

**COUNCIL OF THE VILLAGE OF YELLOW SPRINGS  
REGULAR COUNCIL MEETING  
AGENDA**

**IN COUNCIL CHAMBERS @ 7:00 P.M.**

**Monday, June 18, 2018**

Comments from the Public are welcomed at two different times during the course of the meeting: (1) Comments on items not on the Agenda will be heard under Citizens Concerns, and (2) Comments on all items listed on the Agenda will be heard during Council's consideration of said item. A Sign-In sheet will be made available on the small table at the rear of the Council Chambers. Please write your name and the topic you wish to discuss. NOTE: Agenda items may be changed at the pleasure of Council during Review of Agenda. This is done with attention to the need to give the public time to engage, and is kept to a minimum.

**CALL TO ORDER (7:00)**

**ROLL CALL**

**ANNOUNCEMENTS (7:05)**

**CONSENT AGENDA (7:10)**

1. Minutes of May 21, 2018 Regular Meeting
2. Minutes of the June 4, 2018 Regular Meeting

**REVIEW OF AGENDA (7:15)**

**I. PETITIONS/COMMUNICATIONS (7:20)**

The Clerk will receive and file:

Linda Hoetger re: September as Prostate Cancer Awareness Month  
Henry Myers re: DCIC Land Sales

**II. PUBLIC HEARINGS/LEGISLATION (7:25)**

**First Reading of Ordinance 2018-25** Small Cell Towers

**First Reading of Ordinance 2018-26** Forgiveness of First Utility Late Fee Annually

**Reading of Resolution 2018-22** Approving a Request for Proposals to Replace Electric Poles

**Reading of Resolution 2018-23** Celebrating Yellow Springs, Ohio as a Bike-Friendly Community

**III. CITIZEN CONCERNS (7:45)**

This time is held for citizens wishing to comment upon items NOT listed on the agenda. Comments are limited to 3 minutes, please.

**IV. SPECIAL REPORTS**

**V. OLD BUSINESS (7:50)**

Housing Advisory Board Report – Process Discussion (45 minutes)

Draft RFP for Utilities Conservation Education (10 minutes)

**VI. NEW BUSINESS (8:45)**

Considerations for Purpose of Designated Community Improvement Corporation (15 minutes)

**VII. MANAGER'S REPORT (9:00)**

## **VIII. SOLICITOR'S REPORT (9:05)**

## **IX. BOARD AND COMMISSION REPORTS (9:10)**

Report Outs from Council Liaisons (Alternate Liaison in parenthetical):

MacQueen	Planning Commission (Kreeger)
Kreeger	Economic Sustainability Commission (Stokes)
Stokes	Community Access Panel (Housh)
Kreeger	Arts and Culture Commission (Housh)
Hempfling	Energy Board (Stokes)
Hempfling	Library Commission (Stokes)
Hempfling	Justice System Task Force (Kreeger)
MacQueen	Village Mediation Program (Kreeger)
MacQueen	School Board Liaison (Housh)
Stokes	Human Relations Commission (MacQueen)
MacQueen	Environmental Commission (Kreeger)
MacQueen	Glass Farm Conservation Management Committee (MacQueen)
Housh	Greene County Regional Planning Commission (MacQueen)
Housh	Miami Valley Regional Planning Commission (Bates)

## **X. FUTURE AGENDA ITEMS (9:20)\***

July 2:	Utility Affordability Proposal
	Village Manager Search Process
	Review of Village Goals
	OPWC Grant Resolution
July 16:	Proposed Purpose/Structure/Bylaws for Designated CIC
	Staff Quarterly Reports
	Ordinance Quarterly Supplemental
	Biennial Review of JSTF Commission Status
	Village Investment Strategy
	Landlord Utility Responsibility Discussion
	Tree City USA Discussion
Aug. 20:	Resolution Approving Designated CIC Bylaws
	Housing Advisory Board Update – Patrick Bowen
	Vote 16/Local Gun Control Proposals
	Village Commitment to Transparency Discussion

\*Future Agenda items are noted for planning purposes only and are subject to change.

## **EXECUTIVE SESSION**

### **ADJOURNMENT**

The next regular meeting of the Council of the Village of Yellow Springs will be held at 7:00 p.m. on **Monday, July 2, 2018** in Council Chambers, John Bryan Community Center, 100 Dayton Street.

The Village of Yellow Springs is committed to providing reasonable accommodations for people with disabilities. The Council meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the Village Clerk of Council's Office at 767-9126 or via e-mail at [clerk@yso.com](mailto:clerk@yso.com) for more information.

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

**In Council Chambers @ 6:00 P.M.**

**Monday, May 21, 2018**

**CALL TO ORDER**

President of Council Brian Housh called the meeting to order at 6:01pm.

**ROLL CALL**

Present were President Housh, Vice President Marianne MacQueen and Council members Judith Hempfling, Kevin Stokes and Lisa Kreeger. Also present were Village Manager Patti Bates and Village Solicitor Chris Conard.

**EXECUTIVE SESSION**

At 6:01pm, Kreeger MOVED and Stokes SECONDED a MOTION to ENTER EXECUTIVE SESSION for the Discussion of the Potential Purchase of Real Estate and the Evaluation of a Public Employee. The MOTION PASSED 5-0 on a ROLL CALL VOTE.

Tecumseh Land Trust Director Krista Magaw was present for the first 45 minutes of the Executive Session.

At 7:00pm, MacQueen MOVED to EXIT EXECUTIVE SESSION. Kreeger SECONDED, and the MOTION PASSED 5-0 ON A VOICE VOTE.

Matthew Lawson was sworn in by Housh as a new member of the Environmental Commission.

**ANNOUNCEMENTS**

MacQueen introduced Ms. Shannon Wilson's fourth-grade class from Mills Lawn Elementary School, and students presented their Project-based Learning Module on Affordable Housing. Several students presented their findings as well as a model affordable home that they had designed.

Housh noted the Village is now live-streaming Council and Planning Commission meetings, which can be viewed in real time through our YouTube Channel "Community Access Yellow Springs."

MacQueen noted that pool passes, including Swimming For All passes, will be available at the pool after it opens.

MacQueen noted that the presentation for the Antioch College Village pilot project would be at the Coretta Scott King Center on Thursday, May 24<sup>th</sup> at 7:00pm.

MacQueen noted that a stay of the initiative to trap the Ohio bobcat was successful and that such trapping would not occur in 2018.

MacQueen noted the sighting of a king rail, a bird rarely seen in Ohio, at the Glass Farm. MacQueen also noted presence of the red-necked phalarope at the Glass Farm.

Hempfling noted the Swimming for All Program in more detail.

Kreeger noted a petition left by Ms. Wilson's class noting the idea of building affordable, energy-efficient homes on the Glass Farm property.

Kreeger noted that June 2<sup>nd</sup> is National Gun Violence Awareness Day and the color of the day would be orange to bring attention to this national issue. More information can be found at [www.wearorange.org](http://www.wearorange.org).

Housh noted initiatives to lower the voting age to 16 (Vote 16 Initiative) and also Cincinnati's prior ban on semi-automatic weapons and current efforts to ban bump stocks. He will bring further information to the next meeting.

Housh noted an opportunity for the public to participate in the Active Transportation Plan on Wednesday, May 23<sup>rd</sup> from 7-9 PM at the Yellow Springs Brewery. Toole Design, our consultant hired through the ODOTODH grant we received to create the Active Transportation Plan, will be presenting ideas about priority projects and gathering further public input on June 27<sup>th</sup> from 7-8:30pm in Rooms A&B at the John Bryan Community Center.

Housh noted that Community Outreach Specialist Florence Randolph and Police Chief Brian Carlson will be speaking with the James A. McKee Group on Wednesday, May 23<sup>rd</sup> at 11:30am at Antioch University Midwest in Room B105.

Housh noted that the second annual Restorative Justice Symposium will be on June 1<sup>st</sup> and 2<sup>nd</sup>. Sessions will be at both the Bryan Center and Antioch College. Further information can be found on the internet.

#### **CONSENT AGENDA**

1. Minutes of May 7, 2018 Regular Meeting
2. Ord. 2018-22 Repealing Section 1266.03 “Permitted Signs” of the Codified Ordinances of the Village Of Yellow Springs, Ohio and Enacting New Chapter 1266.03 “Permitted Signs”
3. Ord. 2018-23 Repealing Section 1284.03 “Definitions: C-D” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Chapter 1284.03 “Definitions: C-D”
4. Ord. 2018-24 Repealing Section 1284.08 “Definitions: R-S” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Chapter 1284.08 “Definitions: R-S”

MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE. The MOTION PASSED 5-0 on a voice vote.

#### **REVIEW OF AGENDA**

Hempfling requested that 30 minutes be allotted for the Justice System Task Force Mayor’s Court discussion under Old Business.

Hempfling requested a new item under New Business to discuss an Energy Board request for proposals on energy education.

Housh asked to clarify, under Old Business, what Council has done with commission budgets.

MacQueen asked for a few minutes in the agenda to talk about public records. It was placed under New Business.

#### **PETITIONS/COMMUNICATIONS**

MacQueen reviewed communications received as follows:

Alex Scott/Chamber re: Fees for Event Services  
Karen Wintrow/Chamber re: Events’ Effects on Municipalities  
Jackie Ashworth re: Thanks to Village Crew  
Rachel McKinley re: Treasurer’s Report  
Lisa Wolters re: Fees for Event Services  
NAMI re: Suicide “Gatekeeper” Training  
Southwest Ohio HOBY re: The HOBY Story and Information for Resolution 2018-19  
Lori Winlan, American Heart Association re: Tobacco 21 (5 documents)

#### **PUBLIC HEARINGS/LEGISLATION**

**Emergency Reading of Ordinance 2018-15** Approving the Editing and Inclusion of Certain Ordinances and Resolutions as Parts of the Various Component Codes of the Codified Ordinances: Approving Adopting and Enacting New Matter in the Updated and Revised Codified Ordinances: Repealing Ordinances and Resolutions in Conflict Therewith: Publishing the Enactment of New Matter; and Declaring an Emergency. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Conard explained that this was a necessary housekeeping measure to update our Codified Ordinances.

Housh OPENED THE PUBLIC HEARING. There being no comments, Housh CLOSED THE PUBLIC HEARING and CALLED THE MOTION.

The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**Second Reading and Public Hearing of Ordinance 2018-16** Repealing Chapter 1020.04(a) “Maintenance Requirements” of the Codified Ordinances of the Village Of Yellow Springs, Ohio and Enacting New Chapter 1020.04(a) “Maintenance Requirements”. Kreeger MOVED and Hempfling SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING. There being no comments, Housh CLOSED THE PUBLIC HEARING and CALLED THE MOTION.

Planning and Zoning Inspector Denise Swinger briefly explained that the ordinance was a housekeeping measure to ensure that various sections of the Zoning Code were uniform as related to grass height.

The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**Second Reading and Public Hearing of Ordinance 2018-17** Repealing Section 1248.01(a) “R-A, Low Density Residential District” of the Codified Ordinances of the Village Of Yellow Springs, Ohio and ENACTING a New Section 1248.01(a) “R-A, Low Density Residential District”. Stokes MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Swinger briefly explained that the word “approximately” needed to be removed from this section to make all sections uniform.

Housh OPENED THE PUBLIC HEARING. There being no comments, Housh CLOSED THE PUBLIC HEARING and CALLED THE MOTION.

The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**Second Reading and Public Hearing of Ordinance 2018-18** Repealing Section 1260.04(a)(6) “Uses; Accessory Buildings and Structures” of the Codified Ordinances of the Village Of Yellow Springs, Ohio and Enacting a New Section 1260(a)(6) “Uses; Accessory Buildings and Structures”. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Swinger briefly explained that the definitions were not uniform in two sections of the Code and this legislation made it so.

Housh OPENED THE PUBLIC HEARING. There being no comments, Housh CLOSED THE PUBLIC HEARING and CALLED THE MOTION.

The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**Second Reading and Public Hearing of Ordinance 2018-19** Repealing Section 1262.02(b) “Procedures: Public Notice” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Replacing it With a New Section 1262.02(b) “Procedures: Public Notice”. Hempfling MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Swinger explained that this would move the responsibility for public notice to the Planning and Zoning Inspector, as is the normal procedure.

Housh OPENED THE PUBLIC HEARING. There being no comments, Housh CLOSED THE PUBLIC HEARING and CALLED THE MOTION.

The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**Second Reading and Public Hearing of Ordinance 2018-20** Repealing Section 1250.03 (a) “Spatial Requirements” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting a New Section 1250.03(a) “Spatial Requirements”. MacQueen MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Swinger explained that there was an error in the footnote, which indicated a side yard setback and should indicate a rear yard setback.

Housh OPENED THE PUBLIC HEARING. There being no comments, Housh CLOSED THE PUBLIC HEARING and CALLED THE MOTION.

The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**Second Reading and Public Hearing of Ordinance 2018-21** Repealing Section 1262.08(e)(1) “Conditional Use Requirements: Residential: Accessory Dwelling Units” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting a New Section 1262.08(e)(1) “Conditional Use Requirements: Residential: Accessory Dwelling Units”. Kreeger MOVED and Stokes SECONDED a MOTION TO APPROVE.

Swinger explained that the current Code requires a microwave in an accessory dwelling unit. The amendment allows for either a microwave or a conventional oven for food preparation. Housh recommended an amendment to put the comma after “stove,” instead of after “and/or.”

Housh MOVED to approve the ordinance as amended, Kreeger SECONDED.

The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**Reading of Resolution 2018-14** Creating an Economic Development Incentive Policy. Kreeger MOVED and Stokes SECONDED a MOTION TO APPROVE.

Kreeger explained that the Economic Sustainability Commission had been working on this and thanked them for their work. She noted that this policy more clearly defines the incentives for business development and the process through which they can be accessed, and allows them to be given with more objectivity and consistency.

Housh noted his appreciation for the work and recommended an amendment, to read, “Whereas, incentives need to be given to businesses and organizations intentionally, with clear benefits to citizens and in a consistent and unarbitrary manner.” Housh also noted that the most recent version of Village Values needed to be used, to include the Value regarding anti-racism.

MacQueen asked Kreeger to give a brief list of possible incentives. Kreeger noted low-interest loans or grants, abatement credit of income or property tax, land sale or swap, utility easements or extensions, other infrastructure, fee waivers, or as deemed appropriate.

Hempfling noted the current Council focus on Diversity and asked that it be reflected or included in the Incentive Policy in some way. Housh noted the tie to the Village Values and suggested adding an item to the scoring sheet re: a diversity hiring policy.

Karen Wintrow noted that, while it was good that the Village was providing this support to businesses, perhaps the language should be modified to include support for non-profit organizations as well. Housh noted that his suggested amendment included “organizations” but asked if there were further potential places to note same. Wintrow agreed that would suffice. Kreeger noted that non-profit entities were specifically included in the Incentive Policy proper.

MacQueen asked if providing free event services would be included as part of this incentive policy. Kreeger explained that she did not remember that being, specifically, a part of the discussion, as the conversation about fees for event services had come after the Incentive Policy was developed. She suggested that a further discussion on inclusion of same could occur if Council chooses to charge for event services.

Housh OPENED THE PUBLIC HEARING. There being no comments, Housh CLOSED THE PUBLIC HEARING and CALLED THE MOTION.

Housh called for a motion to pass the Resolution with three amendments (diversity inclusion in scoring sheet; attachment of updated Village Values; additional “Whereas” re; being intentional & consistent). MacQueen MOVED, Hempfling SECONDED same.

The MOTION PASSED 5-0 ON A VOICE VOTE.

**Reading of Resolution 2018-17** Awarding a Contract to Hi-Tech Electrical Contractors LLC for the Removal and Replacement of 11 Electrical Poles and Lines for the Village of Yellow Springs. MacQueen MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Electric and Water Distribution Superintendent Johnnie Burns explained that these were 11 poles that Village staff could not change due to a lack of specific safety equipment needed. He also noted that there were approximately 80 more poles, similar in nature, that need to be contracted out for replacement, while an additional 90 remained for Village in-house staff to replace. A discussion occurred as to the financial benefits of a larger contract to change all 80 remaining poles by contractor in comparison to the cost of multiple smaller contracts. Council requested a draft Request for Proposals be brought to contract the replacement of the remaining 80 poles that could not be changed by Village staff.

The MOTION PASSED 5-0 ON A VOICE VOTE.

**Reading of Resolution 2018-18** Appointing Johnnie Burns Public Works Director. Hempfling MOVED and Stokes SECONDED a MOTION TO APPROVE.

Bates explained that the promotion of Burns to the currently vacant position of Public Works Director was part of a reorganization to make better use of staff in solving many of the current issues we face regarding maintenance. This will allow better and more direct oversight of all public works departments. Bates praised Burns work, particularly with regard to the recent pool issues and noted his extensive qualifications for the position.

Housh noted his appreciation of the positive attitude that Burns brings to his work and the message he carries about the new approach to Village business.

Housh OPENED THE PUBLIC HEARING. There being no comments, Housh CLOSED THE PUBLIC HEARING and CALLED THE MOTION.

The MOTION PASSED 5-0 ON A VOICE VOTE.

**Reading of Resolution 2018-19** Honoring Southwest Ohio Hugh O'Brian Youth (HOBY) For Outstanding Accomplishments and Declaring June 28-July 1, 2018 as "Southwest Ohio Hugh O'Brian Youth Days in the Village of Yellow Springs, Ohio". Kreeger MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Housh noted no need for further discussion, as the Resolution clearly indicated the importance of HOBY to the leadership development of our youth. Housh called the vote.

The MOTION PASSED 5-0 ON A VOICE VOTE.

### **CITIZEN CONCERNS**

There were no citizen concerns.

### **SPECIAL REPORTS**

There were no special reports.

### **OLD BUSINESS**

Housh began the discussion of the Tobacco 21 initiative by noting that, having previously heard exclusively from supporters of this legislation, this meeting would be dedicated to allowing those opposed to passage to speak.

Don Beard, owner of Ye Olde Trail Tavern, Peach's Grill and the Import House, noted that the Import House tries to cultivate a shopping experience for younger individuals who remain loyal customers. An informal survey showed that nearly half of the sales at Import House went to shoppers 16-20 years of age and disputed figures presented by proponents of Tobacco 21. Beard noted that this would impact yet another revenue stream, and that young people wanting tobacco products would simply purchase them just outside of town.

Dennis Nipper of Nipper's Corner spoke, noting that he was offended that someone would speak publicly about his finances. Nipper asked if Council had requested the Solicitor to draft an ordinance. Nipper also asked if the Police Department would be required to enforce the ordinance against those young people in violation. Nipper noted that he had no issue if the legislation were passed statewide.

Hempfling asked that the staff report on the topic be explained for citizens to hear.

Jessica Thomas spoke in strong opposition to the passage of this legislation, as it impedes the rights of individuals, and also spoke to the potential to legalize other drugs, such as marijuana and to use that legalization to educate the public on the safe use of same. Thomas noted the difficulty with enforcement and the ease of access for young people.

Hempfling asked again that the staff report on the topic be explained. Bates explained that she had sent emails to the other municipalities that had passed such legislation. Three responded – Bexley, Columbus and Powell. Bates briefly explained the history of the legislation in each of the three municipalities. The penalty for a first offense by a seller of the products in all cases was a citation for a misdemeanor of the fourth degree, for a second offense a misdemeanor of the third degree. None of the legislation reviewed noted a penalty for the underage buyer/user of the product. Bates briefly explained the recommended enforcement mechanism, should Council choose to pass legislation.

Rhonda Kumbusky, an employee of the Import House, noted that some workers will lose their jobs if tobacco sales are limited to those 21 years of age and older.

Bob Baldwin noted the detrimental effects of smoking, highlighting that delaying the purchase of tobacco products to age 21 is not a denial of freedoms.

Ben Van Ausdel noted his conflict because he is a soccer coach but also part of a business that sells tobacco products. Van Ausdel noted that the loss of tobacco sales affects other sales.

Beard asked Bates if there were any smaller municipalities that had enacted such legislation that were not bordered by a larger municipality who had also enacted same legislation. Bates replied that she was not aware of any.

Karen Wintrow, Executive Director of the Chamber of Commerce, spoke in support of the locally-owned businesses that would be affected by this potential legislation.

Jane Nipper, Nipper's Corner, asked how this would affect customers between 18 and 21 years of age, who are already established customers of the local businesses who would take their business elsewhere. Nipper noted that Nipper's Corner is the only store open between 10pm and midnight.

MacQueen noted that the discussion had been interesting, with cigarettes being legal and marijuana being illegal. MacQueen noted that, if she were convinced that the legislation would keep young people from smoking cigarettes, she would be in favor, but she is not convinced of that.

Hempfling noted that, as a nurse, she is well aware of the adverse effects of smoking and that it is addictive. However, she does not believe that this type of legislation would change behavior. She said the legislation feels patronizing and she does not feel the legislation would be effective.

Stokes thanked everyone who spoke. He noted that all seem to be in agreement about the health effects and noted the addictive nature and suggested focusing on education efforts.

Kreeger noted that she has been thinking about this issue and has spoken to a wide variety of age groups and listened to their comments. The overwhelming majority agree that smoking is bad but that they are against the passage of legislation. Kreeger noted she is also a nurse and wonders what impact a community our size could have. Kreeger noted that she would vote against such legislation.

Housh noted that, in general, Council members are against this legislation. Housh noted that Bates had brought forth a suggestion for a resolution showing support for statewide Tobacco 21 legislation and that he thought Council should consider such a resolution. Passing legislation in such a small municipality would have limited effect on stopping youth from smoking but would have a negative impact on the local economy. Housh noted that he would like to close the discussion unless there was a comment that had not yet been addressed.

Matt Raska noted that this was clearly an escalation of the drug war, which has been a total failure since the 1960s, as well as the era of Prohibition, which was also a failure in the 1930s.

Housh MOVED that a resolution be brought to support statewide Tobacco 21 legislation. Hempfling SECONDED. All "ayes" by a voice vote. Housh thanked everyone for the discussion.

### **JSTF Mayor's Court Recommendation**

Hempfling introduced the discussion of the resolution brought by the Justice System Task Force to require any and all citations that could be brought to Mayor's Court, be cited there. Hempfling noted that, when the Task Force was created, there was a goal to review the Village justice system in relation to the issues that exist on a national scale regarding the injustices that exist systemically, noting the commitment of the community, Council and staff to work on these issues. The process included conversations with stakeholders, but also a public comment component. Hempfling noted Mayor Pam Conine's request to wait six months.

Steve McQueen spoke on behalf of the JSTF, noting that he did not have much to add to Hempfling's introduction of the topic. McQueen thanked Laura Curliss for her time and expertise and also Dave Turner for his time. McQueen noted that the research was in the packets and that the numbers show that Mayor's Court is hearing a larger volume of cases, showing that Chief Carlson has already started working toward this recommendation. McQueen noted that the JSTF still believes the recommendation is important and should be considered for passage.

