd commented that the tax is confusing, and that the Village may not receive the entirety of the 3% if in fact this was the amount levied.

Housh commented that it is his understanding that the county may be required to give a percentage of the tax they collect to the Village if the Village has no lodging tax.

MacQueen asked that the discussion be widened to include other potential sources of income such as charging for events or voluntary taxes.

Hempfling asked that the discreet question at hand be dealt with first.

Becky Campbell asked whether the tax would be levied against existing establishments with fewer than five rooms.

Dodd stated that the tax appears applicable only to establishments.

Housh stated that the municipality can choose whether the tax applies to fewer than five rooms and stated that it seems that it would not apply to short term rentals but would apply to Air B&Bs.

Campbell accused Council of targeting the new hotel.

Housh clarified that no decisions would be made in this meeting.

Jim Hammond, owner of the Mills Park Hotel (MPH), stated that the hotel is struggling financially, and needs more time before a tax is levied on customers.

Lisa Goldberg stated that the Hotel employs 55 persons, and that the Village should encourage new businesses. Most business require five years to become sustaining, she said, and more time should be permitted the MPH. If a tax is implemented, Goldberg opined, it should apply to Air B&Bs as well.

Stewart Zaharek, owner of Hearthstone Inn and Suites in Cedarville, spoke at great length on a number of aspects of lodging, tourism and the lodging tax, saying variously that the Village is a destination and that he is not in competition with the MPH for that reason, and stating that a lodging tax will negatively impact the MPH. Zaharek stated his support for the MPH.

Kurt Butler argued that DMS received a tax abatement and that the MPH should have received a tax abatement as well. Butler touted the contributions of the hotel and encouraged the Village to support it. "It reeks of a quick money grab," Butler stated.

Paul DeLaVergne characterized DMS as "strangers" and lauded Hammond for his investment in the MPH. DeLaVergne noted the property tax increase on the property. He spoke at length on his own financial advantages gained by having his product located in the hotel. DeLaVergne asked Council not to levy the tax for at least five years.

Susan Butler, who is employed by the MPH, stated that the hotel has brought business to town and is a great establishment to work for.

Mako Williams spoke emotionally regarding the effect that a tax would have on the financial stability of the hotel, stating that it would drive those on fixed incomes away.

Monika Lindsay, MPH employee spoke about her love for her job at the hotel. She commented that the hotel is bringing positives to town and cannot carry any more tax. "It will suffocate the business," she said.

Bates addressed the tax abatement issue, stating that she could not address the issue as to whether the MPH ever asked for a tax abatement. She stated that the DMS tax abatement is only on new construction.

Lisa Goldberg asked that "the entire MPH be considered new construction."

Hempfling commented that this is a lodging tax discussion, and is not meant in any way to negatively target the hotel. The Village is working to offset higher costs which are passed on to citizens, she said, and has a responsibility to do so.

Simms stated that he is gathering information and that a hasty decision will not be made. The community as a whole appreciates the contributions of the Hammonds, but Council must consider benefit to the community as a whole, he said.

Housh commented that Council is committed to listening to input from all sides of the debate and understanding impacts of Council action.

Dodd stated that she may not have needed information by the next meeting, but that it has been requested.

Housh stated that there will be a follow up discussion on the 19th.

Wintrow returned to the table.

Paris Climate Agreement. MacQueen introduced a letter received by Mothers Out Front, and grassroots organization which has asked Council to enact legislation supporting the Paris Climate Agreement in response to the President's pulling the United States out of the Paris Accord.

MacQueen suggested the resolution be brought to the next meeting, particularly given that the Village is already implementing many of the suggested changes.

Complete Streets Workshop Update. Housh reported that a group had met to set up parameters for a half-day workshop. He asked that the Clerk find a workable date for such a community forum, followed by a working session which will center around crafting a draft policy for the Village to consider.

AGENDA PLANNING

June 19: Resolution Approving the Finance Director’s 2018 Tax Budget for the Village of Yellow Springs
OPWC Grant Resolution
Village Manager Contract Resolution
Home, Inc Presentation
HRC Annual Report
Paris Accord Resolution
Executive Session re: Evaluation of a Public Official
Summer Sewer Ordinance Discussion
Swearing in of Chief Carlson

ADJOURNMENT

At 10:00pm, Hempfling 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 meeting is available for viewing in the Clerk of Council’s office between 9am and 3pm Monday through Friday or any time via youtube link from the Village website: www.yso.com.

Karen Wintrow, President

Attest: Judy Kintner, Clerk of Council