

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

In Council Chambers @ 7:00 P.M.

Monday, November 5, 2018

CALL TO ORDER

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

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, Finance Director Colleen Harris, Planning Administrator Denise Swinger and Village Solicitor Chris Conard.

ANNOUNCEMENTS

Kreeger announced that YSHS teacher Kevin Lidy is working with students to produce banners of notable Village women for Women's History Month, and they are soliciting suggestions from citizens. Kreeger read a list of women honored in the past.

Housh exhorted Villagers to vote on Tuesday.

Housh also noted that the Village is set to receive about \$22,000.00 from Greene County, which must be used for an Economic Development or Infrastructure-related project.

Housh asked citizens to simply let folks know if they see a post on Village Facebook that seems accidental, rather than posting it to Open Discussion.

Housh made note of "No-Shave November", in which he is participating in an effort to support funding for cancer research.

Colleen Harris described how to participate in the Utility Round Up Program for persons who are signed up for ACH. Contact the Utility Office for a form to fill out.

Stokes noted that he was one of the beta-test group, and the bills seem in order and ready to go.

Housh asked that the Utility Round Up information be placed on Facebook.

CONSENT AGENDA

1. Minutes of October 15, 2018 Regular Meeting

Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE the Consent Agenda. Housh CALLED THE VOTE, and the MOTION PASSED 5-0 on a voice vote.

REVIEW OF AGENDA

Stokes added the topic of Transient Guest Lodging to New Business.

PETITIONS/COMMUNICATIONS

MacQueen reviewed communications received as follows:

Rachel McKinley re: Quarterly Treasurer's Report
Arnold Adoff re: JSTF
Marcia Wallgren re: EPA/Vernay Information
Marianne MacQueen re: Welcoming Community Resolution (2017-13 Draft and Final)
Mitzie Miller re: Home, Inc.
Judith Hempfling re: Budget /Partnerships/Council Open Seat Process
ACLU re: Surveillance Technology Ordinance

PUBLIC HEARINGS/LEGISLATION

Reading and Public Hearing of Ordinance 2018-39 Approving a Supplemental Appropriation for the Third Quarter of 2018. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Harris reviewed the Supplemental, noting the areas in which supplements were being requested.

Housh OPENED THE PUBLIC HEARING. There being no comment from those present, Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE.

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

Ordinances 2018-40-2018-46. Swinger introduced the series of ordinances by explaining the need for amendments to the existing zoning code as follows:

Following the 2013 update to the Village of Yellow Springs zoning code and the results of the visioning process directing growth through infill development, staff noticed an increase in inquiries from residents asking what they could do with their properties. Each inquiry had its own unique circumstances and staff began a discussion with the Planning Commission in April, 2018 on sections of the zoning code in need of further clarification. This process stretched over a six month period as amendments to one section of the zoning code often required amendments to other sections. Presented in the following amendments is an interpretation that will allow property owners to subdivide their properties using the already established lot requirements for Residential A, B and C in the zoning code, as well as the existing requirements for uncommon lot configurations, minor subdivisions and replats in the planning code.

Swinger described the changes represented in each of the ordinances, and the reason these are being brought forth. Description of each ordinance has been placed with that ordinance for clarity.

Reading and Public Hearing of Ordinance 2018-40 Repealing Section 1284.09 “Definitions: T-U” of the Codified Ordinances of the Village Of Yellow Springs, Ohio and Adopting New Section 1284.09 “Definitions: T-U”. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

This ordinance adds the definition of tiny homes to the zoning code.

Housh OPENED THE PUBLIC HEARING. There being no comment from those present, Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE.

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

Reading and Public Hearing of Ordinance 2018-41 Repealing Section 1260.04 “Uses” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Adopting New Section 1260.04 “Uses”. Kreeger MOVED and MacQueen SECONDED A MOTION TO APPROVE.

Swinger noted that the following two changes occur to Chapter 1260.04 in this ordinance:

Chapter 1260.04 (a) (13) below was removed and added to 1260.03 (a) (1) D – Driveway Standards.

(13) Residential access driveways shall be at least three feet from side property lines and construction shall ensure that drainage is sloped away from adjacent properties.

Chapter 1260.04 (h) Tiny Home. This amendment to the zoning code was added as the result of numerous inquiries. Along with two Planning Commission members, staff met with the Greene County Building Regulations Department staff to understand what is required when a person purchases a tiny home.

Housh OPENED THE PUBLIC HEARING. There being no comment from those present, Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE.

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

Reading and Public Hearing of Ordinance 2018-42 Repealing Section 1260.03 “Parking And Storage” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Adopting New Section 1260.03 “Driveway Standards, Access Easements, Parking And Storage”. MacQueen MOVED and Stokes SECONDED A MOTION TO APPROVE.

Swinger explained the changes entailed in this ordinance as follows, noting that as part of the clarification of Minimum Lot Frontages, driveway standards were added to ensure private driveways or private streets were constructed so that they would be accessible for essential services and utilities. Staff requested input from the Fire Chief, which he provided to ensure these access driveways or private streets to land-locked lots were wide enough and capable of supporting up to 40,000 lbs. gross vehicle weight. The zoning code currently addresses only the driveway setback to a property line, driveway requirements for a single or two-family dwelling (parking strip and parking apron) and standards for parking lots.