David Turner noted that there were four recommendations brought by the JSTF in regard to Mayor's Court, and while only one was being discussed at this meeting, it was important to note that the four recommendations work together and do not stand on their own. Turner also noted that these are recommendations and should not be looked at individually due to potential conflicts in the future. Turner further noted that this recommendation should be examined for implementation issues prior to being cemented as a policy decision. Turner presented the Task Force's recommendation that the Manager be directed to ensure by November 1, 2018, that all misdemeanor cases that can be sent to Mayor's Court are sent to Mayor's Court. Turner further offered a personal opinion that all implementation issues should be discussed and resolved before that time.

John Hempfling apologized for the delayed release of the data analysis related to the proposal and briefly reviewed the data. John Hempfling proposed an amendment to allow some discretion to officers, noting specific offenses he felt should be included in that amendment. John Hempfling recommended the proposal be sent back to the JSTF for this further consideration.



Mayor Pam Conine thanked John Hempfling for his comments and the JSTF for the work it has done. Noting the JSTF recommendation, Mayor Conine noted she is not in favor of said recommendation at this time. The current system allowing officer discretion seems to be working and may, ultimately, help the defendant, as Greene County Municipal Court provides many services not available to Mayor's Court defendants, particularly in the areas of mental health and chemical dependency programs. Conine noted that she would prefer to use local resources that fit our community in a cost-effective way. Conine noted the relative "newness" of those involved in Mayor's Court, assuring Council that there is a new interaction between the parties involved in Mayor's Court. At minimum, Conine requested additional time be allowed before this decision is made, allowing a full year of data collection under the new model of Mayor's Court and the Police Department.

Laura Curliss noted that she had spent many hours on the recommendation, and thanked John Hempfling for his work on the statistics. Curliss noted several instances in the past four years that have, in her opinion, been mishandled due to officer discretion, noting several traffic offenses. Curliss noted possible reasons for this, but noted that Council had the opportunity to set the tone for the future process.

Chief Brian Carlson thanked the JSTF for its work, but statistics showing the increase in Mayor's Court cases since he became Chief. Carlson noted that he had been working on a program with Mayor's Court and the Police Department Community Outreach Specialist to implement a resolution-oriented Court. Carlson further noted that, while he was on the same side as the JSTF, he took issue with being told as a police officer when he can exercise his discretion and requested more time to work with the Mayor's Court before Council makes this decision, as the Yellow Springs Police Department is working hard to place every possible case allowed into our Mayor's Court. The Chief opined that removing the discretion of the department regarding cases placed into Mayor's Court would be damaging to the trust the department is working so hard at rebuilding.

Housh noted the inclusion of Solicitor Chris Conard's report in the packet and suggested that Council discuss the issue. Housh noted his frustration over the length of the discussion (two years) and that only now are hard facts coming forth. Housh mentioned that two things were important in his mind: being clear on what types of cases need County services and how many are going through Municipal Court that could come through Mayor's Court, if the services were available, and clarity on what potential we have to hear cases involving potential incarceration in Mayor's Court and what that would mean, financially, to the Village.

MacQueen said that she came on Council in 2014 and knew the discussion had been ongoing prior to her arrival. MacQueen recommended that the Village exit the Drug Task Force and the Village has done that. MacQueen also noted the New Year's Eve incident, noting that since Carlson has been Chief, the culture in the Police Department has changed. She believes the culture will continue to change and she would rather trust the Chief to educate the officers on directing any cases that can reasonably be cited to Mayor's Court be so cited there. MacQueen stated that she does not support the recommendation, as presented.

Stokes stated that he agreed with MacQueen, and that he felt the Village had good people doing the jobs and we should let them do what they were hired to do. Stokes feels the right things are being done and does not feel a mandate needs to be set forth.

Kreeger thanked everyone for the number of hours spent on the proposal. Adding to Stokes's comments, she noted that while we are currently in a good place, she fears that could change if the personnel changes. Kreeger does not, at this point, currently support a mandate, but is curious as to what was behind the statistics for previous years. Kreeger feels we need to move toward some level of guidelines on citing cases to Mayor's Court.

Judith Hempfling is opposed to fully open discretion and feels there should be a way to differentiate minor offenses that could be sent to Mayor's Court without detrimental effects to the defendant. The overarching issue is the detrimental effects on poor people. Hempfling would like officers to write a short paragraph on why they sent specific cases to Xenia instead of Mayor's Court and asked for information on costs for the defendant of being cited to Xenia instead of Mayor's Court.

Housh summarized that it had been a great discussion and was broader than previous discussions. Housh called on everyone to define what the discussion means in terms of guidelines around discretion. Housh called for it to be put in a clear framework.

Bates asked for clarification on who was to provide what for future discussions. Hempfling suggested a meeting of Hempfling, Carlson, Bates, Conine and Kreeger to discuss next steps. Conine noted that her Court had a request in to Xenia for information.

**Fees for Event Services**

Bates noted that the information in the packet was from previous discussions and briefly recapped that information.

Housh noted that there had been previous discussions and asked Council to articulate questions.

MacQueen noted that, in looking at various events, the main one that stands out is Street Fair. She noted the information in the packet from Karen Wintrow and Alex Scott. MacQueen noted that this was not just about whether Street Fair is important, but more about whether the Village funds \$18,000 annually to the Chamber for the Street Fair, and if we are funding the Chamber, is that how we want to do it. MacQueen asked if there was a middle ground to be found by raising the fees for Street Fair or by some other method.

Karen Wintrow noted that the destination economy brings \$16 million into the economy of Yellow Springs and that she has difficulty understanding why the discussion was brought, given the other incentives the Village provides. Wintrow noted that it is about broader support of organizations across the board, noting other communities that support similar events. Wintrow noted that the Chamber spends \$72,000 annually on Street Fair and noted the collaboration between the Chamber and the Village.

Hempfling asked Wintrow how the discussion started. Wintrow noted citizen and staff concerns. Hempfling noted Wintrow’s key role in making Yellow Springs a destination community and the boost to the economy. Hempfling noted a case well-made and praised Wintrow for the inclusiveness the Chamber sets forth.

Kreeger voiced a concern about the effect on non-profits should Street Fair not occur, and feels that the Village should not charge for events.

Housh agreed with Hempfling that the case of economic return had been made and noted the analogy to the Village’s support of non-profits such as Home, Inc. Housh reiterated support for all non-profits and that this support builds on the Village values supporting diversity and being a welcoming community. Housh is not in favor of charging fees for events.

MacQueen asked if we wanted to have a blanket statement of support for events or if we wanted to have any type of criteria. Housh noted that we should look at the benefits to the community.

MacQueen noted to Wintrow that MacQueen had been leading the discussion because she felt that a public discussion needed to be held, but that she does support the Chamber. Housh agreed and noted the importance of transparency on this issue.

Kreeger clarified a need to look at a specific policy. Housh noted that the Village is not quite there yet. MacQueen suggested that the Economic Sustainability Commission look at it and Kreeger agreed.

Housh received a note asking that the rest of the agenda be delayed due to the length of the meeting. Hempfling gave a brief discussion of the Energy Board request for proposals for energy education and asked if Council would support that. Bates noted the need to firm deliverables.

Housh asked to schedule the work session on infrastructure, which Bates suggested be the second half of July. Council to send potential dates to Bates for scheduling.

**MANAGER’S REPORT**

Bates reported that the back-up generator at the Xenia Avenue lift station stopped working and could not be repaired. As this is necessary in an emergency and required by the EPA, Bates stated that she had authorized the immediate purchase of a new generator at a cost of \$35,808.00. Bates stated that under the emergency purchases clause of the Administrative Code of the Village, she is permitted to exceed the purchasing limit during emergencies that may affect the health, safety and welfare of Village residents.

**CHIEF’S REPORT**

The Chief’s report was in the packet.

**BOARD AND COMMISSION REPORTS**

Reporting on the Economic Sustainability Commission, Kreeger pointed out that the Commission was moving forward with drafting a position paper, purpose statement and preliminary work on bylaws for the Dedicated Community Improvement Corporation. Conard offered templates, if needed.

MacQueen noted that the Planning Commission is discussing flag lots and that she will suggest that the Housing Advisory Board look at this issue for possible consideration by Council.

MacQueen has been talking with Hope Taft about environmental education and would like to have her speak before Council.

**AGENDA PLANNING**

Bates mentioned the draft audit report from Julian and Grube and that they are willing to come to the next meeting for an exit interview.

**\*Future Agenda items are noted for planning purposes only and are subject to change.**

- June 4: Small Cell Tower Legislation
- June 18: ESC Presentation on Designated Community Improvement Corporation Progress and Next Steps
- July 2:
- July 16: ESC Presentation of Bylaws for DCIC
- Aug. 20: Resolution Approving DCIC Bylaws

**ADJOURNMENT**

At 9:58pm, Kreeger MOVED and Stokes 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:*

\_\_\_\_\_  
Brian Housh, Council President

\_\_\_\_\_  
Attest: Judy Kintner, Clerk of Council

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

**In Council Chambers @ 6:30 P.M.**

**Monday, June 4, 2018**

**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 Judith Hempfling, Kevin Stokes and Lisa Kreeger. Also present were Village Manager Patti Bates and Village Solicitor Chris Conard.

**EXECUTIVE SESSION**

At 6:31pm, Kreeger MOVED and Stokes SECONDED a MOTION to ENTER EXECUTIVE SESSION for the Discussion of Potential Litigation and the Discipline of a Public Employee. The MOTION PASSED 5-0 on a ROLL CALL VOTE.

At 7:00pm, Kreeger MOVED to EXIT EXECUTIVE SESSION. Stokes SECONDED, and the MOTION PASSED 5-0 ON A VOICE VOTE.

**ANNOUNCEMENTS**

Hempfling reminded all of the ‘Swimming for All’ Program. Passes are available for a reduced cost under some circumstances at the Gaunt Park Pool.

Kreeger also noted that swimming lessons were free at the pool.

Housh noted that the Village was successfully live-streaming Council meetings on the Village YouTube Channel.

Housh reminded all that Street Fair will occur on Saturday, June 9<sup>th</sup>.

Housh noted that Antioch College will be hosting Music on Main on Saturday, June 9<sup>th</sup> after Street Fair.

Housh announced that Yellow Springs had been recognized as a Bronze Bicycle-Friendly Community, the 18<sup>th</sup> such community in Ohio. We are the smallest municipality to receive this recognition.

Kreeger noted the VIDA (Village Inspiration & Design Award) given recently to Richard Lapedes and Maureen Lynch for their beautifully landscaped yard and active support of public art throughout the Village.

Bates described the John Bryan Community Gallery art game played by the Village Team. The game was designed by Nancy Mellon and Kathy Moulton on behalf of the Arts & Culture Commission. Housh provided the prizes and Bates provided the food for a cookout for staff. A good time was had by all and the game provided an opportunity to interact with local art. Bates also noted the “Staff Picks”, involving team members choosing a particular piece of art as a favorite.

**REVIEW OF AGENDA**

Hempfling requested that the Utility Roundup discussion be moved to follow the Late Fee Forgiveness one.

Hempfling requested that the Mayor’s Court Recommendation from the JSTF be added under Old Business for a clarification.

Housh added nomination of a Board of Zoning Appeals alternate under New Business.

**PETITIONS/COMMUNICATIONS**

MacQueen reviewed communications received as follows:

Kirsten Bean re: support of Tobacco 21

Cindy Sieck re: support of Tobacco 21

Becky Campbell re: concern of possible marijuana dispensary in the Village  
Bicycle-Friendly Community Notification and Materials

## **PUBLIC HEARINGS/LEGISLATION**

Planning and Zoning Inspector Denise Swinger explained the first three pieces of legislation. For “Permitted Signs,” some larger developments, such as Friends Care or the DMS, Ink complex, need more signage than permitted by Code in order to effectively direct traffic. The “Permitted Signs” legislation allows the Zoning Inspector to allow additional signage that is not visible from public streets or neighboring properties.

**Second Reading and Public Hearing of Ordinance 2018-22** Repealing Section 1266.03 “Permitted Signs” of the Codified Ordinances of the Village Of Yellow Springs, Ohio and Enacting New Chapter 1266.03 “Permitted Signs”

Kreeger MOVED to pass the legislation and MacQueen SECONDED. Housh opened the public hearing. No comments were provided, and Housh closed the public hearing. The vote was called, all “ayes” by roll call vote.

**Second Reading and Public Hearing of Ordinance 2018-23** Repealing Section 1284.03 “Definitions: C-D” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Chapter 1284.03 “Definitions: C-D”

Housh called for a motion; MacQueen MOVED to pass the legislation, Stokes SECONDED.

Swinger advised this was a housekeeping item; the definition for “density” was not needed, as a regulation for number of units per acre already exists as “gross density” in definitions.

Housh opened the public hearing. No comments were provided, and Housh closed the public hearing. The vote was called, all “ayes” by roll call vote.

**Second Reading and Public Hearing of Ordinance 2018-24** Repealing Section 1284.08 “Definitions: R-S” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Chapter 1284.08 “Definitions: R-S”

Housh called for a motion; Stokes MOVED, MacQueen SECONDED.

Swinger advised that the legislation adds “solar panels” to the list of “accessory structures” in order to make the Code clearer on the regulations regarding solar panels.

Housh opened the public hearing. Housh asked a clarifying question as to whether this would include solar panels installed on roofs. Swinger replied in the affirmative, noting the inclusion of solar panels whether mounted on the ground or upon another structure of any kind. Housh asked why solar panels should be included as accessory structures. Swinger responded as to the complicated nature of installing solar panels, which includes an interconnection agreement that must be approved by the Public Works Director, and that making solar panels part of the accessory structure section of Code would ensure that all steps were properly completed.

No other comments were heard. Housh closed the public hearing. The vote was called, all “ayes” by roll call vote.

**Reading of Resolution 2018-20** Approving Requested Funds for Commissions for 2018

Housh asked that the Resolution be read in full; Bates read the Resolution. Housh called for a motion; Kreeger MOVED, MacQueen SECONDED.

Housh explained that, as an important part of the process, this formalizes the commitments Council has made to financially support Boards and Commissions for fiscal year 2018, as Board and Commissions add important capacity to assist in achieving Village Goals.

Housh called for any other comments and none were provided. Housh called for all in favor; all “ayes” by voice vote.

**Reading of Resolution 2018-21** Supporting the Health and Welfare of Our Youth in Relation To the Use of Tobacco and Related Products

Housh asked for the Resolution to be read in full; Bates read the Resolution. Housh called for a motion; MacQueen MOVED and Kreeger SECONDED.

Bates noted that, at a previous meeting, Shernaz Reporter requested on behalf of the Greene County Department of Health that the Village pass legislation restricting the sale of tobacco and related products to those under 21 years of age within the municipal limits of the Village. Council subsequently heard from those who opposed such legislation. This Resolution was drafted as a method of showing support for statewide legislation, with concern for the health of our youth.

Housh called for comments from Council.

MacQueen noted that she found it difficult to support legislation limiting the sale of such products to the municipal limits of the Village because she felt it would not be effective.

Kreeger noted that she had spoken to many citizens about this topic and the overwhelming response was that it would not be effective. Kreeger also noted that even those who spoke against the legislation indicated that they would support a statewide effort and that she appreciated the compromise the Resolution achieved.

Housh noted his appreciation for the information provided both by Greene County Health Department and others indicating that such legislation could be a deterrent. Housh clarified his previous statement regarding an individual's right to smoke tobacco. Housh stated that he was not persuaded by that argument, as smoking costs billions of public health dollars and has impacts that reach beyond the smoker.

Hempfling noted that, while alcohol had detrimental impacts on a person's health, Prohibition did not work and she felt that such legislation would be ineffective.

Stokes noted that both arguments (health effects versus economic impacts) were compelling, but he was happy that common sense legislation had been enacted. Stokes confirmed that Greene County Health Department knew of the Resolution and MacQueen confirmed that it would be sent to them. Bates replied in the affirmative to both.

Housh asked that some of the information from Greene County Health Department be included in the mailings to our legislators.

Hempfling expressed her appreciation for Kreeger's Facebook post asking for input on the topic.

Housh asked for comments from citizens; there were none. Housh called for a voice vote; all "ayes" by voice vote.

## **CITIZEN CONCERNS**

There were no Citizen Concerns. Housh noted that, in the future, he would like to use the sign-up sheet for citizens to speak when the audience is large to ensure fairness.

## **SPECIAL REPORTS**

Mark Grube and Brice Frentzel of Julian and Grube presented the Draft Audit report. Grube gave a brief introduction, noting that the firm had a contract to perform audits of the Village finances on behalf of the Auditor of State and that the contract was in year four of five. Grube noted that the report being presented was a draft, which had not been approved by the Auditor of State and on which the Auditor could comment further before certifying. Grube further noted that the Village performs cash accounting which, while allowed, is not the method preferred by the Auditor. Stokes asked if using cash accounting could adversely affect grant applications. Bates responded in the negative. Grube noted that larger federal grants may require a special audit for cash accounting.

Grube noted that he would not discuss the budgetary part of the document, as he assumed Council was familiar with the numbers, and asked that everyone turn to page 16 of the document, which explained Julian and Grube's requirements for the audit.

Frentzel noted that former Finance Director/Assistant Village Manager Melissa Dodd had informed Council before her departure of the two Material Weakness findings in the Report regarding grant monies through the Ohio Public Works Commission (OPWC). As the OPWC pays contractors directly, the monies never flow through the Village accounts. However, the Village is required to record receipt of these monies and disburse them out as part of our budgetary process, as they are paid on behalf of the Village. As this was not done, the Village budget lines had to be adjusted to reflect the payments, resulting in the two material weakness findings.

Bates noted that she and current Finance Director Colleen Harris had spoken about the procedure and that Council would see these payments as part of the supplemental appropriations so that they could be properly reflected for fiscal year 2018.

Frentzel called for questions and Housh asked for an explanation of the conduit debt noted from 2002. Grube responded that the Village had apparently assisted a private healthcare facility in refinancing infrastructure debt. Grube further explained that the Village was not responsible for that debt, the healthcare facility was responsible. In response to Housh's question as to whether this was a common occurrence, Grube stated that it was seen occasionally. Housh further inquired as to whether a public-private partnership was similar, to which Grube responded it was more like a Port Authority to assist in economic development.

MacQueen asked if the debt was still outstanding and Grube replied in the affirmative, with Bates clarifying that, while the Village facilitated the issuance of the debt, the Village did not owe the debt. Grube confirmed that statement.

Housh noted the Village option to have or decline an exit interview, while MacQueen noted that we also could have had said interview in Executive Session, while was declined in the interest of transparency.

## **OLD BUSINESS**

### **Proposal for Forgiveness of First Late Fee Annually**

Kreeger noted a previous proposal in support of affordability, a primary focus of Council. Kreeger expressed her disappointment that the current utility software did not easily facilitate tracking this and asked for input from the community as to whether this was an important gesture, either monetarily or in the interest of building a better relationship. Kreeger asked for Council input, weighing the personnel cost against the importance of the forgiveness, noting that she would like to bring a more bold proposal in the future.

Hempfling asked what the late fees may be; Bates responded that, in January of 2017, there were 468 accounts with total accrued late fees of just over \$1,700. Stokes inquired as to whether certain accounts were late more often than others; Bates responded in the affirmative. Stokes asked if a credit could be given in advance, to which Bates replied that that would likely not be accepted as a practice by the Auditor and would also incur the same tracking issues. Stokes expressed support for the gesture, but felt he needed more information on the potential cost of modifying the software to assist with the process.

Hempfling commented that she felt Village late fees were too high, but expressed a larger concern that the top priority goal of affordability is not making much headway. Hempfling noted her concern about the Energy Board proposal on Utility Education and the infrastructure concerns, needing more information to move forward. Hempfling expressed her desire to revisit the Landlord Utility Responsibility policy and her feeling that the policy erodes the relationship between landlord and tenant.

Kreeger responded that she had brought that topic up previously and investigated when notices were sent to landlords. Kreeger expressed her feeling that the topics were related but should be considered separately and that she would bring the subject back at a later date.

MacQueen stated that the overarching goal was to provide some relief to community members in a way that has some meaning for community members and is "doable" for the Village. MacQueen felt that both the Energy Board and the Human Relations Commission (HRC) should be involved in the effort. MacQueen further suggested that the request for forgiveness of the first late fee be initiated by the community member. Finally, MacQueen tentatively noted the possible creation of a group to examine what may be impactful for community members that was also possible for the Village to implement.

Stokes expressed support for the waiver of the first late fee upon request idea, which could be easily maintained. Housh expressed appreciation for the idea as well, and also noted a program that the City of Columbus administers offering a utility bill credit based on income. The program is funded through a grant from American Municipal Power (AMP) and the forgiveness is requested through the City's Utilities Office. Housh noted that he agreed with Kreeger's sentiment for something more impactful and would like to talk about that at the next meeting.

Housh noted that adding capacity to the education piece through the Energy Board and the HRC had been discussed but had not materialized and suggested Council determine what was to be accomplished this year and make those reasonable and achievable goals. Housh noted that part two of the Council retreat was an opportunity to reprioritize the goals for the rest of the year with staff time in mind.

MacQueen asked Stokes if the HRC was interested in helping with these items. Stokes noted that, while there was interest, there was a period when membership was small and affected capacity.

Hempfling again noted her desire to discuss the Landlord Utility Responsibility issue, noting the loss to the Village of approximately \$10,000 annually. Hempfling expressed concern that landlords were getting notices as soon as tenants were late. Bates stated that landlords do not get notices until tenants are on the shut off list and scheduled for disconnection.

Housh agreed with Kreeger that this is a separate issue and should be listed as an agenda item to gather input. Housh made a distinction between private utility companies and Village utilities, which are funded by taxpayer dollars, which was a large part of the unanimous decision by a prior Council to implement the policy.

Housh asked Kreeger for a suggestion on bringing the issue back to Council. Kreeger noted that, until there was a clear path for infrastructure improvements and other expected costs, a bold recommendation could not be brought. Kreeger further noted the need for financial analysis of infrastructure needs to be done quickly in order to understand what can be done and expressed that perhaps recommendations should be tabled until that was done.

MacQueen asked what would be considered “bold,” to which Kreeger responded that she would know once the analysis was done, including when the dollars would actually need to be spent on infrastructure improvements. Kreeger reiterated the need to be fiscally responsible. Stokes suggested the use of the word “impactful.”

### **Utility Roundup**

Bates reviewed the research she had been doing on the Utility Roundup, speaking with the Cities of Napoleon and Oberlin as well as Jackie Teegarden of the Northwestern Ohio Community Action Commission, which administers the programs for Napoleon and the City of Bryan. The policies vary greatly, but the Council would set the conditions under which the program would be available to individuals and the nonprofit would administer the program under those policies.

MacQueen suggested someone from Home, Inc. be part of the committee to develop the guidelines due to its expertise in the area. Stokes noted that there was a member of the HRC who may like to be involved. Bates noted that, once the policy and procedure was done, the Village would be hands off the process.

### **Diversity Hiring and Retention Policy**

Bates explained that she and Human Resources Officer Ruthe Ann Lillich incorporated information gathered over time into a draft Diversity Hiring and Retention Policy, which was before Council.

MacQueen suggested striking the words “Try to” from the final bullet point.

Stokes noted that the draft was a good start, recognizing that the Village has already put many things into practice that are not written down. Stokes indicated that it was important to word the self-reporting of ethnicity carefully to encourage self-reporting.

Hempfling advised that she had done a lot of research on diversity hiring and looked forward to working on it collaboratively. Hempfling specifically noted that some language should be slightly different and had suggestions. Hempfling further suggested networking with various groups already established locally and regionally to reach those diverse populations. Hempfling indicated a desire to include social justice hiring practices as well as internal promotions.

Stokes noted that implicit bias is a big part of cultural change.

Housh noted the opportunity to align Village Values and the HRC mission with this policy.

### **Tree City USA**

Bates introduced the topic by referring to the information in the packet, noting the four requirements to become a Tree City. First, the Village must establish a Tree Board or Tree Commission. The current Tree Committee is not a Village entity, it is a private group of citizens. The second requirement is the enactment of a tree care ordinance; the third standard is to establish a per capita budget for tree care. The fourth and final standard is to have an annual Arbor Day Celebration.

Bates noted the previous indication by the Tree Committee that it was not supportive, which seems to be a reflection of one member’s opinion, not that of the majority of the organization. Bates also noted the December deadline to apply to become a Tree City.

Housh expressed unwillingness to make decision without the presence of Tree Committee



members, as he understood part of their support for becoming a Tree City to be a lack of younger membership and an inability to carry on the current program as membership ages. Housh also noted that he sees becoming a Tree City as an opportunity to become more active in determining where our trees are placed as to not interfere with other infrastructure and as part of our Complete Streets Policy.

Bates noted that, after three years, trees planted on public property by the Tree Committee become Village responsibility and thanked Housh for his thoughts about capacity.

MacQueen expressed mixed feelings and a concern about the capacity piece. MacQueen also noted that she does not consider electric line pruning to be tree care. MacQueen suggested the possibility of working with the High School's School Forest team and also the need to have the Tree Committee present for the discussion.

Stokes asked if the list of Ohio Tree Cities included in the brief was exhaustive for Ohio. Bates advised it was not and a complete list could be found on the Arbor Day Foundation's website.

### **Manager's Housing Advisory Board (MHAB)**

MacQueen referenced a document (read-only for this meeting) in packets detailing a draft proposed for next steps on the housing initiative. MacQueen noted a seven-step process, advising that while listed consecutively, the steps would more likely occur simultaneously, in some cases. The steps are: gathering information and identifying issues, assessing resources, developing a vision and policy statement (draft statement included), setting goals, developing strategies to meet the goals, developing a housing initiative plan and implementing strategies. MacQueen would like an in-depth discussion of the document at the July 16<sup>th</sup> meeting as well as input from Council on the policy statement.

MacQueen advised that Patrick Bowen of Bowen National Research, the firm that performed the Housing Needs Assessment, agreed to attend the August 20<sup>th</sup> Council meeting to discuss possible strategies with Council that would help achieve the goals set during the July 16<sup>th</sup> meeting. MacQueen also advised that Josh Abrams, a housing needs consultant from the west coast, agreed to perform some pro bono work with the Housing Advisory Board.

Hempfling mentioned a workshop on gentrification, which MacQueen and Swinger would attend on June 7<sup>th</sup>. A report will be brought back to Council from that workshop. Hempfling voiced concern that Council may not be able to provide direction to the conversation with Bowen without prior discussion. MacQueen noted that there were three meetings prior to Bowen's visit, at which Council would discuss the topic.

Kreeger clarified that a general timeline would be that step 4 (setting goals) would occur early Fall. MacQueen advised that she had hoped to have that discussion in July, to prepare for the discussion with Bowen in August. Kreeger asked for the definitions regarding levels of affordability, which MacQueen advised Kevin McGruder of the MHAB was preparing. Kreeger noted the quality of the report, thanking those who worked on it and noting its importance in making future decisions regarding housing. Kreeger further noted that she believed there was a technical component due to limited buildable space. MacQueen opined that it was both technical and ideological, that there were conflicting viewpoints and many issues to consider.

Housh advised that he felt the policy statement was already quite good.

### **Infrastructure Work Session**

Housh asked Council to pick a date for the Infrastructure Work Session, noting that he would like it to be a bit more focused on Village Goals. Housh asked that the presentation materials be available ahead of time for review and that priorities be set with consideration of Village Goals.

Housh noted that July has a fifth Monday and Bates suggested an earlier starting time. Council set the work session for July 30<sup>th</sup> from 5:00 PM to 8:30 PM.

### **Clarification of Mayor's Court Recommendation**

Hempfling asked Council to clarify direction from the last meeting regarding the discussion of the Mayor's Court recommendation. Hempfling and Kreeger noted that they felt the JSTF could be advised that the next step would be to meet with Mayor Pam Conine and Chief Brian Carlson to seek more specific information on their views of what types of charges should not be sent to Mayor's Court or should be assigned to Xenia or Mayor's Court based on the officer's discretion and why. The JSTF could then review that more specific information and send Council a new recommendation.

Housh agreed that sounded like a good idea and suggested that two things that be considered where the cost of incarceration and County services that could not be accessed through Mayor's Court.

MacQueen also asked if there would be a list of charges that would automatically be sent to Mayor's Court versus what might be sent to Xenia for certain reasons.

Hempfling noted the need for more communication between the JSTF, Mayor Conine and Chief Carlson, as well as for specific direction to the JSTF.

## **NEW BUSINESS**

### **Investments**

Housh introduced the topic of reviewing how Village investments are handled, a topic being discussed by the Village Manager's Finance Advisory Committee. Housh thanked Treasurer Rachel McKinley for providing information for the packets. The primary focus is to see if the Village can increase and maximize its returns, given the limitations on the ability of a government body to invest.

Housh advised that our current agreement with Huntington Bank allows for wrapping fees into what is purchased. A second option is to pay a consultant an annual fee to be a financial advisor. Housh referenced a presentation from Bond Tech, a relatively small and focused company that works with approximately 14 municipalities. Housh also referenced a presentation McKinley had received from Meeder, who also work with municipalities and has been noted by other municipalities to do a good job. Both have expertise around municipal investments.

Housh noted that his focus was on whether a slight increase in cost would result in a substantial increase in return on that investment. Bond Tech projected a possible \$150,000 annual return at a future date. Meeder is a bit more conservative, projecting \$85,000 annually. Both were based on an investment portfolio of \$5 million. Housh noted the need to finalize the amount available for investment, referencing McKinley's inclination to shifting some funds out of checking accounts and making them available for investment, thereby reducing the banking fees we pay.

Housh asked McKinley about the Star Ohio accounts. McKinley noted that both Star accounts are relatively fluid and that the Village is currently invested in only one, Star Plus. McKinley advised that the first question to answer is, what amount is available for investment? McKinley referenced the upcoming infrastructure work session and the impact those expenditures could have on available amounts. McKinley indicated past difficulty getting answers on income projections that could impact investments. McKinley recommended, before engaging a financial advisor, that the detailed determination be made of how much can be invested and for how long.

McKinley noted that, since signing the contract with Huntington, investment return had increased from \$7,000 in 2016 to \$36,000 in 2017. McKinley indicated a strong willingness to work with Council on future investments. Finally, McKinley indicated that the return on long-term investments was increasing and longer-term investments should be considered, making it a good time to have this conversation.

MacQueen asked how the decision could be made as to how much could be invested. Bates replied that she had had brief conversations with new Finance Director, Collen Harris, who may be more comfortable investing a larger amount than the previous Finance Director. The specific amount was yet to be determined.

Kreeger expressed a feeling that the conversation was related to a previous conversation about necessary reserves in accounts, indicating a need to make the money work for the Village. Housh noted that he felt that the Village may have been too risk-averse in the past.

Hempfling asked if there was a risk in investing. Housh replied that there was, but it was a low risk, given allowable municipal investments. Housh noted that next steps should be to determine a firm amount available for investment and to determine with which firm to contract, with the explanation that the annual fee would be roughly equivalent to the fee taken on commercial paper investments.

### **Alternate to Board of Zoning Appeals**

Housh and Swinger interviewed Dan Reyes, a current alternate for the Board of Zoning Appeals who would like to renew his term, noting Reyes' background in architecture. Housh MOVED to renew Reyes's term as alternate to the Board of Zoning Appeals, MacQueen SECONDED, all "ayes" by voice vote.

## **MANAGER'S REPORT**

Bates announced the dates and times for Implicit Bias Training, which may change slightly. Bates will keep Council informed. Housh noted a preference for a break between the sessions, as the training is more effective.

Bates announced that the new back-up generator was installed and working at the lift station.

Bates announced the departure of Water/Wastewater Treatment Operator Richard Stockton, who is leaving the Village to become an Assistant Supervisor of Wastewater Treatment in Springfield. The Village wishes Stockton good luck and prosperity and thanks him for his service to the Village.

Bates announced the graduation of Human Resources Officer Ruthe Ann Lillich with an Associate's degree in Human Resources. Bates congratulated Lillich on her accomplishments.

Bates noted that salaried staff would not be attending Council meetings on a regular basis moving forward, but would be present for quarterly reports and special topics.

#### **CHIEF'S REPORT**

Bates presented the Chief's report, noting Street Fair Saturday, June 9<sup>th</sup>. Bates further noted the traffic complications of lane and road closures.

Kreeger asked about the data being included in the Chief's report, to which Housh responded that it was usually in the packet for the second meeting of the month.

Bates noted also that Finance Director Colleen Harris had prepared a brief report for packets.

#### **SOLICITOR'S REPORT**

Conard noted that the legislation regarding small cell towers would be in the next packet for a first reading.

#### **AGENDA PLANNING**

Housh noted the need for a significant amount of time for the housing needs discussion.

Bates advised of the need for a resolution to release a Request for Proposals for Electric Pole Replacement on June 18<sup>th</sup>.

MacQueen asked if the draft for the energy education request for proposals would be available, to which Bates replied in the affirmative.

Hempfling asked about inclusion of the discussion of the Justice System Task Force as a future agenda item and how the process worked, as she had not requested it be included. Housh replied that it had been on future agenda items for a few months. Housh explained the process.

Kreeger noted the two-year term for the Mayor. It was noted that it was a Charter review item and that it could be changed. Kreeger requested that be discussed; Conard advised seeing if other items should be included for review.

MacQueen noted the need for further discussion on Vote 16 and Gun Control. Housh noted that it should occur within the next two meetings.

MacQueen asked what the policy on Public Records Requests was. Conard replied that he felt it was posted on the website but that he would be happy to write something. MacQueen expressed an interest in reviewing same.

MacQueen noted the Landlord Utility Policy discussion. Bates noted the need for the discussion to be separate from affordability; Kreeger concurred.

Housh suggested that some topics be reserved until goals were revisited. MacQueen asked if Council wished to schedule another retreat, to which Housh replied he felt the goals should be reviewed at a Council meeting to allow public input. Hempfling asked for a timeline; Housh replied he would prefer the next meeting. Hempfling suggested moving items to allow time for a goals discussion and asked when Patrick Bowen was coming. The decision was made to put review of goals on the July 2<sup>nd</sup> agenda.

MacQueen noted the need to begin the discussion of the Village Manager search process and suggested July 2<sup>nd</sup>.

Housh suggested Landlord Utility Responsibility be on July 16<sup>th</sup>.

**\*Future Agenda items are noted for planning purposes only and are subject to change.**

- July 2:           Utility Affordability Proposal  
                  Village Manager Search Process  
                  Review of Village Goals  
                  OPWC Grant Resolution
- July 16:          Proposed Purpose/Structure/Bylaws for Designated CIC  
                  Staff Quarterly Reports  
                  Ordinance Quarterly Supplemental  
                  Biennial Review of JSTF Commission Status  
                  Village Investment Strategy  
                  Landlord Utility Responsibility Discussion  
                  Tree City USA Discussion
- Aug. 20:         Resolution Approving Designated CIC Bylaws  
                  Housing Advisory Board Update – Patrick Bowen  
                  Vote 16/Local Gun Control Proposals  
                  Village Commitment to Transparency Discussion

**ADJOURNMENT**

At 9:35pm, Stokes MOVED and Kreeger 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:*

\_\_\_\_\_  
Brian Housh, Council President

\_\_\_\_\_  
Attest: Patti Bates, Deputy Clerk of Council

**VILLAGE OF YELLOW SPRINGS, OHIO**  
**ORDINANCE #2018-27**

**AN ORDINANCE REPEALING CHAPTER 876 “WIRELESS SERVICES” OF THE  
CODIFIED ORDINANCES OF YELLOW SPRINGS, OHIO AND ENACTING NEW  
CHAPTER 876 “SMALL CELL FACILITIES & WIRELESS SUPPORT STRUCTURES”**

**Whereas**, the Codified Ordinances for the Village of Yellow Springs, Ohio establish general procedures and standards for wireless facilities and support structures;

**Whereas**, Ohio House Bill 478 of the 132<sup>nd</sup> General Assembly (“HB 478”) has been enacted and will become effective August 1, 2018;

**Whereas**, HB 478 affects the Codified Ordinances for the Village of Yellow Springs, Ohio as it relates to wireless facilities and support structures; and

**Whereas**, the Village Council seeks to comply with HB 478, and codify general procedures and standards for the siting, construction, placement, collocation, modification, operation, and removal of small cell facilities and/or wireless support structures within the Village of Yellow Springs.

**NOW, THEREFORE, THE COUNCIL OF THE VILLAGE OF YELLOW SPRINGS,  
OHIO HEREBY ORDAINS THAT:**

**Section 1.** That Chapter 876 entitled “Wireless Services” of the Codified Ordinances of the Village of Yellow Springs, Ohio be repealed in its entirety including all sections therein.

**Section 2.** That a new Chapter 876 entitled “Small Cell Facilities & Wireless Support Structures” of the Codified Ordinances of the Village of Yellow Springs, Ohio be enacted to read as set forth on Exhibit A, which is attached hereto and incorporated herein with new language underlined and **bolded** and deleted language in ~~striketrough~~:

**Section 3.** This ordinance shall take effect and be in full force at the earliest date permitted by law.

\_\_\_\_\_  
Brian Housh, President of Council

Passed: \_\_\_\_\_

Attest: \_\_\_\_\_  
Patti Bates, Deputy Clerk of Council

## **ROLL CALL**

Brian Housh \_\_\_\_\_ Marianne MacQueen \_\_\_\_\_ Judith Hempfling \_\_\_\_\_

Kevin Stokes \_\_\_\_\_ Lisa Kreeger \_\_\_\_\_

## **EXHIBIT A**

### **CHAPTER 876** **SMALL CELL FACILITIES & WIRELESS SUPPORT STRUCTURES**

#### **876.01 PURPOSE.**

The purpose of this chapter is to:

- ~~(a) Provide requirements for the use and leasing of public land for personal wireless service facilities; and~~
- ~~(b) Establish an application procedure that ensures action within a reasonable period of time for requests to use and lease public land for personal wireless service facilities.~~

#### **876.01 PURPOSE AND INTENT.**

**The purpose of this chapter, is to establish general procedures and standards for the siting, construction, placement, collocation, modification, operation, and removal of small cell facilities and/or wireless support structures within the Village of Yellow Springs.**

**The goals of this chapter are to:**

- (a) Provide standards for the siting, construction, placement, collocation, modification, operation, and removal of small cell facilities and wireless support structures within the Village of Yellow Springs.**
- (b) Establish criteria for making application to promote fair and efficient processing of applications.**
- (c) Ensure that small cell facilities and wireless support structures conform to all applicable health and safety regulations.**
- (d) Preserve the character of the Municipality's residential, business, and historic districts by limiting the overall number of facilities within the Municipality's Right of Way.**
- (e) Reduce visual clutter and preserve and enhance the aesthetic environment of the Village of Yellow Springs.**
- (f) Ensure the safety of motorists, pedestrians, and other users of the Municipality's Rights of Way by limiting the placement and overall number of facilities within close proximity to roadways, sidewalks, or other such ways of travel.**

- (g) Establish a fair and reasonable method to recover costs incurred in administering this chapter.

#### **876.02 COMPLIANCE REQUIRED.**

~~No person shall be granted a lease to use public land for a personal wireless service facility unless such person conforms to the requirements set forth in such lease and in this chapter.~~

#### **876.02 DEFINITIONS**

Within this chapter words with specific defined meanings are as follows:

- (a) “Abandoned” means any small cell facilities or wireless support structures that are unused for a period of three hundred sixty-five days without the operator otherwise notifying the Municipality and receiving the Municipality's approval.
- (b) “Agent” means a person that provides the Municipality written authorization to work on behalf of a public utility.
- (c) “Antenna” means Communications equipment that transmits or receives radio frequency signals in the provision of wireless service.
- (d) “Applicant: means any person that submits an application to the Municipality to site, construct, place, collocate, modify, operate, and/or remove a small cell facility or wireless support structure in the Village of Yellow Springs.
- (e) “Collocation” or “collocate” means to install, mount, maintain, modify, operate, or replace wireless facilities on a wireless support structure or utility pole.
- (f) “Cable operator,” “cable service,” or “franchise” have the same meanings as in the "Cable Communications Policy Act of 1984," 98 Stat. 2779, 47 U.S.C.A. 522.
- (g) “Decorative pole” means a pole, arch, or structure other than a street light pole placed in the Right of Way specifically designed and placed for aesthetic purposes and on which no appurtenances or attachments have been placed except for any of the following:
  - (1) Electric lighting;
  - (2) Specially designed informational or directional signage;



- (3) Temporary holiday or special event attachments.
- (h) “Enclosure” means a cabinet for equipment intended to conceal its contents, prevent electrical shock to users, and protect the contents from the environment.
- (i) “Equipment” means electrical and/or mechanical devices or components.
- (j) “Historic District” means a building, property, or site, or group of buildings, properties, or sites that are either of the following:
- (1) Listed in the national register of historic places or formally determined eligible for listing by the keeper of the national register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the national register, in accordance with section VI.D.1.a.i-v of the nationwide programmatic agreement codified at 47 C.F.R. part 1, Appendix C;
- (2) A registered historic district as defined in Section 149.311 of the Ohio Revised Code.
- (k) “Municipal Electric Utility” has the same meaning as in section 4928.01 of the Ohio Revised Code.
- (l) “Ohio Manual of Uniform Traffic Control Devices” or “OMUTCD” means the uniform system of traffic control devices promulgated by the department of transportation pursuant to Section 4511.09 of the Ohio Revised Code.
- (m) “Occupy” or “Use” means with respect to a Right of Way, to place a tangible thing in a Right of Way for any purpose, including, but not limited to, constructing, repairing, positioning, maintaining, or operating lines, poles, pipes, conduits, ducts, equipment, or other structures, appurtenances, or facilities necessary for the delivery of public utility services or any services provided by a cable operator.
- (n) “Permittee” means a person issued a permit.
- (o) “Person” means any natural person, corporation, or partnership and also includes any governmental entity.
- (p) “Public Utility” means a wireless service provider as defined in division (A)(20) of section 4927.01 of the Ohio Revised Code or any company described in section 4905.03 of the Ohio Revised Code except in divisions (B) and (I) of that section,

which company also is a public utility as defined in section 4905.02 of the Ohio Revised Code; and includes any electric supplier as defined in section 4933.81 of the Ohio Revised Code.

- (q) “Public Way Fee” means a fee levied to recover the costs incurred by the Municipality and associated with the occupancy or use of a Right of Way.
- (r) “Right of Way” or “Public Way” means the surface of, and the space within, through, on, across, above, or below, any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, public easement, and any other land dedicated or otherwise designated for a compatible public use, which, on or after July 2, 2002, is owned or controlled by a municipal corporation. “Right of Way” excludes a private easement.
- (s) “Small Cell Facility” means a wireless facility that meets both of the following requirements:

  - (1) Each antenna is located inside an enclosure of not more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than 6 cubic feet in volume.
  - (2) All other wireless equipment associated with the facility is cumulatively not more than 28 cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
- (t) “Small Cell Facility Operator” or “Operator” means a wireless service provider, or its designated agent, or cable operator, or its designated agent, that operates a small cell facility and provides wireless service as defined in division (T) of section 4939.01 of the Ohio Revised Code. For the purpose of this chapter, “operator” includes a wireless service provider or cable operator that provides information services as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C.153(20), and services that are fixed in nature or use unlicensed spectrum.
- (u) “Substantial Change” or “Substantial change” means the same as defined by the FCC in 47 C.F.R. § 1.40001 (b )(7), as may be amended, and as applicable to

facilities in the public right of way, which defines that term as a collocation or modification that:

- (1) increases the overall height more than 10% or 10 feet (whichever is greater);
- (2) increases the width more than 6 feet from the edge of the wireless support structure;
- (3) involves the placement of any new enclosures on the ground when there are no existing ground-mounted enclosures;
- (4) involves the placement of any new ground-mounted enclosures that are ten percent (10%) larger in height or volume than any existing ground-mounted enclosures;
- (5) involves excavation or deployment of equipment outside the area in proximity to the installation and other wireless communications equipment already deployed on the ground;
- (6) would defeat the existing concealment elements of the wireless support structure as determined by the Village Manager or designee; or
- (7) violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, enclosures or excavation that is inconsistent with the thresholds for a substantial change.

Note: For clarity, the definition in this chapter includes only the definition of a substantial change as it applies to installations in the public right of way. The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted wireless support structure without regard to any increases in size due to wireless facilities not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012.

- (v) “Utility Easement” means an easement dedicated for the use of a Public Utilities Commission of Ohio regulated utility.
- (w) “Utility pole” means a structure that is designed for, or used for the purpose of, carrying lines, cables, or wires for electric distribution or telecommunications service. The term excludes street signs and decorative poles.

**(x) “Wireless Facility” means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including all of the following:**

**(1) Equipment associated with wireless communications;**

**(2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.**

**(3) The term includes small cell facilities.**

**(4) The term does not include any of the following:**

**A. The structure or improvements on, under, or within which the equipment is collocated;**

**B. Coaxial or fiber-optic cable that is between wireless support structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.**

**(y) “Wireless Service” means any services using licensed or unlicensed wireless spectrum, whether at a fixed location or mobile, provided to the public using wireless facilities.**

**(z) “Wireless Service Provider” means a person who provides wireless service as defined in division (A)(20) of section 4927.01 of the Ohio Revised Code.**

**(aa) “Wireless Support Structure” means a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a 15’ or taller sign pole, or utility pole capable of supporting wireless small cell facilities. As used in section 4939.031 of the Ohio Revised Code this chapter, "wireless support structure" excludes all of the following:**

**(1) A utility pole or other facility owned or operated by a municipal electric utility;**

**(2) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses.**

**(bb) “Work permit” or “work permit” means a permit issued by the Municipality that must be obtained in order to perform any work in, on, above, within, over,**

below, under, or through any part of the Right of Way, including, but not limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, or installing, as well as the act of opening and cutting into the surface of any paved or improved surface that is part of the Right of Way. Also, a permit issued by the Municipality that must be obtained in order to occupy the Municipality's Right of Way.

### **876.03 OBJECTIVES.**

- ~~—(a) The policy of the Village with regard to the use of public land for personal wireless service facilities shall be to:~~
  - ~~—(1) Locate facilities so as to provide adequate coverage and adequate capacity with the least number of towers and antennas that is technically and economically feasible;~~
  - ~~—(2) Protect public safety and public property and adjacent land uses from potential adverse impacts of said facilities;~~
  - ~~—(3) Ensure adequate public compensation for private use of public land and the regulation thereof;~~
  - ~~—(4) Establish the following priority for the use of public land for wireless telecommunications services, provided, however, that the Village Manager may alter this priority when the Village Manager reasonably determines a deviation therefrom to be in the public interest:~~
    - ~~—A. The Village of Yellow Springs;~~
    - ~~—B. Public safety agencies, including law enforcement and emergency response agencies which are not part of the Village, and private entities with a public safety agreement with the Village;~~
    - ~~—C. Other governmental agencies for uses not related to public safety; and~~
    - ~~—D. Commercial wireless telecommunications services.~~
  - ~~—(5) Cooperate with surrounding jurisdictions on land use planning regarding personal wireless service facilities; and~~
  - ~~—(6) Encourage co-location.~~
- ~~—(b) The Village Manager is hereby granted the authority and duty of enforcing the provisions of this chapter.~~

### **876.03 APPLICABILITY**

No small cell facility operator may collocate or remove a small cell facility or construct, maintain, modify, operate, replace, or remove wireless support structures in, along, across, upon, and/or under the Right of Way except in conformance with all provisions of this chapter and any other applicable requirements of the Village of Yellow Springs.

### **876.04 APPLICATION PROCEDURE.**

- ~~—(a) Any person requesting approval to use public land for a personal wireless service facility shall file an application with the Village Manager, which application shall include,~~

at a minimum, the following information:

— (1) All information required in Section 1262.08 of these Codified Ordinances;

— (2) A description and depiction of the land area to be leased in the greatest detail possible;

— (3) A demonstration of need to site the facility in accordance with Section 1262.08 of these Codified Ordinances; and

— (4) Any other information required by the Village Manager.

— (b) The Village Manager shall review the application and determine if the application is complete and in order. Within thirty days of determining that the application is complete and in order, the Village Manager shall forward the application to Council along with a recommendation to approve or disapprove the application, in accordance with the criteria established herein.

— (c) Council shall review the application and hold a public hearing on the proposed application, after which Council shall render a determination to approve or not to approve the application, along with any conditions Council deems appropriate.

— (d) Upon approval of an application, the Village Manager shall develop a lease agreement, which shall include, at a minimum, the terms of this chapter and any additional conditions established by Council. The Village Manager shall return the lease agreement to Council for final approval.

— (e) The applicant/operator must obtain all necessary land use approvals.

## 876.04 PROCEDURES

### 876.04.1 - Permit Required

Unless otherwise exempted, it shall be unlawful for any person to collocate or remove a small cell facility or construct, maintain, modify, operate, replace, or remove wireless support structures in, along, across, upon, and/or under the Right of Way unless a permit has been issued by the Village Manager or designee.

### 876.04.2 – Application Requirements

This section specifies the necessary requirements for a complete permit application. A complete application shall consist of the following:

(a) Application Fee - The applicant must provide the applicable permit application fee in the amount of \$200.00.

(b) RF Compliance Affidavit - Applicants must submit a sworn affidavit prepared and signed by an RF engineer with knowledge about the proposed project that affirms the proposed project will be compliant with all applicable governmental regulations

in connection with human exposure to radiofrequency emissions. The affidavit must include:

- (1) All frequencies on which the equipment will operate;
- (2) how many channels will be used on each frequency;
- (3) the effective radiated power ("ERP")
- (4) output level in measured watts; and
- (5) the height above ground for the lowest point on the lowest transmitter.

The required disclosures above must be included for all transmitters on the support structure, which includes without limitation existing collocated antennas and antennas used for wireless backhaul (such as microwave dish antenna or U/E relay).

(c) Regulatory Authorization - To the extent that the applicant claims any regulatory authorization or other right to use the public right of way, the applicant must provide a true and correct copy of the certificate, license, notice to proceed or other regulatory authorization that supports the applicant's claim.

(d) Owner's Authorization - Applicants must submit evidence sufficient to show that either:

- (1) the applicant owns the proposed support structure or
- (2) the applicant has obtained the owner's authorization to file the application.

(e) Site Plans and Structural Calculations. The applicant must submit fully dimensioned site plans, elevation drawings and structural calculations prepared, sealed, stamped and signed by a Professional Engineer licensed and registered by the State of Ohio. Drawings must depict any existing wireless facilities with all existing wireless communications equipment and other improvements, the proposed facility with all proposed wireless communications equipment and other improvements and the legal boundaries of the leased or owned area surrounding the proposed facility and any associated access or utility easements.

**(f) Equipment and Enclosure Specifications.** The applicant shall provide dimensioned elevations, cut sheets, material samples or other construction documents necessary to evaluate for compliance with this chapter.

**(g) Statement of Intent.** The applicant shall provide a statement of a wireless support structure's intended purpose.

#### **876.04.3 Application Type**

**(a) Each application to collocate or remove a small cell facility or construct, maintain, modify, operate, replace, or remove wireless support structures in, along, across, upon, and/or under the Right of Way shall be classified as one of three types. The three types of applications are:**

**(1) Small Cell Minor – An application that:**

**A. Involves removal or replacement of small cell facilities and any associated equipment on an existing wireless support structure; and such removal or replacement does not constitute a substantial change; or**

**B. Involves the routine maintenance of a small cell facility.**

**(2) Small Cell Substantial – An application that:**

**A. Involves the installation of a new small cell facility on a wireless support structure; or**

**B. Involves the removal or replacement of a small cell facility on an existing wireless support structure and such removal or replacement constitutes a substantial change.**

**(3) Wireless Support Structure – An application for a proposal to construct, modify or replace a wireless support structure in the Right of Way.**

**(b) Applications seeking to collocate a small cell facility to a wireless support structure owned by the Municipality and located within the Municipality Right of Way shall also be required to obtain an Attachment Certificate and shall be subject to an attachment fee in the amount of \$9.43.00 per pole. This fee applies if there is any attachment to the pole including by wire.**

#### **876.04.4 Decisions**



**(a) The Village Manager or designee shall review the application for conformance with the standards of this chapter and shall either:**

**(1) Approve, approve with conditions, or deny a Small Cell Minor application;**  
**or**

**(2) Grant or deny consent for Small Cell Substantial and Wireless Structure applications.**

**(b) If a request is denied, the reasons for denial shall be provided in writing to the applicant.**

**(c) The Municipality reserves the right to deny an application if any one of the following conditions exist:**

**(1) The application does not comply with a provision of this chapter or a provision of the Village of Yellow Springs Codified Ordinances;**

**(2) The applicant is not authorized to conduct business in the State of Ohio;**

**(3) The applicant is not current in its obligation to pay to the Municipality fees or taxes imposed by this chapter;**

**(4) The design or location is deemed unsafe or non-compliant in regards to transportation and engineering standards for construction within the Right of Way;**

**(5) The design is counter to the health, safety, and welfare of the Municipality;**

**(6) The design or location is in conflict with current or proposed accessibility standards;**

**(7) The design does not meet standards related to electrical, structural, safety or construction best practices; and**

**(8) The proposed design is in conflict with existing infrastructure, facilities, and/or utilities.**

**(d) Except as allowed in subsection (C) below, applications shall be reviewed and a decision rendered according to 876.04.4.A – Decisions, within the following time periods:**

**(1) Small Cell Minor – Small Cell Minor applications shall be rendered within 60 days of the date of filing.**

**(2) Small Cell Substantial – Small Cell Substantial applications shall be rendered within 90 days of the date of filing.**

**(3) Wireless Support Structure – Wireless Support Structure applications shall be rendered within 120 days of the date of filing.**

**(e) The time period required in subsection (B) above may be tolled only:**

**(1) By mutual agreement between the applicant and the Municipality;**

**(2) If the application is determined to be incomplete; or**

**(3) The number of applications exceeds the Municipality's capacity to process them in a timely manner. If such number of applications exceeds capacity then the following tolling time periods may be instituted:**

**A. The time period may initially be tolled for up to 15 days when the number of applications received within any consecutive 30 day period exceeds 25 applications;**

**B. For every additional 15 applications that the Municipality receives above the 25 applications stated in (a) the time period may be tolled an additional 15 days; and**

**C. For every additional 30 applications that the Municipality receives above the 25 applications stated in (a) the time period may be tolled an additional 15 days.**

**D. However, in no instance shall the time tolled exceed 90 consecutive days.**

**(f) To toll the time period for incompleteness, the Municipality shall provide the applicant notice within 30 days of the date of filing. Such notice shall include a listing of the missing documents and/or information. The time period resumes once**

the applicant submits a response. If an application is still incomplete, the Municipality shall notify the applicant within 10 days of the response.

(g) If multiple applications are received by the Municipality to install two or more wireless support structures that would violate the spacing requirements of 876.05.2 (B)2 – Design & Siting Requirements, or to collocate two or more small cell facilities on the same wireless support structure, the Municipality shall process and render a decision in the order they are received.

(h) In the event that an application is received by the Municipality to install a wireless support structure or small cell facility in a location in common with another application for a facility in the ROW, preference shall be granted in the following order of service provided:

(1) Municipal Infrastructure

(2) Water

(3) Electricity

(4) Gas

(5) Landline Telephone

(6) Wireless Service

#### 876.04.5 Amendments

Amendments to an application in process which are not part of a response to a notice of incompleteness or a correction notice shall be treated as a new application.

#### 876.04.6 Issuance of Permit and Certificates

(a) When an application is approved or granted consent, a permit shall be issued to the applicant authorizing the following:

(1) Small Cell Work Permit – A permit to perform the approved action, removal, replacement, or maintenance work, subject to any conditions;

(2) Small Cell Collocation Consent – Consent to perform the approved removal, replacement, or installation, and grant occupancy within the Municipality Right of Way, subject to any permits or conditions;

(3) Wireless Support Structure – Consent to construct, modify or replace a wireless support structure in the Right of Way, subject to any permits or conditions.

(b) An applicant seeking collocation of a small cell facility to a wireless support structure owned by the Municipality and located within the Municipality Right of Way shall be issued an Attachment Certificate authorizing such attachment, subject to any conditions.

#### 876.04.7 Scope of Approval

(a) No permit or certificate authorized by this chapter shall be transferrable.

(b) No permit or certificate authorized by this chapter shall convey title, equitable or legal, in the Right of Way.

#### 876.04.8 Duration of Approval

(a) The work authorized by the permit issued must be completed within 180 days from the date of issuance, unless otherwise conditioned as part of the approval.

(b) An Attachment Certificate is valid for 10 years from the date of issuance and may be renewed by the applicant in successive 5 year terms. Any request for renewal is subject to approval by the Village Manager or designee and may be denied for cause.

(c) In the event that any court of competent jurisdiction invalidates any portion of federal law which mandates approval of any permit, such permit shall automatically expire 1 year from the date of the judicial order.

(d) In the event that any court of competent jurisdiction invalidates any portion of state law which mandates approval of any permit shall automatically expire 60 days from the date of the judicial order.

#### 876.04.9 Revocation

The following are grounds for revocation or denial of approval:

(a) The intentional provision of materially misleading information by the applicant (the provision of information is considered “intentional” where the applicant was aware of the inaccuracies or could have discovered the inaccuracies with reasonable diligence);

(b) The failure to comply with any condition of approval, order, or other applicable law, rule, or regulation;

(c) The site, structure or operation is otherwise not in compliance with any other provision(s) of applicable law;

(d) The subject site or use is otherwise not in compliance due to incomplete work or projects, or is not in compliance due to unperformed or slow to perform work as part of an open permit.

#### **876.04.10 Appeals**

The Village Council shall hear and decide upon appeals where it is alleged there is an error in any written decision made by the Village Manager or designee in the enforcement of this Code.

(a) A complete written appeal shall be filed by the appellant within 10 days of the written decision of the Village Manager or designee or the appeal shall become void. The appeal shall be filed with the Clerk of Council. The written appeal shall:

(1) Cite specific provisions of this chapter that are alleged to have been interpreted in error or the specific action being appealed and the grounds on which the appeal is being made;

(2) Include any required application fee in an amount set by the Village's Fee Schedule.

(3) Include such other information as may be required to render a reasonable decision;

(4) A statement as to why the appellant has standing as an aggrieved party to pursue the appeal.

#### **876.05 CRITERIA FOR GRANTING APPROVAL.**

~~(a) Applications to use public property for personal wireless service facilities shall only be approved when Council is fully satisfied that the following criteria have been met:~~

~~(1) The application is complete and in order;~~

~~(2) The applicant/operator has demonstrated a need to site the facility as per Section 1262.08 of these Codified Ordinances;~~

~~(3) The applicant/operator is a proper person to enter into a lease agreement with the Village and has agreed to abide by the terms of this chapter and any other applicable laws and regulations and other conditions established by Council;~~

~~(4) No user with a higher priority is reasonably anticipated to need the site and the applicant/operator's facility is not reasonably anticipated to cause interference with users~~

of a higher priority;

— (5) The granting of approval will be consistent with the policy of the Village as set forth herein; and

— (6) The approval shall contribute to the public health, safety or welfare.

— (b) Notwithstanding the above, Council reserves the right to deny, for any reason, the use of any and all Village-owned land by any one or all applicants/operators.

## 876.05 STANDARDS

### 876.05.1 General

The Village of Yellow Springs desires to promote orderly small cell facility and wireless support structure installations using the smallest and least intrusive means available to provide services to the community. All such installations in the public right of way shall comply with all applicable provisions in this section. All applications shall be subject to the following conditions:

(a) Compliance with all Applicable Laws – Permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations, ordinances, or other rules.

(b) Right to Inspect – The Municipality or its designee may inspect a small cell facility or wireless support structure within the Right of Way upon reasonable notice to the permittee. The permittee shall cooperate with all inspections. The Municipality reserves the right to support, repair, disable, or remove any elements of the small cell facility or wireless support structure in emergencies or when the small cell facility or wireless support structure threatens imminent harm to persons or property.

(c) Contact information – Permittee shall at all times maintain accurate contact information for all parties responsible for the small cell facility or wireless support structure, which shall include a phone number, street mailing address, and email address for at least one natural person. All such contact information for responsible parties shall be provided to the Public Works Department.

(d) Indemnities – The permittee and, if applicable, the non-government owner of a small cell facility or wireless support structure shall defend, indemnify, and hold harmless the Municipality and its agents, officers, officials, and employees from:

(1) Any and all damages, liabilities, injuries, losses, costs, and expenses arising out of any claims, demands, lawsuits, writs of mandamus, or other actions or

proceedings brought against the Municipality to challenge, attack, seek to modify, set aside, void, or annul the Municipality's approval of the applicable permit or certificate; and

- (2) Any and all damages, liabilities, injuries, losses, costs, and expenses and any claims, demands, lawsuits, or other actions or proceedings of any kind, whether for personal injury, death, or property damage, arising out of or in connection with the activities or performance of the permittee or its agents, employees, licensees, contractors, subcontractors, or independent contractors.
- (3) In the event the Municipality becomes aware of any such actions or claims, the Municipality shall promptly notify the permittee and shall reasonably cooperate in the defense. It is expressly agreed that the Municipality shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the Municipality's defense, and the permittee (as applicable) shall reimburse City for any costs and expenses directly and necessarily incurred by the Municipality in the course of the defense.
- (e) Interference with City Communication Services – In the event that the Municipality has reason to believe that permittee's operations are causing interference with the Municipality's radio communications operations, then the permittee shall, at its cost, immediately cooperate with the Municipality to either rule out permittee as the interference source or eliminate the interference. Cooperation with the Municipality may include, but shall not be limited to, temporarily switching the equipment on and off for testing.
- (f) Adverse Impact – Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, or removal of the small cell facility or wireless support structure.
- (g) Maintenance – The site and the small cell facility or wireless support structure, including but not limited to all landscaping, fencing, and related equipment, must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.
- (h) Good Condition – Small cell facilities and wireless support structures shall at all times employ best practices and maintain in use only the best available technology

and methods for preventing failures and accidents so that the same shall not menace or endanger the life or property of any person.

(i) Graffiti and Vandalism – Permittee shall remove any graffiti at permittee's sole expense.

(j) Exposure to RF Radiation – All small cell facilities must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards.

(k) Utility Lines – Service lines must be undergrounded whenever feasible to avoid additional overhead lines.

(l) Relocation for Public Improvements – Permittee shall remove and relocate the permitted small cell facility and/or wireless support structure at permittee's sole expense to accommodate construction of a public improvement project by the Municipality.

(m) Removal if Discontinued – In the event that the use of a small cell facility is discontinued, the owner shall provide written notice to the Municipality of its intent to discontinue use and the date when the use shall be discontinued. If a small cell facility is not removed within 90 days of discontinued use, the Municipality may remove it at the owner's expense irrespective of the notice requirement under this section.

(n) Abandoned – In the event that the use of a small cell facility is abandoned, the Municipality may remove it at the owner's expense.

(o) Site Restoration

(1) Upon completion of the new work, the contractor shall restore the street and/or alley pavement as required;

(2) Upon completion of the new work, the contractor shall restore all concrete walks, driveway aprons, and other concrete as required;

(3) Upon completion of the new work, the contractor shall restore all tree lawns and/or sod strips with topsoil and sod.



**(p) General Construction – All work and designs shall comply with the following general standards for construction in the Municipality's Right of Way:**

**(1) Village of Yellow Springs Codified Ordinances;**

**(2) Ohio Department of Transportation (ODOT) Location and Design Manual;**

**(3) ODOT Standard Drawings;**

**(4) ODOT Construction and Material Specifications;**

**(5) Ohio Manual of Traffic Control Devices;**

**(6) American Association of State Highway Transportation Officials (AASHTO) A Policy on Geometric Design of Highways and Streets;**

**(7) AASHTO Roadside Design Guide;**

**(8) AASHTO Guide for the Planning, Design, and Operation of Pedestrian Facilities;**

**(9) AASHTO Guide for Development of Bicycle Facilities;**

**(10) United States Access Board (USAB) Proposed Guidelines for Pedestrians in the Public Right-of-Way;**

**(11) USAB American with Disabilities Act Accessibility Guidelines;**

**(12) National Fire Protection Association 70 National Electric Code; and**

**(13) All other applicable local, state, and federal codes and regulations.**

**(q) Taxes and assessments – To the extent taxes or other assessments are imposed by taxing authorities on the use of City property as a result of an applicant's use or occupation of the right of way, the applicant shall be responsible for payment of such taxes, payable annually unless otherwise required by the taxing authority.**

**(r) Interference – Small cell wireless and wireless support structures shall be constructed and maintained in such a manner that will not interfere with the use of other property.**

- (s) Financial Condition - All owners must have liability insurance, which names the Municipality as an additional insured, in effect in such amounts and for such liability as the regulations require.
- (t) Setbacks for Visibility and Access - Any new small cell facility or wireless support structure and other improvements associated with a new small cell facility or wireless support structure or an existing small cell facility or wireless support structure must be setback from intersections, alleys and driveways and placed in locations where it will not obstruct motorists' sightlines or pedestrian access.
- (u) Obstructions - Any new small cell facility or wireless support structure and other improvements associated with a new small cell facility or wireless support structure or an existing small cell facility or wireless support structure shall not obstruct any:
- (1) Worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors;
  - (2) Access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop (including, without limitation, bus stops, streetcar stops, and bike share stations);
  - (3) Worker access to above ground or underground infrastructure owned or operated by any public or private utility agency;
  - (4) Fire hydrant access;
  - (5) Access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the right of way; or
  - (6) Access to any fire escape.
- (v) Historic or Architecturally Significant Structures - Any new utility installation and other improvements associated with a new utility installation or an existing utility installation may not be placed directly in front of any historic or architecturally significant structures in prominent or highly visible locations.

(w) No placement of any small cell facility or wireless support structure shall necessitate tree trimming, cause removal of, or otherwise damage any tree located within the Municipality's Right of Way or a designated utility easement. Such small cell facility or wireless support structure shall not be located within the eventual mature dripline or tree crown of any existing tree located within the Municipality's Right of Way or a designated utility easement.

## 876.05.2 Design and Siting Requirements

### (a) General Requirements

- (1) Wireless support structures shall align with other poles to achieve a uniform inline appearance.
- (2) Wireless support structures shall be setback from the edge of pavement according to applicable safety and construction standards as set forth in 876.05.1.O - General.
- (3) All small cell facilities and wireless support structures and any related items shall be installed and maintained plumb and level and shall maintain an orderly and neat appearance.
- (4) All equipment and enclosures shall be attached, anchored and/or strapped tightly to poles using corrosion resistant steel hardware.
- (5) Wireless support structures shall support no more than two small cell facilities.
- (6) Ambient noise suppression measures or placement of the equipment in locations less likely to impact adjacent properties shall be required to ensure compliance with all applicable noise regulations.
- (7) Unless otherwise required for compliance with FAA or FCC regulations, the small cell facility or wireless support structure shall not include any permanently installed lights. Any lights associated with the equipment shall be appropriately shielded from public view. This shall not be interpreted to prohibit streetlights or the placement of luminaires by the Municipality.

### (b) Location

(1) In accordance with ORC 4939.0314(D), Authority of a Municipal Corporation the Municipality shall reserve the right to propose an alternate location to the proposed location of a new wireless support structure, provided the alternate location is within 100' or a distance equal to the width of the Right of Way in or on which the new wireless support structure is proposed, whichever is greater. The Village of Yellow Springs also finds that certain locations and collocation configurations are preferred. A preferred location and collocation configuration should be utilized whenever possible and should only be surpassed if in the determination of the Village Manager or designee, clear and convincing evidence supports such a decision. Cost alone should not be grounds for such a determination. The order of preference is as follows:

- A. First, small cell facilities should be collocated on an existing pole or wireless support structure within an alley. If no such pole or wireless support structure is available then proceed to the next preference;
- B. Second small cell facilities should be collocated on an existing pole or wireless support structure within a utility easement. If no such pole or wireless support structure is available then proceed to the next preference;
- C. Third, small cell facilities should be collocated on a new wireless support structure within an alley. If no such location is available then proceed to the next preference;
- D. Fourth, small cell facilities should be collocated on a new wireless support structure within a utility easement. If no such location is available then proceed to the next preference;
- E. Fifth, small cell facilities should be collocated on a wireless support structure currently supporting a small cell facility located within the Municipality Right of Way. If no such wireless support structure is available then proceed to the next preference;
- F. Sixth, small cell facilities should be collocated on an existing pole located within the Municipality Right of Way. If no such existing pole is available then proceed to the next preference;

G. Ninth, small cell facilities should be collocated on a new wireless support structure located within the Municipality Right of Way.

(2) Any new wireless support structure shall be located at least 1230' from any existing small cell facility.

(3) Public utilities, cable operators, and operators shall comply with the undergrounding requirements set forth in Chapter 1021.041.

(c) Wireless Facilities Design

(1) Wireless support structures shall be subject to the following design standards:

A. New wireless support structures shall be limited to 40 feet in height;

B. Wireless support structures shall be capable of supporting at least two small cell facility operators;

C. As determined by the Village Manager or designee, wireless support structures design shall be consistent with the design features of nearby poles serving in a similar capacity, and the design features of the existing or proposed streetscape, district, or site and in furtherance of the maintaining the historical context of a district or specific site understanding that in some instances, there is a desire to camouflage or conceal the pole from view.

(2) Small cell facilities shall be subject to the following design standards:

A. The Municipality reserves the right to require the following:

1. Antenna and all associated equipment shall be concealed to the extent deemed necessary by the Village Manager or designee in response to the aesthetic context of the small cell facility. Some possible configurations include but shall not be limited to the following:

i. Antenna(s) associated with the first fitting on a wireless support structure shall be top-mounted and concealed within a radome that also conceals the cable

connections, antenna mount and other hardware. The Village Manager or designee may approve a side-mounted antenna with the initial fitting if, in the Village Manager or designee's discretion, the side-mounted antenna would be a better match to the aesthetics and character of the immediate area and would promote the purposes of this chapter.

- ii. GPS antennas be placed within the radome or directly above the radome not to exceed six inches.

B. Each Antenna and all associated equipment shall not exceed 6 cubic feet in volume.

C. All portions of a Small Cell Facility other than an antenna and as identified by the ORC 4939.01 (P)2, shall not exceed 28 cubic feet in volume per facility.

D. Small cell facilities mounted to a wireless support structure shall be completely concealed within a common enclosure capable of containing at least two small sell facilities. Such common enclosures shall:

1. Not exceed 21 cubic feet in volume;
2. Not exceed 90 inches in height, 20 inches in width, or 20 inches in depth;
3. Not extend more than 24 inches away from the pole on which it is mounted;
4. Shall be centered on the vertical axis of the pole to which it is mounted;
5. Be mounted at a distance of at least 10 feet measured from grade to the bottom of the enclosure; and
6. Be mounted on the side of the pole facing away from nearest traffic lane's direction of travel.

**E. Such common enclosures shall have the following design elements:**

- 1. Material – The enclosure material shall be metal, a composite, or an equivalent material as determined by the Village Manager or designee.**
- 2. Color – The enclosure shall match the color of the pole on which it is mounted.**
- 3. Style – The enclosure shall match the style of the pole on which it is mounted.**
- 4. Coordinated Design Elements – Common enclosures shall match the material, color, and style of nearby existing common enclosures when:**
  - i. Such enclosures are located within 5000’ of an existing common enclosure; and**
  - ii. Such enclosures are mounted on wireless support structures of a similar or matching design.**
- 5. Exception – If the aesthetics and character of the immediate area would be better matched by an enclosure a different material, color, style, or by deviating from the design of a nearby existing common enclosure as determined by the Village Manager or designee, then such design elements may be substituted with an alternate design element. Such determination shall be based on the following factors:**
  - i. The design features of nearby poles serving in a similar capacity;**
  - ii. The design features of the existing or proposed streetscape, district, or site;**
  - iii. The historical context of a district or specific site; and**

- iv. A desire to camouflage or conceal the enclosure from view.

F. All ground mounted equipment shall be placed in an underground vault. No above grade ground mounted equipment in service of a small cell facility is permitted unless the following conditions can be satisfied as determined by the Village Manager or designee:

- 1. The applicant has submitted clear and convincing evidence that the equipment cannot feasibly be pole-mounted, placed in an underground vault, or hidden within or integrated into an existing streetscape element (i.e. - bus stop shelter). Increased costs alone shall not be a consideration. If a ground mounted enclosure is approved, the Village Manager or designee shall reserve the right to require any of the following conditions:

- i. Concealed Enclosure – All equipment shall be completely concealed within a metal, composite, or equivalent material enclosure as determined by the Village Manager or designee.
- ii. Smallest Size – The enclosure shall be no larger than necessary based on the smallest available size of the proposed equipment as determined by the Village Manager or designee.
- iii. Camouflage – Camouflaging elements may be required. Such elements may include, but shall not be limited to, public art displayed on the enclosure, strategic placement in less visible or obtrusive locations, placement within an existing streetscape element, landscape screening, and strategic painting or coating to camouflage such enclosure or equipment.

- 2. The maximum height of any such enclosure shall be 30”.

#### 876.05.3 Reservation of Right of Way

The Municipality reserves the right to Reserve space for future public safety or transportation uses in the Right of Way or on a wireless support structure or pole owned or



operated by the Municipality in a documented and approved plan in place at the time an application is filed. A reservation of space shall not preclude placement of a pole or collocation of a small cell facility. If replacement of the Municipality's pole or wireless support structure is necessary to accommodate the collocation of the small cell facility and the future use, the small cell facility operator shall pay for the replacement of the pole or wireless support structure, and the replaced pole or wireless support structure must accommodate the future use.

#### 876.06 GENERAL PROVISIONS.

—(a) No component of any personal wireless service facility may interfere with the purpose for which the Village-owned property is intended.

—(b) Any adverse impacts on surrounding public or private property shall be considered during the development of a lease agreement.

—(c) No component of the facility shall interfere with other users who have a higher priority, as outlined in Section 876.03.

—(d) All facilities shall, at a minimum, comply with all Village adopted standards and regulations for personal wireless service facilities, including, but not limited to, Section 1262.08 of these Codified Ordinances, provided, however, that the Village Manager may waive requirements relating to landscaping, color, fencing, lighting, height and the burial of personal wireless service support facilities when the Village Manager reasonably determines a deviation therefrom to be in the public interest.

—(e) A report of the results of radiation emissions monitoring undertaken to comply with any other State, Federal or local requirement may be submitted to comply with the monitoring requirements of these Codified Ordinances, as long as such monitoring complies, at a minimum, with the requirements of such chapter.

—(f) The applicant/operator shall comply with the Village's objective to promote co-locations.

—(g) The applicant/operator shall allow the Village, without charge, to utilize the facilities for any public communications purpose.

—(h) The applicant/operator shall furnish all necessary utilities for the operation of its personal wireless service facility and shall be solely liable for said services. These services shall be separately metered and the applicant/operator shall be responsible for all costs associated with the use of said services, including, but not limited to, initial installation costs.

—(i) The applicant/operator, its agents, employees and invitees shall not permit the presence, handling, storage or transportation of hazardous or toxic materials in or about the premises. The applicant/operator shall be responsible for any and all damage, losses and expenses and will indemnify the Village against and from any discovery by any person of such hazardous wastes generated, stored or disposed of as a result of the applicant/operator's equipment and use of the premises.

—(j) Personal wireless service facilities over 199 feet shall utilize the best available

technology to minimize the likelihood of bird kills. The applicant/operator of the facility shall evaluate the effectiveness of the methods utilized to minimize bird kills at least every two years.

#### 876.06 Nonconformity

A nonconforming small cell facility and/or wireless support structure shall immediately lose its nonconforming designation and must be brought into compliance with all of the provisions of this chapter, and all other applicable City laws and ordinances or be removed if any of the following conditions are present:

- (a) The nonconforming small cell facility and/or wireless support structure or a part of the nonconforming small cell facility and/or wireless support structure is altered, modified, relocated, replaced, or changed in any manner whatsoever;
- (b) The nonconforming small cell facility and/or wireless support structure is damaged or deteriorated and requires any process of reconstruction, repair, maintenance, or restoration, and the cost of said reconstruction, repair, maintenance, or restoration exceeds fifty percent of the small cell facility and/or wireless support structure's replacement cost; and
- (c) The nonconforming small cell facility and/or wireless support structure is abandoned.

#### 876.07 SPECIAL REQUIREMENTS RE VILLAGE WATER SYSTEM.

The Village's water towers and well fields represent a large public investment in water pressure stabilization and peak capacity reserves. The protection of the quality of the Village's water supply is of prime importance. As access to the Village's water storage system increases, so too increases the potential for contamination of the public water supply. For these reasons, the placement of wireless telecommunications facilities on water production or storage sites will be allowed only when the Village is fully satisfied that the following requirements are met:

- (a) The applicant/operator's access to the facility will not increase the risks of contamination to the Village's water supply;
- (b) There is sufficient room on the structure and/or the ground to accommodate the applicant/operator's facility;
- (c) The presence of the facility will not increase maintenance costs to the Village; and
- (d) The presence of the facility will not be harmful to the health of the workers maintaining the Village site.

#### 876.07 Conflict with other Provisions

In the event that any other applicable law or code requires any more restrictive requirements, the most restrictive requirement shall control.

#### 876.08 FINANCIAL RESPONSIBILITY OF APPLICANT/OPERATOR.

—(a) The applicant/operator shall reimburse the Village for any costs it may incur due to the presence of the applicant/operator's facility.

—(b) The applicant/operator shall commit to a lease agreement that includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fee shall be established by the Village after considering comparable rates in other municipalities, potential expenses, risks to the Village and other appropriate factors.

—(c) The applicant/operator shall be responsible for paying any and all property taxes or assessments separately levied against its improvements on the property. The applicant/operator shall reimburse the Village, as additional rent, for any increase in real estate taxes levied against the property which are directly attributable to the improvements constructed by the applicant/operator and are not separately levied or assessed against the applicant/operator's improvements by the taxing authority.

—(d) The applicant/operator shall have and continue to have liability insurance which names the Village as an additional insured, and shall provide a certificate of insurance to the Village on an annual basis.

—(e) The applicant/operator shall assume, release and agree to indemnify, defend, protect and hold the Village harmless from any claim, loss or damage arising in any way from the applicant/operator's use and occupancy of the property, including, but not limited to, the installation, use, maintenance, repair or removal of the applicant/operator's equipment, or out of acts or omissions to act of the applicant/operator, its employees, agents and invitees, unless such loss and/or damage arises in whole or in part from the negligence or willful misconduct of the Village, its employees, agents or invitees.

—(f) The Village shall not be liable to an applicant/operator for any loss, theft, disappearance, damage or destruction of any personal property stored or placed by the applicant/operator in or on the subject property, regardless of cause.

—(g) The applicant/operator shall be responsible for all costs related to removal of a facility and remediation of the landscape. Upon approval, the applicant/operator shall submit a demolition and site remediation bond.

—(h) At a time when a specific agreement is being executed, Council will determine and designate the appropriate Village fund where the revenues from the lease agreement will be deposited.

#### 876.08 Severability

The provisions of any part of this chapter are severable. If any provision or subsection, or the application of any provision or subsection to any person or circumstances, is held invalid, the remaining provisions, subsection, and applications of such ordinance to other persons or circumstances shall not be made invalid as well. It is declared to be the intent of

this section that the remaining provisions would have been adopted had such invalid provisions not been included in this chapter when originally adopted by Council.

#### 876.09 TERMINATION OF LEASE AGREEMENTS.

—(a) The Village may terminate any lease agreement if it determines that any one of the following conditions exists:

—(1) A user's frequency unreasonably interferes with other users of a higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis performed for approval; and

—(2) A user violates any of the standards in this chapter or any of the conditions attached to the Village's approval for use of the land.

—(b) Before taking action to terminate an agreement, the Village shall give the applicant/operator thirty days prior written notice of the Village's intent to terminate the agreement, stating the reasons for such action. If the applicant/operator cures the stated reason within the thirty-day notice period, or if the applicant/operator initiates efforts satisfactory to the Village to remedy the stated violation, the Village shall not terminate the agreement. If the applicant/operator does not cure the stated violation or undertake efforts satisfactory to the Village to remedy the stated violation, then after granting the applicant/operator an opportunity to be heard in person or in writing, the Village may terminate the agreement. This procedure need not be followed in emergency situations.

—(c) Upon termination of an agreement, the applicant/operator shall, within six months, remove its personal property and fixtures and restore the property to its original condition, reasonable wear and tear excepted.

—(d) If an applicant/operator chooses to terminate an agreement, notification of such requested action shall be presented to the Village by written notice at least six months prior to the date of the desired termination. The applicant/operator shall offer the Village the first option to purchase the wireless communications facilities and certain remaining improvements at such time as the termination occurs.

#### 876.09 Penalties

(a) Any person in violation of any of the terms of this chapter, or who, being the owner or agent of the owner of any lot, tract, or parcel of land, shall suffer or permit another to erect, construct, reconstruct, alter, repair, convert, attach, or maintain any such facility, shall be deemed to have violated the provisions hereof and commits a civil forfeiture, payable to the Municipality, in the amount of fifty dollars (\$50.00) each day during the period such violation continues.

(b) If any utility installation is erected, constructed, reconstructed, altered, repaired, converted, attached, or maintained in violation of this chapter or of any regulations made pursuant hereto, the proper officer of the Municipality, in addition to other

remedies, may institute in the name of the Municipality any appropriate action or proceeding, whether by legal process or otherwise, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, attachment, or use, to restrain, correct, or abate such violation, to prevent the use of such utility installation, and/or to prevent any illegal act, conduct, business, or use in or about such utility installation.

- (c) The Public Works is authorized to make requests and to issue orders regarding utility installations in the right of way for the purpose of public safety and compliance with this chapter of the Codified Ordinances of Yellow Springs. The Public Works Department is also authorized to conduct visual and external inspections of utility installations in the right of way at any time and shall make efforts to coordinate with the provider responsible for a utility installation for any internal inspection of the relevant equipment.

#### ~~876.10 CONFLICTS OF LAWS.~~

~~Where the provisions of this chapter conflict with the provisions of any other law, code, statute, ordinance or regulation, the provision that is more restrictive or that imposes higher standards or requirements shall apply.~~

## **SOLICITOR'S REPORT ON HB 478**

June 15, 2018

On March 30, 2018, I submitted a Solicitor's Report on HB 478 ("HB 478" or the "Bill") relating to new legislation for small cell towers. As you may remember, HB 478 is the product of months of negotiations and compromise between local governments and the wireless industry regarding the installation and operation of small cell wireless technology.<sup>1</sup> Small cells are low-powered antennas that attach to streetlights and poles in the public right-of-way to help upgrade the existing wireless network to support 5G data speeds.<sup>2</sup> 5G data speeds are predicted to be roughly ten times faster than our current speeds.

The legislation creates a regulatory framework for the installation of small cells regarding municipal public way usage law.<sup>3</sup> Specifically, HB 478 includes the following guidelines regarding small cell technology:

- Uniform fees to attach to municipal-owned poles and a uniform process for obtaining permits; and
- Tools for local governments to retain control regarding location, construction, and design for small cells.<sup>4</sup>

Proponents of the Bill contend that HB 478 strives to modernize Ohio's wireless infrastructure. However, with that modernization, the Village of Yellow Springs needs to be prepared with codified standards to retain certain control over their public right of ways.

As part of our efforts to retain that control, Council voted and approved Emergency Ordinance 2018-13 in April. The purpose of that Ordinance was to ensure that the Village timely designated underground areas in compliance with HB 478 which required that underground areas be designated three months prior to application.

Since that time, HB 478 has now officially passed both the Ohio House of Representatives and the Senate, and has been signed into law by the Governor. It will go into effect August 1, 2018.

Accordingly, the Village now needs to implement and approve legislation that complies with the remaining requirements of HB 478 in regard to the permit process for small cell facilities, application fees, and design requirements. Working in collaboration with the Village Manager, Zoning Administrator and Public Works Superintendent, we have prepared Ordinance titled "Small Cell Legislation" for your review and approval.

---

<sup>1</sup> (Quotations omitted). Majority Caucus, *Reps. Smith, LaTourette Announce Passage of Legislation Providing Framework for Emerging Technology*, The Ohio House of Representatives, Feb. 15, 2018 (<http://www.ohiohouse.gov/republicans/press/rep-smith-latourette-announce-passage-of-legislation-providing-framework-for-emerging-technology>).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

The purpose of the Small Cell Legislation is to codify general procedures and standards for the siting, construction, placement, collocation, modification, operation, and removal of small cell facilities and/or wireless support structures within the Village of Yellow Springs. As part of the process to prepare this Legislation, we reviewed comparable legislation drafted by the City of Kettering and the City of Dublin. With these templates, we blended the applicable and appropriate portions and created a version which serves the needs of the Village of Yellow Springs.

Due to the major changes in wireless communications resulting from HB 478 there will likely be future legislation needed to revise other portions of the Code to reflect these changes. I want to thank Denise, Johnnie, Patti and Jennifer Grewe of my office for their help and input in the drafting of this Ordinance.

w:\wdox\client\005306\00600\00952613.docx

**VILLAGE OF YELLOW SPRINGS, OHIO  
ORDINANCE 2018-26**

**AN ORDINANCE MODIFYING SECTION 1042.01: FORGIVING FIRST DELAYED ELECTRIC SERVICE PAYMENT CHARGE EACH CALENDAR YEAR**

**Whereas,** The Village of Yellow Springs provides electric utilities to all residents and businesses eligible for said services within the Village; and

**Whereas,** the Village of Yellow Springs is committed to a service oriented, non-punitive relationship with the community; and

**Whereas,** it is recognized that a delayed electric service payment may be due to an oversight or other factors.

**NOW, THEREFORE, THE COUNCIL OF THE VILLAGE OF YELLOW SPRINGS, OHIO HEREBY ORDAINS THAT:**

**Section 1.** A modification to **Section 1042.01 Electric Service Charges** of the Codified Ordinances of Yellow Springs, Ohio is hereby enacted to read as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

**Section 2.** This ordinance shall take effect and be in full force at the earliest date permitted by law.

\_\_\_\_\_  
Karen Wintrow, President of Council

Passed: \_\_\_\_\_

Attest: \_\_\_\_\_  
Judy Kintner, Clerk of Council

**ROLL CALL**

Karen Wintrow \_\_\_\_ Brian Housh \_\_\_\_ Gerald Simms \_\_\_\_

Judith Hempfling \_\_\_\_ Marianne MacQueen \_\_\_\_



## EXHIBIT A

### 1042.01 ELECTRIC SERVICE CHARGES.

#### (a) Residential Electric Rate; Rate Number One.

(1) Availability. This rate is available to all single-family residential units and single apartment units located within the Village's service area for all uses.

(2) Type of service. Single-phase, 60 hertz, at seller's standard secondary voltages. A bi-directional meter will be used to measure the flow of electricity in both directions. On-site generating capacity will be limited to 25 KW or the customer's estimated peak load, whichever is less. When on-site generating capacity exceeds 25 KW (kilowatts) of solar generation or three KW of wind generation, service will be provided pursuant to Village's General Service Rate, Rate Number Three (see Section **1042.01** (c)).

(3) Billable KWH (kilowatt hours). If the current meter reading is less than or equal to the highest previous meter reading, there are no billable KWH for the current month. Otherwise, the difference between the current meter reading and the highest previous meter reading is the billable KWH.

#### (4) Net rate – monthly.

A. Customer Charge: Ten dollars (\$10.00) per month. The customer charge shall be increased by \$1 per month each year for five years (2017 - 2021), effective with bills rendered in January.

B. Energy Charge: \$0.110 per KWH (Based on Billable KWH)

(5) Delayed payment charge - gross. Five percent shall be added to the net bill if service charges are not paid by the fifteenth day of the month of rendition of the bill for such service. However, upon written request by the residential customer, no more than once per calendar year, the residential customer shall be entitled to a one-time forgiveness of the five percent late fee.

(6) Monthly minimum charge. The applicable customer charge and subject to the delayed payment charge.

(7) Power supply cost and excise (kilowatt-hour) tax adjustment. Billing for energy delivered under this schedule will be adjusted as provided in Section **1042.01** (g).

#### (b) Commercial Lighting and Power Rate; Rate Number Two.

(1) Availability. This rate is only available to consumers that are receiving service under this rate at the time this rate becomes effective.

(2) Type of service. Single-phase or three-phase, 60 hertz, at seller's standard secondary voltages. A bi-directional meter will be used to measure the flow of electricity in both directions. On-site generating capacity will be limited to 25 KW or the customer's estimated peak load, whichever is less. When on-site generating capacity exceeds 25 KW (kilowatts) of solar generation or three KW of wind generation, service will be pursuant to Village's General Service Rate, Rate Number Three (see Section **1042.01** (c)).

(3) Billable KWH (kilowatt hours). If the current meter reading is less than or equal to the highest previous meter reading, there are no billable KWH for the current month. Otherwise, the difference between the current meter reading and the highest previous meter reading is the billable KWH.

(4) Net rate – monthly.

A. Customer Charge:

Single phase: \$15.00 per month

Three-phase: \$15.00 per month

The single-phase Customer Charge shall be increased by \$1.00 per month each year for five years (2017-2021), effective with bills rendered in January.

The single-phase customer charge shall be increased by \$2.00 per month each year for five years (2017-2021), effective with bills rendered in January.

B. Energy charge: \$0.115 per KWH (based on billable KWH).

(5) Delayed payment charge – gross. There shall be no delayed payment charge for the first incidence of a delayed payment in a calendar year. For any subsequent delayed payment, five percent shall be added to the net bill if service charges are not paid by the fifteenth day of the month of rendition of the bill for such service.

(6) Monthly minimum charge. The applicable customer charge and subject to the delayed payment charge.

(7) Power supply cost and excise (kilowatt-hour) tax adjustment. Billing for energy delivered under this schedule will be adjusted as provided in Section **1042.01** (g).

(c) Large Power Rate; Rate Number Three.

(1) Availability. This rate is available to all consumers within the Village's service area for all uses.

(2) Type of service. Three-phase, 60 hertz, at seller's standard secondary voltages. A bi-directional meter will be used to measure the flow of electricity in both directions. On-site generating capacity will be limited to 25 KW or the customer's estimated peak load, whichever is less. When on-site generating capacity exceeds 25 KW (kilowatts) of solar

generation or three KW of wind generation, the billing KWH (kilowatt hours) will be based on the metered KWH delivered to the customer, and the billing capacity will be equal to the billing capacity that would have been billed absent the on-site generation.

(3) Billable KWH (kilowatt-hours). If the current meter reading is less than or equal to the highest previous meter reading, there are no billable KWH for the current month. Otherwise, the difference between the current meter reading and the highest previous meter reading is the billable KWH.

(4) Net rate – monthly.

A. Customer Charge:

Single Phase: \$15.00 per month

Three-Phase: \$15.00 per month

The Single-Phase Customer Charge shall be increased by \$1.00 per month each year for five years (2017-2021), effective with bills rendered in January.

The Single-Phase Customer Charge shall be increased by \$2.00 per month each year for five years (2017-2021), effective with bills rendered in January.

B. Demand Charge:\$10.00 per KW

C. Energy Charge: 7.00 per KWH (based on billable KWH)

(5) Delayed payment charge. Five percent shall be added to the net bill if service charges are not paid by the fifteenth day of the month of rendition of the bill for such service.

(6) Power supply cost and excise (kilowatt-hour) tax adjustment. Billing for energy delivered under this schedule will be adjusted as provided in Section **1042.01**(g).

(7) Measurement of energy and determination of billing capacity. Energy supplied under this schedule will be delivered through not more than one polyphase meter. The billing capacity shall be the highest average KW used by the consumer for any period of thirty consecutive minutes during the month for which the billing is rendered.

(d) Large Power Rate; Rate Number Four.

(1) Availability. This rate is available to all consumers within the Village's service area for all uses.

(2) Type of service. Three-phase, 60 hertz, at seller's standard secondary voltages. A bi-directional meter will be used to measure the flow of electricity in both directions. On-site

generating capacity will be limited to 25 KW or the customer's estimated peak load, whichever is less. When on-site generating capacity exceeds 25 KW (kilowatts) of solar generation or three KW of wind generation, the billing KWH (kilowatt hours) will be based on the metered KWH delivered to the customer, and the billing capacity will be equal to the billing capacity that would have been billed absent the on-site generation.

(3) Billable KWH (kilowatt hours). If the current meter reading is less than or equal to the highest previous meter reading, there are no billable KWH for the current month. Otherwise, the difference between the current meter reading and the highest previous meter reading is the billable KWH.

(4) Net rate – monthly.

- A. Customer Charge: \$50.00 per month
- B. Demand Charge: \$10.00 per KW
- C. Reactive Charge: \$0.50 per kVar
- D. Energy Charge: \$6.5¢ per KWH (based on billable KWH)

(5) Delayed payment charge. Five percent shall be added to the net bill if service charges are not paid by the fifteenth day of the month of rendition of the bill for such service.

(6) Power supply cost and excise (kilowatt-hour) tax adjustment. Billing for energy delivered under this schedule will be adjusted as provided in Section 1042.01 (g).

(7) Measurement of energy and determination of billing capacity and reactive capacity. Energy supplied under this schedule will be delivered through not more than one polyphase meter. The billing capacity shall be the highest average KW used by the consumer for any period of thirty consecutive minutes during the month for which the billing is rendered, but not less than 50 KW. The reactive billing capacity shall be the highest average kVar used by the consumer for any period of thirty consecutive minutes during the month for which the billing is rendered.

(8) Delivery voltage - optional primary voltage delivery. The consumer may, at his or her option, choose to accept delivery at an available primary transmission or distribution voltage. In this case the consumer shall, at his or her expense, own, operate and maintain all transformers and/or other apparatus needed for his or her utilization of the delivered primary voltage. When primary delivery is accepted, the total bill as computed in this schedule will be adjusted by multiplying it by 0.91.

(9) Metering voltage - optional metering at other than delivery voltage. Service will normally be metered at the delivery voltage. The seller reserves the option of metering on the primary for secondary delivery or metering on the secondary for primary delivery and adjusting the metered energy to correct for transformer losses.

- A. In case of primary metering for secondary delivery, the metered KWH shall be multiplied by 0.95.

- B. In case of secondary metering for primary delivery, the metered KWH shall be divided by 0.95.

(10) Term of contract. Contracts will be made for a period of five years with self-renewal provisions for successive periods of one year each until either party shall give at least thirty days written notice to the other of the intention to terminate the contract at the end of the yearly period.

(e) Private Outdoor Lighting Rate; Rate Number Five.

(1) Residential yard lights.

A. Availability. This rate is available for all-night outdoor lighting service for rear yards only to all residential electric customers where such service can be supplied by the installation of lighting fixtures supplied directly from existing secondary circuits.

B. Net Rate. For each lamp with luminaire, controlled automatically, and where an arm of not over six feet in length is required:

80 Watt Induction	\$5.90 per month
100 Watt Induction	\$6.50 per month

(2) Commercial-industrial-institutional yard lights.

A. Availability. This rate is available for all-night outdoor lighting service for the lighting of driveways, parking lots and other outdoor areas on private property to all commercial-industrial- institutional electric customers where such service can be supplied by the installation of lighting fixtures supplied directly from existing secondary circuits.

B. Net Rate. For each lamp with luminaire, controlled automatically, and where an arm of not over six feet in length is required:

100 Watt Induction	\$6.50 per month
250 Watt Induction	\$8.00 per month

Larger sizes, special ornamental fixtures and poles by special arrangements and contract.

(3) Installation.

A. Fixtures. Fixture(s), including lamp, luminaire and arm, if required, will be installed in accordance with the customer's designation or design, subject to the concurrence of the Village.

B. Rate.

Each fixture \$50.00  
Poles and wire will be billed at the Village's cost at the time of installation.

(4) Payment.

A. Bills for installation charges will be rendered separately and are due and payable within fifteen calendar days of rendition (mailing date).

B. Bills for service under this schedule are made a part of billings for other utility services, are due and payable at the same time, and are subject to a five percent delayed payment charge if not paid by the fifteenth day of the month of rendition.

(5) Term of contract. A utility service contract is required for this service with a fixed term of not less than two years, and for such time thereafter until terminated by either party giving thirty days written notice to the other.

(6) Terms and conditions. All equipment shall be owned by the Village. The Village will maintain the equipment and replace defective lamps. All service and necessary maintenance will be performed only during the regular working hours of the Village. The Village does not guarantee continuous lighting and shall not be liable to the consumer or anyone else for any damage, loss or injury resulting from any interruption in such lighting due to any cause. The Village shall be allowed forty-eight hours after notification by the customer to replace defective lamps. All lamps shall burn from dusk to dawn, burning approximately 4100 hours per annum.

(f) Backup Power Generation Credit.

(1) Availability. The backup power generation credit is available to all consumers within the Village's service area for all users who:

A. Are currently taking service from the Village and are not located in a residential district;

B. Have the ability to generate power through the use of their generation equipment; or

C. Are not delinquent in payment on their Village utility account.

(2) Type of service. Single-phase or three-phase, sixty hertz, at seller's standard secondary voltages.

(3) Monthly credit. Consumers who contract with the Village for the backup power generation credit shall receive a monthly credit based upon the following two components:

A. Available KW capacity of customer's generator credited at \$2.00/KW/month; and

B. Any KWH generated through the operation of the generator, only when requested by the Village, credited pursuant to the following formula:

$(\$0.15/\text{KWH}) \times (\text{the KW output of the generator}) \times (\text{the number of hours of operation per month}).$

(4) Consumers who opt for this credit must provide all fuel costs and maintenance costs for the generator. Consumers are not allowed to sell the power generated by such generator to anyone else.

(5) The Village will not be required to pay for power generation in any hour that it has not requested a customer to generate such power. Only those customers who contract for the KW credit are obligated to run such power generation any time, upon request of the Village. (Ord. 98-6. Passed 9-8-98.)

(g) Power Supply Cost and Excise (Kilowatt-hour) Tax Adjustment.

(1) Power supply cost adjustment. The Village's electric rates and charges are based upon the Village's average cost of power supply as furnished by American Municipal Power - Ohio (AMP-Ohio). In the event that said average power supply costs per kWh is increased or decreased, the electric rates, excluding the private outdoor lighting rate, will be adjusted as specified below.

(2) Base power supply cost. The overall base power supply cost to be used to determine that adjustment applicable to the Village's rate schedule shall be that included in the Village's retail rates of \$0.0720 per kWh.

(3) Monthly determination of power supply cost adjustment. Each month, the Village's running three-month average power supply cost per kWh shall be determined by dividing (i) the sum of the previous two and current month's total power supply costs from all suppliers, plus the sum of the previous two and current month's costs associated with ownership and operation of generating facilities owned in whole, or in part, by the Village, plus the sum of the previous two and current month's transmission related charges and service fees, by (ii) the total energy delivered to the Village in the previous two months and current month. If said power supply cost per kWh is above or below \$0.0720 per kWh (determination to four decimal places or \$0.0000), the resultant differential shall be multiplied by 1.10 to compensate for system energy losses, and shall be applied to each customer's billable kWh.

(4) Excise (kilowatt-hour) tax adjustment. The electric rates and charges, including the private outdoor lighting rate, shall be adjusted by an amount equal to the excise (kilowatt-hour) tax imposed on the Village's electric distribution system under Ohio R.C. 5727.81. Said adjustment shall become effective with the bills that include May 1, 2001, as part of the usage period and shall thereafter be automatically adjusted to reflect any change in the kilowatt-hour tax imposed by Ohio R.C. 5727.81.

(h) Interconnection Agreement, Installation and Limitation of On-site Solar and Wind Generators.

(1) Application for interconnection and interconnection agreement. Prior to the installation and connection of any on-site solar and/or wind generator, the customer must first submit an application for interconnection to the Village for review and approval and,

following approval of the application of interconnection, must enter into an interconnection agreement with the Village, as prescribed by the Village Manager.

(2) Application fee; Village to install bi-directional meter. The application fee will be the cost of the installation of a bi-directional meter plus forty dollars (\$40.00) for installation. Village Electric Department Staff will be responsible for the installation of the bi-directional meter prior to or at the time of interconnection.

(3) Maximum production. The Village reserves the right to limit the aggregate amount of on-site solar and wind generation to not more than 1% of the Village's annual energy requirement for on-site generating capacity that does not exceed 25 KW (kilowatts) for solar generators or three KW for wind generators, and not more than 4% of the Village's annual energy requirement for on-site generating capacity that exceeds 25 KW (kilowatts) for solar generators or three KW for wind generators.

(i) Compensation for Surplus Energy Supplied by Customer to Village from On-Site Solar or Wind Generators. Customers supplying energy to Village from on-site solar or wind generators will receive a credit for each KWH supplied to the Village during the billing period as follows:

- (1) For customers served under Residential Electric Rate; Rate Number One, the per KWH credit shall be equal to the sum of: (i) \$0.110 per KWH; and (ii) the applicable power supply cost and excise (kilowatt-hour) tax adjustment set forth in Section 1042.01(g).
- (2) For customers served under Commercial Lighting and Power Rate; Rate Number Two, the per KWH credit shall be equal to the sum of: (i) \$0.115 per KWH; and (ii) the applicable power supply cost and excise (kilowatt-hour) tax adjustment set forth in Section 1042.01(g).
- (3) For customers served under General Service Rate; Rate Number Three, the per KWH credit shall be equal to the sum of: (i) \$0.070 per KWH; and (ii) the applicable power supply cost and excise (kilowatt-hour) tax adjustment set forth in Section 1042.01(g).
- (4) For customers served under Large Power Rate; Rate Number Four, the per KWH credit shall be equal to the sum of: (i) \$0.065 per KWH; and (ii) the applicable power supply cost and excise (kilowatt-hour) tax adjustment set forth in Section 1042.01(g).

(5) Annual settlement of accounts to reduce liability to the Village for any amounts owed for surplus power generated by customers. Once a year the Finance Director will determine whether the power-producing customer has credit on his/her/its account in excess of charges for power supplied by the Village. The Village will reduce any credits for any surplus power produced pursuant to Section 1042.01 (a)(2), (b)(2) and (c)(2) which are not needed to offset current usage charges to zero on December 31.



(Ord. 2001-13. Passed 8-20-01; Ord. 2007-09. Passed 5-7-07; Ord. 2012-14. Passed 6-18-12; Ord. 1013-18. Passed 7-15-13; Ord. 2015-09. Passed 5-18-15; Ord. 2016-08. Passed 4-18-16.)

**Village of Yellow Springs, Ohio**

**RESOLUTION 2018-22**

**Authorizing the Village Manager to Issue a Request for Proposals for the  
Electric Pole Replacement Project**

WHEREAS, the Village desires to replace approximately one hundred eighty (180) electric poles that have been deemed in need of replacement; and,

WHEREAS, ninety (90) of those poles cannot safely be replaced by Village staff; and

WHEREAS, this project is now ready to be advertised for proposals for completion;

NOW, THEREFORE, be it resolved by the Council of the Village of Yellow Springs, Ohio that:

Section 1. The Village Manager is authorized to advertise the Request for Proposals (RFP).

Section 2. Such responses shall be brought to Council in a timely manner.

Section 2. This Resolution shall go into effect at the earliest period allowed by law.

\_\_\_\_\_  
Brian Housh, President of Council

Passed:

Attest: \_\_\_\_\_  
Patti Bates, Deputy Clerk of Council

**ROLL CALL**

Brian Housh\_\_\_\_\_

Marianne MacQueen\_\_\_\_\_

Judith Hempfling\_\_\_\_\_

Kevin Stokes\_\_\_\_\_

Lisa Kreeger\_\_\_\_\_

# VILLAGE OF YELLOW SPRINGS

## RESOLUTION 2018-23

### CELEBRATING THE DESIGNATION OF THE VILLAGE OF YELLOW SPRINGS AS A BICYCLE FRIENDLY COMMUNITY

**WHEREAS**, the Village of Yellow Springs takes pride in becoming the 18<sup>th</sup> community in Ohio to be currently recognized as a Bicycle Friendly Community and is committed to facilitating active transportation and recreational trails by promoting education, safety and smart planning; and

**WHEREAS**, the Village of Yellow Springs has intentionally created a community that is walkable, bike-able and roll-able for all ages & abilities, making our Village a great place to live, work & play; and

**WHEREAS**, the Village of Yellow Springs appreciates the need for continuous improvement through maintaining and developing non-motorized infrastructure to be a healthy, thriving community; and

**WHEREAS**, the Village of Yellow Springs embraces the economic, health and environmental benefits of bicycling and other forms of active transportation and celebrates its proximity to the Little Miami Scenic Trail, the Buckeye Trail and a diversity of trail experiences that transform the American landscape; and

**WHEREAS**, the Village of Yellow Springs plans to take action based on the feedback provided by the League of American Bicyclists, leading the region and state in making strides to improve bicycle-pedestrian infrastructure to achieve advanced levels of Bicycle Friendly Community status; and

**WHEREAS**, the Village of Yellow Springs has established a goal to develop a high quality integrated surface transportation infrastructure system that contributes to improved quality of life by promoting safety, recreation, environmental sustainability, health, equity/inclusion and economic development and is committed to executing initiatives recommended in its 2018 Active Transportation Plan and by other smart planning efforts to maintain a vibrant & connected community.

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and Council of the Village of Yellow Springs do hereby:

Section 1. Recognize June 27<sup>th</sup> as “Bicycle Friendly Community Day” highlighting the importance of sustainable transportation to continuously improve the quality of life for the Yellow Springs community.

Section 2. Express gratitude for the active efforts of the YS Active Transportation Committee, the YS Chamber of Commerce, the YS Community Foundation, Rails-to-Trails Conservancy, Bike Miami Valley, Miami Valley Regional Planning Commission and many other organizations, which have been and will be critical to accomplishments that significantly improve quality of life for Villagers & visitors.

\_\_\_\_\_  
Pam Conine, Mayor

\_\_\_\_\_  
Brian Housh, President of Council

Passed:

Attest: \_\_\_\_\_  
Patti Bates, Deputy Clerk of Council

ROLL CALL:

Pam Conine \_\_\_\_

Brian Housh \_\_\_\_

Marianne MacQueen \_\_\_\_

Judith Hempfling \_\_\_\_

Kevin Stokes \_\_\_\_

Lisa Kreeger \_\_\_\_



May 30, 2018

TO: Yellow Springs Village Council

FROM: the Village Manager's Housing Advisory Board (HAB)

**RE: Recommended Housing Initiative Process**

Developing a housing plan will be a complex process. We have broken it down into stages which are listed consecutively. They may occur simultaneously as well. We may loop back to previous stages as we work our way through the process. Below is the suggested step-by-step Housing Initiative process:

1. Gather information and identify the issues
2. Assess resources
3. Develop a Vision and Policy Statement
4. Create Housing Targets
5. Develop Strategies to meet the Targeted Goals
6. Create the Housing Initiative Plan
7. Begin Implementation

Step 1. Gather Information and Identify Issues: We have just completed the first stage of gathering information through the Housing Needs Assessment – which included citizen surveys – and the recent Community Conversations on Housing. Issues such as rental and homeownership housing for seniors of all income levels and for lower and middle-income families have risen to the top of community members' concerns.

Step 2: Identify and assess and potential resources

This is an ongoing cross-cutting step. We have already contacted a number of resource groups and individuals. The HAB will begin to develop a list individuals, groups and organizations including their contact information and type of expertise and services offered. We will need to decide if there are critical stages for which we will need paid and/or unpaid consultants. There are communities such as Burlington VT and other smaller communities that we can contact. We can certainly take advantage of people we've already contacted such as Josh Abrams and Patrick Bowen. Josh indicated he would be willing to come to Yellow Springs as a one-time pro bono consultant as part of a visit to family in Cincinnati. Patrick is also willing to come back to talk with Council one more time.

Step 3. Develop a simple Vision and Policy Statement: The Housing Advisory Board recommends that Council develop a simple Vision and Policy Statement – a statement of what we want and how we envision housing in the Village to support the community. It can be the touchstone, a first step on this journey (see example below). This step will put Council on record as making a commitment to housing development that meets the needs of the community. HAB recommends that Council be efficient in creating a statement and not get bogged down in wordsmithing. We can always continue working on this as we move through the other stages and/or come back to it.



*Yellow Springs has a housing stock that enables a diverse community to live and work here.*

*The Yellow Springs Village Government, with community members, is committed to being a welcoming community which is environmentally and economically sustainable. This requires housing that enables people of diverse ages, races, ethnicities, incomes, skills and life styles to be able to afford to live here. We aim for a balanced population across the age spectrum, valuing seniors as well as children and those in between; single people as well as families. We understand that each villager contributes to the wholeness and health of the community and are particularly committed to those struggling to remain in Yellow Springs because of affordability challenges. We also welcome newcomers wishing to move to our community. We encourage housing and workplaces that allow Villagers to live and work here. We recognize that, while homeownership is a goal for many, there are many others for whom renting is the best option and we seek a balance of both. Mixed income housing and increased density in all new development will be essential to reach our goals of promoting affordability and healthy neighborhoods.*

Step 4. Set 5 – 10 Year Goals: The forth step is developing our specific housing targets. We need to grapple with the amount and types of housing we want over a particular period of time. While we have only partial control over this, we are more likely to get what we want if we have done the difficult work of deciding what that is. We will need to consider the impact of additional housing on various factors including infrastructure, services, schools, sense of community, implications of becoming a city, etc. Adding a significant amount of housing in a short time would have a significant impact on the community. We need to consider the costs and the benefits, the opportunities and the risks. Having determined our goals can help us work with developers. Developers who are interested in building the types of units we want will be more likely to come to us.

HAB suggests that Council develop specific housing unit targets using the trend projections from the HNA balanced with priorities expressed by the community and affirmed by Council. Council may use resource people to assist in establishing realistic and doable goals. These target goals should include the approximate number of units desired, including the number of rental and homeownership, low-income, middle and upper income, and various housing types. This should include rehab, reuse and in-fill projections. The goals should be based on what Council determines to be a balanced population across various constituency groups. The targeted goals are not cut in stone, but rather will serve as benchmarks. We can assess our current housing stock in general to develop goals but the demand is the best measure of need. Emily Seibel can assist in assessing demand for workforce and lower income housing targets.

Step 5. Develop Strategies based on the Targeted Goals:

Council will make the ultimate decisions on best strategies. The strategies will have impacts on staff time, as well as financial and other resource considerations. Council should utilize the HAB, staff, Planning Commission, local stakeholders such as realtors, developers and landowners. We may want at least one consultant to help us decide the strategies best suited for Yellow Springs. Probably it makes sense to have an outside resource person help develop a framework for the Glass Farm development and other Village-owned land.



Below is a list of potential general strategies:

- Use public land. We will need to develop strategies and a framework for developing mixed-income housing on Village-owned land. Clearly the Glass Farm is the biggest and prime property for housing. However, there are smaller parcels that might be considered as well.
  - We may consider purchasing property for housing development as well.
- Reach out to and collaborate with developers and landowners of large parcels to determine what type of support and incentives the Village could provide that would be effective for encouraging mixed-income developments on private land within the village.
- Promote recent zoning changes and consider new zoning incentives to encourage in-fill development by individual property owners (such as lot splits, pocket neighborhoods, flag lots and Accessory Dwelling Units).
- Work with for-profit and non-profit developers to seek funding sources for developments that the market alone can't provide such as Low Income Tax Credit Housing.
- Create a local revenue source, such as a Housing Trust Fund, to support moderate and low-income housing development.
- Develop mechanisms to provide direct financial and technical assistance to individual buyers, renters, and homeowners for new builds and/or rehab/reuse in the form of direct grants or low-interest loans.
- Utilize Home, Inc. as our local non-profit housing developer and consultant.
- Develop support for the use of Section 8 vouchers in the Village.
- Support and promote alternative housing options ranging from mobile homes, to co-housing, to home sharing strategies.
- Consider extending our borders if and when compelling opportunities arise.

Step 6: Develop a Housing Initiative Plan: The Housing Plan will be a living document that will help guide Planning Commission and future Councils. It will be a basis to assist developers in planning developments and the Village in negotiating with developers. It would include the Vision and Policy Statements, the 5-10 Year Goals, and the Strategies to meet those goals. It would be monitored on an ongoing basis by Council, staff and Planning Commission and updated as needed, probably every 5 years. We may consider using outside assistance to develop and write the plan. What will be the role of the Housing Advisory Board? Will Council want to create a different body or mechanisms to move the Plan forward? These and other questions will need to be addressed.

Step 7. Begin implementing Strategies: We do not have to have a fully developed and documented plan to take advantage of opportunities as they arise. For example, we can start engaging with Antioch College now to encourage the inclusion of low and moderate income units in the Antioch College Village housing development. The Housing Initiative Process will have many moving parts. While we want to be prudent and careful in considering how we move forward, we also want to act as quickly as possible to 1) take advantage of the momentum we've already started, and 2) demonstrate to the community that we are serious about the creation of housing (especially low and moderate income units) that allows those who want to live here (especially our current citizens) do so. HAB foresees the major push occurring after we have decided on the strategies best suited to Yellow Springs and when we have developed a plan for the Glass Farm.

## Greene County 2017 Income Definitions and Financials

### Annual Household Gross Area Median Income

		1 Person	2 People	3 People	4 People
	120 % AMI	\$53,402 (\$25.67/hr)	\$61,050	\$68,700	\$76,350
Area Median	100% AMI	\$44,502 (\$21.40/hr)	\$50,875	\$57,250	\$63,625
	80% AMI	\$35,650 (\$17.14/hr)	\$40,700	\$45,800	\$50,900
Low Income	50% AMI	\$22,281 (\$10.71/hr)	\$25,437	\$28,625	\$31,813
Extremely low	30% AMI	\$13,351 (\$6.42/hr)	\$15,263	\$17,175	\$19,088

**GROSS ANNUAL INCOME:** the total income, before taxes and other deductions, received by all members of the tenant's household. There shall be included in this total income all wages, social security payments, retirement benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, interest and dividend payments and such other income items as the Secretary considers appropriate.

**Area Median Income (AMI):** A term of art used by some federal programs to describe published income standards for various areas of the country that are used as benchmarks for determining households' eligibility for federally funded programs. For example, homebuyers assisted with HOME or CDBG funds generally must have incomes at or below 80% of area median income. AMIs are calculated and published annually by HUD. "Median" means that half of all households in the area are estimated to have more than this amount of income.

**Moderate-Income Household:** As widely defined by governmental and nonprofit organizations, a household with an income between 80% and 120% of area median income.

**Low-income Household:** As widely defined by governmental and nonprofit organizations, a household with an income at or below 80% of area median income.

#### **Very Low-Income Household**

As widely defined by governmental and nonprofit organizations, a household with an income at or below 50% of area median income.

**Extremely Low-income Household:** As widely defined by governmental and nonprofit organizations, a household with an income at or below 30% of median income.

## **Report to the Village Manager's Housing Advisory Board**

The Ohio Community Development Corporation Association (Ohio CDC) sponsored a day-long workshop on Gentrification on June 7<sup>th</sup> that Denise Swinger and I attended. The presenters Brian Higgins and Mark Barbash have affordable and mixed-income housing development experience in Columbus as non- and for-profit developers, and in local government and as consultants. The 20 or so attendees who came from Columbus, Cincinnati, Cleveland and Canton work in non-profit CDCs and in local government.

The term “gentrification” was coined by British sociologist Ruth Glass in 1964 and referred to the influx of wealthy persons into the cities which pushed out the lower and working class residents. The conditions for gentrification began as factories located within cities began being replaced by tech businesses and other who built outside the cities. Leading up to WWII blue collar workers moved into cities to work in factories that were located there. Because of the proximity and public transportation workers had easy access to their places of work. As factory jobs were replaced by white collar jobs, the inner cities started to become depressed. The increasing number of white collar workers took advantage of the automobile to move into the suburbs and move out of the cities closer to many of the new workplaces.

After a couple decades of inner city disinvestment, artists and other young people of the ‘creative class’ began to take advantage of the cheap housing in those neighborhoods. Once they began invigorating these areas other middle class people followed, attracted to cheap housing and the amenities created by those who preceded them. This flow into the inner and near city neighborhoods created – and is continuing to create – higher property values, more regulations and more private and public investment. The unchecked result has been – and continues to be – that the former residents are forced to leave because they can’t afford the higher taxes, increased zoning regulations, and rent. The culture and heritage of the neighborhood is lost as the older residents move out. Many of these people are forced into more substandard housing or become homeless.

Housing in the United States has always been market driven. Efforts by the federal, state and local governments to support housing for the poor and lower middle class has historically been discouraged. The number of public housing units (which has been decreasing across the country) serve only a fraction of those who need affordable housing. As we have seen in Yellow Springs a significant minority of lower and lower middle income households are housing cost burdened. Because of the power of the market – and those who want to keep it in place – and the relative lack of public funding, it is very difficult to effectively manage gentrification.

The forces of gentrification are not all negative as seen from a progressive viewpoint. Increasing investment and the initial resulting mixed-income households that result can have a positive value for the neighborhood as a whole. But left unchecked, the market rules and the original residents are the losers. Unfortunately, by the time neighbors, community organizations and local governments discern what is happening, it is frequently too late.

The most critical time to impact gentrification and encourage equitable development is when it first starts. The workshop included lists of indicators of neighborhood change and gentrification as well as tools for equitable development. Indicators that gentrification is occurring include such things as change in property values and disinvestment and investment, demographic changes, racial composition, and the lack of, increase in, and/or types of businesses. The tools to impact gentrification in large part involve investment – such as purchasing vacant properties, rehab, land banks, and construction of new



affordable units. Once gentrification has taken hold, however, the cost of doing this dramatically increases. Nonetheless, other tools can be used. These are included below.

#### The Gentrification Tool Box

- A local CDC can increase its impact and utilize its expertise and local knowledge by partnering with larger for-profit and non-profit developers, organizations and businesses.
- Developing a Neighborhood (community) Plan that includes what the community wants in terms of housing, businesses and other amenities, including neighborhood mapping, involving community members, prioritizing investments, and identifying assets.
- Using Community Land Trusts to keep the affordable housing permanently affordable.
- Land Banking (a majority of Ohio counties have land banks but Greene County does not). Land banks were started in Ohio by the Western Reserve Land Conservancy. Land banks acquire property through eminent domain, gifting or purchase and can hold them for reuse.
- Developing Community Benefit Agreements or “Good Neighbor Agreement” in which the local government works with a developer to provide incentives for the housing that the market can’t provide.
- Commercial White Boxes – buildings made available for reuse after minimal and basic rehab.
- Inclusionary Zoning (most effective in “hot” markets where development options are limited).
- Code Enforcement and mitigation; vacant property abatement; and empty Homes Tax
- Be intentional and focus on the doable.

#### Lessons for Yellow Springs

Yellow Springs has experienced increasing housing costs and a type of gentrification that has made it difficult for low income people to move here or even to continue to live here. However, it has not had the same historical forces that most inner city neighborhoods have experienced. For example, there has never been a time of middle class flight to the suburbs, significant disinvestment, or very low land and housing values. Some of the tools that might work in an inner city neighborhood – when gentrification first starts and land and housing values are still low – will probably are not be as effective or impactful in Yellow Springs. Land banking property, for example, requires a source of abandoned property and/or being able to acquire property at a low cost.

Yellow Springs does have some of the resources and tools available that were noted in the workshop. Our local CDC – Home, Inc. – is a Community Land Trust. It recently successfully sought a grant from the Morgan Family Foundation that will enable it to purchase the remaining Wright State Physicians property. It is my understanding that it is creating a partnership with St. Mary’s Development Corp. (a larger and respected CDC) to seek additional funding to build low-income senior apartments on the property. Yellow Springs has involved the community in visioning, planning and, most recently, the Housing Needs Assessment. While it does not seem that Inclusionary Zoning will be effective in our village, we can develop Community Benefits Agreements with developers. Village Council and Planning Commission have been and can continue to make zoning changes that encourage and make it easier to develop mixed-income developments and affordable housing. While it may not make sense to create a land bank, the Village does already own property such as the Glass Farm on which affordable housing and a mixed income development can be built.

Marianne MacQueen

**AFFORDABLE HOUSING:** In general, housing for which the occupant(s) is/are paying no more than 30 percent of his or her income for gross housing costs, including utilities. Please note that some jurisdictions may define affordable housing based on other, locally determined criteria, and that this definition is intended solely as an approximate guideline or general rule of thumb.

**Area Median Income (AMI):** A term of art used by some federal programs to describe published income standards for various areas of the country that are used as benchmarks for determining households' eligibility for federally funded programs. For example, homebuyers assisted with HOME or CDBG funds generally must have incomes at or below 80% of area median income. AMIs are calculated and published annually by HUD. "Median" means that half of all households in the area are estimated to have more than this amount of income.

**Community Development Corporation (CDC):** A loosely defined term for a nonprofit organization that undertakes commercial or residential real estate development. It usually, but not always, indicates some targeting of efforts to a low-income neighborhood.

**ENERGY AUDIT:** Any process that identifies and specifies the energy and cost savings likely to be realized through the purchase and installation of particular energy efficiency measures or renewable energy measures.

**EQUITABLE LAND USE PLANNING:** zoning, land use regulation, master planning, and other land use planning that, at a minimum, furthers the purposes of Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act of 1973, and the Fair Housing Act and are intended to achieve additional objectives for expanding housing choice. (p.11)

**Extremely Low-income Household:** As widely defined by governmental and nonprofit organizations, a household with an income at or below 30% of median income. See "area median income."

**Housing Payment Ratio:** In single-family lending, the percentage of a borrower's income that will be spent on the housing payment after a home purchase, refinancing, or home renovation refinancing. This includes payments of loan principal, interest, real estate taxes, and insurance (called PITI).

**Housing Trust Fund:** A loosely defined term covering various types of public and nonprofit-controlled funds from which loans and grants are made for affordable housing. These trust funds are variously capitalized with public revenue, dedicated taxes, grants and payments from market-rate developers.

**GROSS ANNUAL INCOME:** the total income, before taxes and other deductions, received by all members of the tenant's household. There shall be included in this total income all wages, social security payments, retirement benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, interest and dividend payments and such other income items as the Secretary considers appropriate.

**Infill Housing:** New homes or apartments built on smaller tracts of land, often in older neighborhoods, urban renewal areas or inner cities.

**LAND BANK:** a governmental or nongovernmental nonprofit entity established, at least in part, to assemble, temporarily manage, and dispose of vacant land for the purpose of stabilizing neighborhoods and encouraging re-use or redevelopment of urban property.

**Land Trust:** In the strictest sense, a nonprofit organization that sells affordable homes but retains ownership of the land under them in order to control, through the lease, the long-term affordability of the homes. The lease ensures that the home is resold to a low-income family, sold at a below-market price, and/or sold with a share of the appreciated value going to the nonprofit. The term is used more

loosely to describe programs that subsidize fee simple homeownership for low-income families and impose similar kinds of long-term affordability controls.

**Low-income Household:** As widely defined by governmental and nonprofit organizations, a household with an income at or below 80% of area median income. See “area median income.”

**Low Income Housing Tax Credit:** A federal tax credit against income provided to investors in rental housing developments that meets specific requirements that include residents with incomes below 60% area median income; applications for program are managed at the state level; developments qualifying for Low Income Housing Tax Credits are then able to attract investor funds to complete project financing; the investors’ returns come from the ability to use the federal tax credit to offset their income rather than from revenue generated from the rental housing development.

**Moderate-Income Household:** As widely defined by governmental and nonprofit organizations, a household with an income between 80% and 120% of area median income. See “area median income.”

**Section 502:** A program of the Rural Housing Service that provides low-income borrowers with direct low-interest loans or loan guarantees to buy a new or existing home. The guarantors are used as an incentive for private, institutional lenders to make home purchase loans at interest rates slightly below market. Section 502 loans are also sometimes originated as low-interest second mortgage loans made in tandem with first mortgage loans from private lenders.

**SECTION 8 EXISTING RENTAL ASSISTANCE:** Provides rental assistance to low-income families who are unable to afford market rents. Assistance may be in the form of vouchers or certificates.

**Subsidy:** In housing, money put into a deal to lower the monthly debt service on an individual home or in a larger project. Low interest second mortgage loans are the most common source of subsidy. Tax credit investments can also act as a subsidy. Rent subsidies are given to landlords to reduce rents paid by tenants.

**SUSTAINABLE COMMUNITIES:** Urban, suburban, and rural places that successfully integrate housing, land use, economic and workforce development, transportation, and infrastructure investments in a manner that empowers jurisdictions to consider the interdependent challenges of: 1) economic competitiveness and revitalization; 2) social equity, inclusion, and access to opportunity; 3) energy use and climate change; and 4) public health and environmental impact.

**UNIVERSAL DESIGN:** A design concept that encourages the construction or rehabilitation of housing and elements of the living environment in a manner that makes them usable by all people, regardless of ability, without the need for adaptation or specialized design.

**Very Low-Income Household**

As widely defined by governmental and nonprofit organizations, a household with an income at or below 50% of area median income. See “area median income.”

\*Terms taken from HUD and Enterprise Community Partners glossaries



## REQUEST FOR PROPOSALS

### VILLAGE OF YELLOW SPRINGS

#### UTILITIES CONSERVATION EDUCATION PROGRAM FOR RESIDENTS AND BUSINESSES

The Village of Yellow Springs requests proposals from qualified persons/entities to provide educational opportunities to our residents and businesses in an effort to enable them to reduce their energy consumption and use of other utilities. Primary goals of the program would include, but are not limited to: (1) providing educational opportunities through events (such as seminars or “fairs”), publications, social media and press releases through official Village channels; informational “chats” on Village Public Access Television Station and YouTube Channel; project-based learning activities in conjunction with the Yellow Springs Schools; home energy audits, weatherization information/assistance; give-away events or other activities. While all residents and businesses should be included in the education offerings, specific target groups include: school-age children (all grades), elderly; landlords.

Proposals should include:

- A statement of qualifications of the person/entity submitting the proposal
- A detailed proposal including specific activities, publications, and other avenues the proposer may wish to include
- A detailed list of deliverables
- A method of measurement of said deliverables

Because of the varied nature of the activities, bids are requested in a line-item format, noting each proposed item, associated hours and not-to-exceed cost for that line. The Village will consider all bids in totality, but reserves the right to accept specific items from bids and reject others. The Village also reserves the right to reject all bids/proposals.

The Village of Yellow Springs is strongly committed to assisting residents and businesses in lowering all utility bills, including energy, water and sewer. While proposals may contain only energy-related items, inclusion of water/sewer consumption may also be included.

Sealed proposals should be submitted no later than 4:00 P.M. on Friday\_\_\_\_\_.

Proposals should be submitted to Patti Bates, Village Manager, 100 Dayton Street, Second Floor, Yellow

Springs, Ohio 45387. Any questions should be directed to the Village Manager's Office at 937-767-1279 or [pbates@vil.yellowsprings.oh.us](mailto:pbates@vil.yellowsprings.oh.us)

DRAFT



*The Economic Sustainability Commission provides information and makes recommendations to Council regarding economic development for the Village of Yellow Springs, identifying primary opportunities for economic development in the Village and strategies to support these efforts and facilitating a forum for incubating ideas and networking among diverse groups working on economic development in the Village.*

## **Economic Sustainability Commission**

### **Considerations for Developing A Purpose Statement for a Designated Community Improvement Corporations**

Members: Saul Greenberg (Chair), Lisa Kreeger (Council Rep), Gerry Simms, Karen Wintrow (Secretary), Henry Myers, Sammy Saber, Emily Seibel, Susan Jennings (alternate), Mark Crockett (Township Ex Officio Rep), Steve McQueen (School Board Ex Officio Rep).

The Village of Yellow Springs finds itself on the precipice of housing, business and economic development opportunities but without a unifying organization to pull projects and constituencies together for collaboration, planning, and funding. It is the view of the Economic Sustainability Commission that a Designated Community Improvement Corporation (DCIC) could be the organization that provides the platform for broad and inclusive representation, overall strategic planning and innovative funding approaches.

The purpose of a DCIC, an organization recognized under section 501(c)(3) of the Internal Revenue Code, is to advance the economic, community and civic development of a community per Ohio Revised Code section 1724.10. DCICs are viewed primarily as economic development organizations to support new business development. However, DCIC's have broad powers that can be defined by the local community to support their specific goals. DCICs are governed by Code of Regulations (bylaws), must be chartered as a corporation in the State of Ohio and must receive 501(c)(3) status from the Internal Revenue Service.

The proposed mission of a DCIC established in Yellow Springs would be to serve as a coordinating and planning entity providing funding and oversight for projects that ensure the economic and cultural vitality of the Village of Yellow Springs for businesses, non-profits, residential and infrastructure development. The goal of increasing the tax base as a major reason to create a DCIC. The DCIC should be inclusive of the entire community and *support the Village Values and annual goals* established by the Village of Yellow Springs.

DCIC's are established by single or multiple political subdivisions (e.g. Village Council, School Board). Not less than two-fifths of the governing board of a DCIC must be elected officials representing the participating political subdivisions. Consideration should be given to maintaining less than a majority of elected officials from any single political subdivision so the Corporation can operate independently of a specific public body. It is critical that the DCIC maintain trust and transparency in the community so record-keeping and communication protocols will be established in the Code of Regulations. The DCIC will operate under the Open Meetings Act and provide for citizen input to decision-making to ensure adherence to community values.

Building the DCIC starts with appointment of the representatives from the governmental entities. Those individuals then recommend the remaining members who must live in, work in, or otherwise support the

economic and cultural vitality of the Village of Yellow Springs. The elected officials will continue to appoint their own representatives but after the initial appointment of at-large community members, those at-large members will be appointed by the DCIC.

**Possible** DCIC membership is as follows with total membership not to exceed 11:

- Up to four persons representing the Village of Yellow Springs, appointed by the Village;
- One representative of the Miami Township Trustees appointed by the MTT;
- One representative of the Yellow Springs Exempted School District appointed by the YSESD board;
- Five to seven at-large members from business and non-profit organizations that support economic and community development and bring skills or expertise to bear on the success of the corporation.

The inclusion of a diverse set of stakeholders supports better coordination of action and aligned strategic planning across entities.

The ESC has examined the broad powers of a DCIC which include accepting, purchasing, leasing and selling real estate; insuring and incurring debt; financing improvements to land or structures within zoning regulations; and more as can be constructed for the enhancement of the Village Values and Goals. Brainstorming at the April ESC Meeting elicited the following **possible** tasks for a Yellow Springs DCIC:

1. Administer the Revolving Loan Fund and other grant programs
2. Collect and distribute net profits taxes anticipated from the Cresco operation
3. Market the CBE and promote Yellow Springs as a business location
4. Fund infrastructure projects including the fiber network
5. Provide technical assistance to local businesses including development of an incubator/co-working space
6. Fund residential and commercial development
7. Function as a land bank to facilitate the transition of foreclosed and/or abandoned properties into viable, marketable properties

**The ESC has identified the following concerns for continued consideration as the DCIC is formed:**

1. To what extent do the participating political subdivisions (e.g. School Board, Village Council) give up their power or sovereignty over decision making by forming a DCIC?
2. Can the DCIC act unilaterally on all or will the Village Council have oversight over some decisions?

**The Process to form a Designated Community Improvement Corporation for Yellow Springs:**

1. Develop a Code of Regulations including the DCIC name (ESC reps, Village Council and Village Solicitor)
2. Incorporate in the State of Ohio (Village Manager)
3. File with the IRS to become a 501c3 (ESC reps, Village Manager and Village Solicitor)
4. Begin operation as a DCIC

**Timeline:**

<b>Goal Date</b>	<b>Who</b>	<b>What</b>
<b>April 16</b>	Village Council Meeting	Village Council to discuss and decide on path forward for a DCIC
<b>May 2</b>	ESC Meeting	ESC to review feedback from VC and assign tasks with a schedule for each.
<b>June 6</b>	ESC Meeting	ESC to review / provide feedback on the Purpose Statement and timeline for June 18 Council meeting.
<b>June 18</b>	Village Council Meeting	Council provides feedback of the DCIC Purpose Statement and timeline
<b>July 3</b>	ESC Meeting	ESC revises the Purpose Statement as needed. ESC develops a plan for outreach to elected officials in MT, YSESD and community
<b>July 16</b>	Village Council Meeting	Council approves the Purpose Statement and outreach plan
<b>July 17- July 31</b>	ESC Activity	ESC implements outreach to elected officials in MT, YSESD and community regarding a YS DCIC. Develop draft Code of Regulations for August 1 ESC meeting
<b>August 1</b>	ESC Meeting	ESC approves summary of outreach activities. Chris Conard to attend ESC meeting to discuss Code of Regulations, 501c3 status, etc. ESC determines work assignments to develop the Code of Regulations.
<b>August 20</b>	Village Council Meeting	DCIC Update - Review summary of outreach activity
<b>September 5</b>	ESC Meeting	ESC approves draft of Code of Regulations
<b>September 17</b>	Village Council Meeting	Feedback on Code of Regulations
<b>October 3</b>	ESC Meeting	ESC makes modifications to Code of Regulations
<b>October 15</b>	Village Council Meeting	Approves Code of Regulations

After Code of Regulations are approved –

- Develop Articles of Incorporation and File for State of Ohio Incorporation
- Begin 501c3 filing process which can take between 2-12 months





Manager's Report, June 18, 2018

### **Implicit Bias Training**

As Council knows, I have been working with Councilpersons Hempfling and Stokes to review Implicit Bias Training proposals. A contract was signed with Tiffany Taylor Smith and training dates have been set. All employees will be required to attend 2 sessions, one on August 8<sup>th</sup> (Session 1) and one on August 15<sup>th</sup> (Session 2). Each day will have a morning session from 8:30-11:30 AM and an afternoon session from 4:00-7:00 PM. Council members who would like to attend need to let me know which sessions they will attend, so we can have an accurate count. Training will be held either at the Bryan Center or at Antioch University Midwest. We will confirm the location at a later date.

### **PUBLIC WORKS UPDATE**

Crew quarters should be done by July 1.

The first phase of electric pole replacement will begin Monday. Hi-Tech Electric will be working 7 days a week for 3 weeks. Some work in Keith's Alley will be done at night. We will make every attempt to notify the businesses and residents in Keith's Alley of the night work.

Tree trimming bids have been posted and bid packets are available at the Administrative Offices.

Crews have begun marking the valves for exercise in preparation of starting unidirectional flushing.

Staff continues to prepare for the infrastructure work session.

### **PLANNING AND ZONING**

In tonight's packet, you will find a memo from Planning and Zoning Inspector Denise Swinger regarding the parking of recreational and other large vehicles on the street. The Planning Commission recommends to Council that the regulation of these parking issues be added under the General Offenses Code for enforcement by the Police Department, which already enforces other parking regulations. This provides consistency in the enforcement of related ordinances.

### **POLICE DEPARTMENT**

Special thanks to all who helped make Street Fair a success!

I'm happy to answer any questions. Thank you! Patti Bates



TO: VILLAGE COUNCIL

FROM: DENISE SWINGER – ZONING ADMINISTRATOR  
AND PLANNING COMMISSION

DATE: JUNE 12, 2018

RE: RECREATIONAL VEHICLES PARKING ON PUBLIC STREETS/ROWs

At Planning Commission's meeting on Monday, June 11, 2018, there was a unanimously approved recommendation for staff to forward on to Council the suggestion of an amendment to the General Offenses code regarding recreational vehicle parking on streets and other public areas within the Village of Yellow Springs.

### **BACKGROUND**

The zoning office has received numerous complaints from both citizens and staff regarding the parking of recreational vehicles on public streets. Although the complaints have sometimes been related to the owners living in the recreational vehicles, that is not always the case. Often the recreational vehicles (boats/camper trailers, etc.) are parked on the streets for long periods of time, essentially using the public right-of-way for storage. The Public Works Department views it as a safety hazard for the Village's street crew, especially when trying to maintain the streets for snow plowing, etc. This also poses a problem for essential services, too, as it limits street access and may cause difficulty for a fire truck to navigate.

The zoning code defines a recreational vehicle as "*Vehicles or equipment used primarily for recreational or leisure purposes including, but not limited to, motor homes, camper trailers, travel trailers, pop-up campers, boats, snowmobiles, motorcycles, dune buggies and similar vehicles and the trailers used to transport them.*"

Section 1260.03 of the Zoning Code below only restricts someone from parking a recreational vehicle and using it as a dwelling on any public rights-of-way in the Village. There is not anything in the General Offenses Code about recreational vehicle parking.

### **1260.03 PARKING AND STORAGE**

(b) Recreational Vehicle Parking. It shall be unlawful for any person to park or cause to be parked any mobile home or recreational vehicle on any street, alley, highway, or other public place in the Village and to use the same as a dwelling. This provision shall not prohibit the temporary occupancy for periods up to 72 hours of a recreational vehicle; provided the

recreational vehicle contains sleeping accommodations, is parked on a lot in a Residential District, and is for the use of the owner of that lot or guests of the owner.

In addition to the Zoning Code, section 452.20 of the General Offenses code below is the only place where the codified ordinances mentions the parking of larger vehicles on public rights-of-way. Section 452.20 is specific to residential zoning districts and does not include recreational vehicles. It also does not include standard trucks with attached trailer beds for purposes other than construction, which can narrow the ingress and egress for a neighborhood's traffic flow when parked on residential streets and not for the course of business.

If RVs are not banned from parking on public streets or property, it was suggested a time limit be imposed and/or specific locations where they may park on public property.

#### **452.20 PARKING OF TRUCKS AND CONSTRUCTION EQUIPMENT IN RESIDENTIAL ZONES.**

No person shall park any truck exceeding 10,000 pounds gross vehicle weight, or twenty feet in length, nor any wheel or track-mounted construction equipment, including, but not limited to, trailers, tractors, loaders, dozers, air compressors and cement mixers, within the public right-of-way of any street in any residentially zoned area of the Village. An exception may be made, at the discretion of the police, for construction equipment left in place on a project currently underway in such a residential zone.

Because this is an amendment to the general offenses code, the Planning Commission is only making a recommendation. Thank you for your consideration to their request.





6/14/18

### **Environmental Commission**

One of the areas EC has been focusing on is ground water pollution and protection. In that regard it has been reviewing the Vernay groundwater pollution remediation plan that has yet to be approved by the EPA. Presumably the draft report and a public comment period will occur sometime this year. We want the Village to have a seat at the table given the impact it has on our community. While our Village well-water catchment area is barely outside the area of the plume (and should not be impacted), recent findings by the EPA reveal that vaporization from the chemicals can be dangerous. Whether they are a threat to Vernay's neighbors depends on whose information you believe. EC will continue to monitor this situation. EC is also preparing a pamphlet on groundwater protection for the Village in preparation for new housing development and upgrades to our water infrastructure.

EC efforts to increase recycling seem to have ground to a halt as we have discovered that China (where the US has been shipping plastics, etc. to be recycled) is no longer wanting to take all our stuff. Therefore Rumpke is cutting back what it takes. The answer will be an effort to Reduce, Reuse and Repurpose. Our next step in the Climate Action Plan is to decide a focus area to recommend to Council.

### **Housing Advisory Commission**

HAB has been working on a glossary of housing terms. We included the terms we thought would be most helpful to Council in the packet from a longer glossary we prepared. We also discussed the *Gentrification* workshop, a report I have also included. HAB has begun preliminary discussions on what we will need to set Village housing goals and will be talking with Patrick Bowen regarding that before the discussion comes to Council. We have begun very preliminary conversations about how we might proceed with housing on the Glass Farm and who might assist us in that planning. We will be reviewing what resource people might be able to help us in that planning. Other topics of conversation have included changes we might recommend to the zoning code such as clarifying what is already allowed, allowing flag lots and making the PUD and Site Review process more streamlined for developments we want to encourage.

### **Planning Commission**

PC has been working with Denise to define the current zoning regs on access easements and their use to enable landlocked parcels to be developed. We are continuing to clarify and define the conditions when this can occur. Residents are increasingly looking for ways to divide their larger lots and or build accessory structures. Other topics of consideration have been tiny houses (no larger than 400 sq ft as defined by the Tiny Homes association) and whether they need to be attached to the ground (in Yellow Springs they do) and regulations about RV parking on the street, in private residences, how long they can be used for habitation and how to regulate them.

## **Commissions Report :**

**Library Commission-** did not meet in the last month.

**Energy Board-** Will be discussing two items:

RFP for education program to assist villagers in reducing energy use and utility bills.

Expanding local solar. Will be discussing report by Dan route off regarding possible strategies, sites.

### **Justice System Task Force.**

#1. Agenda Item for tonight's Council Meeting: **Future Plans for JSTF.**

Lisa and I recommend to that JSTF continue its work until the end of 2018. JSTF is trying to prioritize this final work based in the work directed by Village Council.

I will be bringing a proposal, taking in input from Lisa and the JSTF members, for a new Commission that would refocus the JSTF work beyond 2018.

#2. **Mayors court recommendation 1.** Lisa and I are setting up a meeting with Chief Carlson, Mayor Conine, and staff to move the JSTF Mayor's Court recommendation forward.

#3. A new JSTF recommendation regarding **Community control of police surveillance.** This draft recommendation will now go to the Notice and Comment process. JSTF is asking for a written response from the YSPD, The village manager and legal counsel before our July meeting so that we can consider this input before finalizing our proposal to village council.

Several members of the Task Force were upset that we did not get written input through 'Notice and Comment Process' from staff, for our previous recommendation. We of course will also be asking for input from citizens as well through a notice in the YSnews.

#4. An interim report from the police working group on community police advisory boards was discussed and will be finalized and presented to council in the fall. They are also looking at the idea raised by citizens regarding a 'Citizen Review Board'.

Sent from my iPhone



## **Board Report for Village Manager's Advisory Group for CAP – June 2018**

Submitted by Kevin D. Stokes, Village Council Member, Commission Liaison June 15, 2018

- Official Council Commission is still on hiatus
- A Village Manager Advisory Group met on Wednesday, June 6, 2018
  - Attendees were Kevin Stokes, Brian Housh, Patti Bates, Spencer Glazer, and Jordan Gray
- Group is still working to refine/revise vision and purpose
- A lengthy discussion was held regarding the expenditure of funds on Adobe software
- Group also discussed the use of Village-owned video equipment (loans to residents, schools, etc.)
- Group briefly discussed social media policies and practices
- Jordan demonstrated an application that his company is willing to offer to the Village for use as an audio-visual file repository
- Group will continue to meet regularly on an as-needed basis



## **Board Report for Human Relations Commission – June 2018**

Submitted by Kevin D. Stokes, Village Council Member, Commission Liaison June 15, 2018

- Commission met on June 7, 2018

Member present: Nick Cunningham, Kevin Stokes, Cindy Shaw, Tim Baum. Also present was Village Manager, Patti Bates

- Approval of Minutes – To be approved at a future date since we did not have a quorum of attendees from April meeting
- Group discussed affordability information request from Council
  - A special meeting has been scheduled to begin work on Utility Round Up program
  - Kevin Stokes and Tim Baum will participate
- Grant Requests
  - Discussion was held to review details of the process
    - No requests were submitted
  - Estimation of remaining budget amount: \$6100 of the \$8500
- Discussion of Greene Met Housing Welcome Bags
  - Cindy received a sample bag put together by the Chamber of Commerce
  - Cindy will contact Realty offices and major landlords to identify new residents of the Villa
- Block Parties
  - First Block Party was held on June 9
  - Tim is working on an ad for the YSNews announcing the remainder of the Parties

Details can be found in the official minutes of the meeting





## Art & Culture Commission

### Economic Sustainability Commission

Kreeger Reports / June, 2018

#### Arts & Culture Commission

Highlights in addition to meeting minutes:

- **John Bryan Community Gallery:**
  - A new show is coming! “**Remembering**” will showcase 21 pieces from the collection by artists who have passed away. A casual reception will be held on Friday July 6th from 6-9 p.m.
  - Website updates are in process (thank you Ruthe Ann)
- Considering a permanent home for the **Kind Ness Banners**: What are the ‘gateways’ to our Village? These banners send a message about the Village Banners. How / where can we hang where they are not pre-empted for other events?
- “**Porch Fest**” – a music festival where music will be presented at various locations (porches) throughout the village - targeting Fall, 2018. ESC will be evaluating sponsorship along with other public/private funding sources. Stay tuned for more details.
- **Event Incentives**: Suggestion from Council that the ESC take point on the development of an event incentives policy/process similar to the Economic Development Incentive. The idea was introduced at the June meeting. This will be discussed in more depth at the next meeting.
- **ACC Retreat July 11 / 5-6:30 pm**
  - *What does it mean to be an activist arts organization, one that moves on a vision with mindfulness about community, responsively representing all citizens for the common good?*
  - *What art do we promote?*
  - *Do we always look in the same (old) familiar places?*
  - *What is our justice and anti-racist commitment as an arts organization?*
  - *Need definition and identity?*
- **Next meeting July 11 6:30 - 8**

#### Economic Sustainability Commission

The ESC has continued to focus primarily on the formation of a **Designated Community Improvement Corporation (DCIC)** for Yellow Springs.

**DCIC**: Please refer to the separate document: Considerations for Developing a Purpose Statement\_DCIC dated June 6, 2018.



TO: Village Council  
FROM: Brian Housh  
RE: June Commission Reports  
DATE: June 15, 2018

### **Greene County Regional Planning Commission**

Devon Shoemaker comes on as Executive Director at the end of this month, and I am happy to see him already engaged in and excited about projects such as the YS-Clifton Connector trail. One key project that has been talked about for a couple of years is a county-wide trail plan, which could be coupled with developing fiber infrastructure for broadband Internet, an initiative that Greene County Department of Development and the Greene County Township Association have shown interest in. Potentially contracting with Ken LeBlanc to help complete this and a few other projects has been discussed. Otherwise, it is business as usual, reviewing a bunch of large residential development projects, mostly in nearby townships.

### **Miami Valley Regional Planning Commission**

I will be attending the Ohio Association of Regional Councils Gubernatorial Candidates Forum on July 10 in my capacity as Executive Committee member of MVRPC. I welcome any thoughts about issues that I should raise at this all-day conversation with Mike DeWine and Richard Cordray. In fact, I encourage our Village Team leadership to attend; the next Governor of Ohio is going to have huge impact on local governments. In other news, Executive Director Brian Martin was given a glowing review – Council & key Village Team members should make a point to get to know him if you don't already – and there were several notable presentations. The Greater Region Mobility Initiative has been engaging senior populations, including a meeting at the YS Senior Center, with a goal of filling public transit gaps in a 9-county region. The Long-Range Transportation Planning efforts of MVRPC were also noted, and there are some amazing tools on the website; importantly, automated vehicles were specifically referenced, and I don't think MVRPC is fully appreciating the impact in its planning efforts. The Village of Yellow Springs should get out in front of this and formalize policies that facilitate this 'already here' technology. Additionally, I think we might want to look into Permissive License Fees (several types are covered under state law) as a strategy to help fund infrastructure improvements. Unfortunately, a presentation from AARP on Age Friendly Communities was cancelled; since MVRPC does not meet in July, I am hoping that this will be on the August agenda. **Smart transportation planning is a core responsibility of local governments, and I would encourage exploring the [mvrpc.org](http://mvrpc.org) website.**



*The Arts & Culture Commission advises Village Council on issues that affect use, appearance and experience of Village property. The Commission takes into consideration the respect for all users of public space to promote and support improvement, beautification, growth and creativity of our community.*

## Art & Culture Commission 5/9/18 Minutes

Members Present: Brittany Baum, Nancy Mellon, Kathy Moulton, John Fleming  
Citizen Participant: Rachel Price

- Minutes from 3/14/18 meeting were approved.
- John Fleming updated the commission regarding installation plans for the VIDA on May 12. General discussion regarding the presentation to Maureen Lynch and Richard Lapedes.
- John Fleming reported on “Piano Summer 2018”. There are two definite and one possible commitments for piano donations. General discussion about the possibility of waiting until 2019 to enable more lead-time preparation.
- Puppet Display Box – in process.
- Pottery Shop Update: they will participate with the ACC as an “Alternate Member” or “Member at Large”. Lisa Kreeger will represent the ACC in discussions between the Village and the Pottery Shop.
- Gallery Games: Brian Housh is coordinating the events in process. No target dates have been set pending discussion with Village Manager Patti Bates.
- Porch Fest: Rachel Price and Brittany Baum proposed a YS Porch Fest Festival targeted for late summer/early fall. General discussion regarding logistics included: whether to include both electric and acoustic music, whether to have a culminating event, portable toilets and a possible date. It was noted that the Dayton Porch Fest is slated for August 25. John Fleming will contact the AACW regarding any plans for a Blues Fest this year.
- Keith’s Alley Mural restoration: general agreement that some of the murals are in need of rehab. John Fleming will contact artists Pierre Nagley, Sarah Dickens and Travis Hotaling to discuss costs.
- Nancy Mellon proposed that the ACC consider ways to financially assist emerging artists. General discussion included: mini-grants that would allow penurious artist to join the YSAC, support to provide materials for the arts, a “lending library” for tools. It was also noted that a tie-in might be established at the weekly Farmer’s Market.

The next meeting is June 6, 5:30pm.



*The Economic Sustainability Commission provides information and makes recommendations to Council regarding economic development for the Village of Yellow Springs, identifying primary opportunities for economic development in the Village and strategies to support these efforts and facilitating a forum for incubating ideas and networking among diverse groups working on economic development in the Village.*

## **Economic Sustainability Commission Minutes**

Wednesday May 2, 2018; 7 pm

Council Chambers, John Bryan Community Center

Attendees: Saul Greenberg, Henry Myers, Lisa Kreeger, Steve McQueen, Susan Jennings, Emily Seibel, Karen Wintrow

Guests: Jordan Gray and Alexandra Scott

The meeting was called to order at 7:02 by Greenberg. Lisa Kreeger presented ESC members with signed copies of Michael Shuman's "Local Dollars, Local Sense" from Council Member Marianne Macqueen.

### **Minutes**

Minutes from April accepted with no corrections. (Kreeger/Myers)

### **Citizen Concerns**

Jordan Gray was there to present information on the Soaring III RFP, a \$2 million proposal to the State of Ohio he is working on in collaboration with Amy Magnus, Jeff Taylor (drone operator) and Jason V (rubrics) to bring a tech accelerator project to Yellow Springs and the region. They will need space; tech-oriented, not fancy space. They have six teams developing projects that are to disrupt existing technology. Part of their project is based upon the use of drones for disaster recovery and other aspects of telemedicine. The ESC expressed interest in their project but admitted to being overwhelmed with the information being presented and unclear as to how we could support their proposal. We invited Jordan to keep us apprised of the project, return at any point to report updates and ask for a letter of support if that would be beneficial to their proposal.

### **Old Business**

#### **Localization Initiative**

Susan Jennings reviewed the status of the YSCU grant to bring Michael Shuman to Yellow Springs to advise on projects the YSCU could be instrumental in moving forward including an incubator, fiber, housing and commercial kitchen. They want to focus on projects with 75% chance of success and a clear champion. The project should be easy to communicate, have a public story and be visible. They are looking for collaboration also. If additional funding is found beyond the grant the YSCU received, Shuman could expand the focus of the program. Tentative dates are June 25 and July 9.

#### **Village Incentive Policy**

Lisa Kreeger informed the ESC that Council was favorable toward the Incentive Policy but wanted a scoring rationale developed to assist in project selection. Kreeger prepared a draft scoring sheet for the ESC to review so that it could be included in the next Council packet when the Incentive Policy legislation would be before Council. Seibel and Kreeger agreed to work on fine-tuning the document for inclusion in the packet for the May 7 Council meeting.

### **Designated Community Improvement Corporation**

Kreeger reported that Council was favorable to moving forward with establishing a DCIC after reviewing the report that was presented at the April 16 Council meeting prepared by Wintrow, Housh and Kreeger. No additional work has been done on revising the FDC bylaws to reflect how a YS DCIC would operate.

Myers expressed concerns that the DCIC is undemocratic and he is also concerned with transparency.

Seibel apologized for missing the April 4 meeting and Rob Anderson's presentation but she expressed concerns that the tasks envisioned for the DCIC seemed too focused on business development and the recommended board membership was too heavy with business representation and no non-profit or general community representation. She expressed concern that the DCIC involvement with housing, strategic planning and the Cresco net profits would place excessive power in a select group with no legal oversight.

McQueen expressed concerns with power dynamics and membership.

Kreeger and others reassured Seibel that the Yellow Springs DCIC could operate as we wanted, reflecting village values and focusing on projects that would benefit the entire community.

Wintrow and Greenberg will work to revise the FDC bylaws to align with how we envision a Yellow Springs DCIC to operate. Village Solicitor will be consulted in the future but it is too soon to bring him to an ESC meeting.

Key areas of focus for the DCIC discussion were identified as membership; the relationship between the DCIC, the village and other community organizations; and who is responsible for convening the group. This might be an area that would benefit from Michael Shuman's expertise when he's in town.

### **New Business**

#### **Event Funding**

Alexandra Scott from the YS Chamber was present to answer any questions about Street Fair and other events. Wintrow presented documents that were in the ESC packet including a financial analysis of visitor revenue, articles expressing support for community events, policy from other communities towards events and the Village proposal for event charges.

Myers expressed support for the Village proposal regarding event charges. After a brief discussion, the ESC decided this wasn't a discussion they wanted to take on at this time.

#### **Proposed Agenda for June 6 meeting**

Review revised DCIC bylaws

Update on Michael Shuman visit

Adjournment at 9:00 pm (Kreeger/Wintrow)

**Next meeting June 6, 2018 at 5:30 pm in Council Chambers**

## **Justice System Task Force(JSTF) Meeting—10 April 2018**

The meeting began at 7:04 pm. Members present: J. Booth, B. Crandall, P. Dewees, K. Hamilton, John Hempfling, Judy Hempfling(Village Council Representative), E. Jacobs, S. McQueen, A. Schlueter and D. Turner. The meeting was led by P. Dewees.

Also in attendance at the meeting were: S. Tulecke, P. Conine (Village Mayor), R. Mark, L. Curliss, and K. Odiorne.

Before addressing the agenda, there was a discussion of the timing needed for the meeting packet preparation. For material to be included in the packet for committee members it must be received by the Thursday prior to the Tuesday committee meeting.

Three announcements were made: B. Crandall is a new committee member. Money has been committed for body cams for our police officers. And, it was noted that the resolution to be voted on at this meeting was listed in the YSNews as required by committee rules. Only one response was received in writing.

K. Hamilton served as timekeeper.

The minutes of the March meeting were accepted.

Comments were made from the floor about village policing. K. Odiorne recommended a permanent Citizen's Review Board to monitor police actions. He also suggested a select committee to review body cam videos that contain sensitive materials. S. Tulecke reported that he had obtained information from community "victims" who had police contact. He suggested that a "Police Victims Advocacy Group" was needed to assure police accountability.

The Mayor's Court Subgroup resolution, passed at the last meeting, was brought to the table for a second vote. The one response to the YSNews public listing of the resolution was favorable. No response from the Police Department was received.

L. Curliss read the resolution. Judy H. asked that the data in the resolution be verified. B. Crandall shared data obtained from the Police Department by the Data Analysis Subgroup. The data show that about 40% of the cases have an unknown court assignment, neither Mayor's Court nor Xenia Court identified. Mayor P. Conine gave her reaction to the resolution. Her comments included: 1) we have a new police chief, 2) we have a new mayor and new officers, 3) she has met with YSPD resource person and the Greene County prosecutor with positive results for collaboration, 4) the number of cases sent to Xenia has decreased, 5) she shared a concern about the increased costs that would result. Her conclusion was that the resolution would result in too fast a change.

Judy H. suggested that time be allowed for a transition period. D. Turner suggested that the Village Council could make this determination.

Judy H. moved, and E. Jacobs seconded, that the resolution be amended to allow a six-month period for implementation.

The resolution was voted on as amended with nine (9) in favor and one opposed.

Two more resolutions will be brought to the JSTF by the Mayor's Court Subgroup in upcoming meetings.

John H. recommended that indigents be given access to a public defender.

### **Reports of Working Groups:**

**Police Working Group.** 1) Field training manual has been updated. All new hires will go through YS field training. On-line training through LEXIPO has up to 10 scenarios/month with testing for each officer. 2) The search for an effective instrument for implicit bias continues. 3) Drug control issues = the law must be enforced. The relationship with the community on this must be improved. The group suggests that this is a closure report. What should be done now?

Judy H. added that de-escalation training is missing, and our chief is experienced in this.

**Data Group.** The group is working on the data which have been obtained from the YSPD for the years 2010-2017. Because so many data fields were blank, it was felt that more diligence was needed in the YSPD concerning in house documentation.

**Disparate Impact on the Poor Group.** K. Hamilton reported and indicated that a description of the problem is the first focus. Some of the topics being researched are the national income disparity and alternatives to bail. The YSPD Staff meeting will be attended to work with them concerning these issues.

**Surveillance Group.** Council needs to give approval before any surveillance procedures are undertaken. A proposal to this effect will be presented to the JSTF. Currently the YSPD has a license plate reader. They will be purchasing body cams. A policy on body cam use is needed.

**New Business.** The JSTF Leadership Group has been Judy H., P. Dewees and E. Jacobs. It is recommended that E. Jacobs become the permanent chair of the JSTF and S. McQueen the alternate. B. Crandall and A. Schlueter be the packet organizers who submit the required materials to the YSNews. Material must be in the packet to be considered at a meeting. B. Crandall will be the agenda planner.

P. Dewees was recognized for her skill in summarizing JSTF actions.

It was moved, seconded and approved that the new leadership team begin as identified above.

The meeting was adjourned at 8:55 pm.



Communication sent via e-mail by Henry Myers on June 11, 2018

Dear Council Members:

I do not think appointed members of the Designated Community Improvement Corporation should be allowed on their own to sell Village property. I think every sale of Yellow Springs property should require a Council vote.

Thank you,  
Henry Myers, member, Economic Sustainability Commission

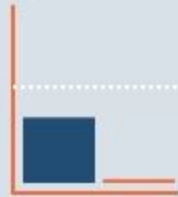
# Raise your voice

Early detection is key to surviving prostate cancer. Your voice can save a life. Tell everyone you know about prostate cancer.



## 3 Minutes

A man will be diagnosed with prostate cancer every 3 minutes.



## 2.4 Times

**African-American** men are 2.4 times more likely to die of prostate cancer than **Caucasian men**.

100%

## Treatable

Prostate cancer is 100% treatable if detected early.



September is Prostate Cancer Awareness Month. Together, we can **#StepUp** for Blue and fund the cure: [stepup.pcf.org](http://stepup.pcf.org)