Access easement language was also added requiring access easements be recorded on the deed of all properties subject to the easement, and the illustration showing several ways in which the minimum lot frontage on an access easement can be shown..

Also in this section of the zoning code, the issue of recreational vehicle parking is addressed. Although the language has been added to the general offenses code, the Planning Commission didn't delete it from the zoning code because of the provision allowing for recreational vehicle parking on lots in residential districts:

(bc) 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, except for the expeditious loading and unloading of the vehicle. 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.

Housh OPENED THE PUBLIC HEARING. There being no comment from those present, Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE.

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

Reading and Public Hearing of Ordinance 2018-43 Repealing Section 1260.02 "Dimensional Provisions" of the Codified Ordinances of the Village Of Yellow Springs, Ohio and Adopting New Section 1260.02 "Dimensional Provisions". Hempfling MOVED and Stokes SECONDED A MOTION TO APPROVE.

Swinger explained that this amendment to the zoning code clarifies the use of private streets or access easements to reach an existing lot or a newly created lot.

Housh OPENED THE PUBLIC HEARING. There being no comment from those present, Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE.

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

Reading and Public Hearing of Ordinance 2018-44 Repealing Section 1226.11 "Minor Subdivisions" of the Codified Ordinances of the Village of Yellow Springs, Ohio and Adopting New Section 1226.11 "Minor Subdivisions". MacQueen MOVED and Stokes SECONDED A MOTION TO APPROVE.

Swinger explained that this amendment to the planning code will allow for the subdivision of land located along a private street or access easement if certain requirements are met. The amendment will also add an additional 10 days to allow staff time to prepare a report for minor subdivisions that require Planning Commission approval. Neighbors will also be noticed of any proposed subdivision that requires Planning Commission approval.

Housh OPENED THE PUBLIC HEARING. There being no comment from those present, Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE.

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

Reading and Public Hearing of Ordinance 2018-45 Repealing Section 1226.12 "Replats" of the Codified Ordinances of the Village of Yellow Springs, Ohio and Adopting New Section 1226.12 "Replats". Kreeger MOVED and Stokes SECONDED A MOTION TO APPROVE.

Swinger noted that this amendment to the planning code will allow for the replat of land located along a private street or access easement with the same requirements as in Chapter 1226.11.

Housh OPENED THE PUBLIC HEARING. There being no comment from those present, Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE.

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

Reading and Public Hearing of Ordinance 2018-46 Repealing Section 1226.13 "Subdivision Fees" of the Codified Ordinances of the Village of Yellow Springs, Ohio and Adopting New Section 1226.13 "Subdivision Fees". MacQueen MOVED and Stokes SECONDED A MOTION TO APPROVE.

Swinger explained that this amendment to the planning code will require a fee of \$100 if a minor subdivision or a replat requires approval by the Planning Commission. This fee will offset costs for the notification process. It also raises the fee for a replat from \$10 to \$25 when Planning Commission approval is not required.

Housh OPENED THE PUBLIC HEARING. There being no comment from those present, Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE.

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

First Reading of Ordinance 2018-47 Mandating that the Use of Any Form of Surveillance Technology by Village of Yellow Springs Entities be Approved by Village Council. MacQueen MOVED and Stokes SECONDED A MOTION TO APPROVE.

Hempfling read a portion of a letter received from the American Civil Liberties Union of Ohio supporting the measure.

Conard introduced the legislation by stating that technology represents a new area in which civil right may be affected, and the arena changes daily. Conard noted that the purpose of the legislation is to protect individuals from governmental intrusion into their privacy; to make government accountable for how technology is used and why the technology is necessary, and to control how data is deleted.

In order to use surveillance technology, a Village entity must make a request to Council in a public meeting to both fund (if funds need to be appropriated) and approve the use. In addition, Village entities will be required to submit an annual report to Council to ensure data collected through the use of surveillance technology is not being shared or used for improper or unapproved purposes.

Fundamentally, Conard stated, the ordinance is intended to accomplish broad overarching purposes that can be defined as protecting citizens from existing and emerging technology that the government could use to violate individuals' rights.

Ellis Jacobs commented upon the ordinance, noting that all changes requested by staff were made without watering down the intent. Jacobs commented that citizens "will never be surprised" by any use of surveillance technology in the Village due to this process. Jacobs noted that surveillance technology "is only as good as the policy governing it."

Housh asked whether there are any uses being grandfathered-in, and was told that there are not.

Housh asked whether there are use policies for existing technologies.

Bates stated that there is likely policy in the General Orders Manual, but that she would look into the matter.

In answer to a question from Hempfling, Conard commented that license plate readers are not being used by the Police Department.

Council discussed "publicly used facilities", with Hempfling stating that she would like this to come before Council if cameras were considered.

Jacobs commented that this phrase could encompass light poles, streets, etc.

Conard suggested defining "building" for this purpose.

Housh asked for assurance that the Village would not be held liable if a third party did not wish to abide by the Village ordinance.

Conard stated that this would have to be a "wait and see" issue.

Jacobs noted that only the Village is limited to use of surveillance technology: an outside agency could enter the Village with that technology.

Megan Bachman, Yellow Springs News, asked about policies regulating the use of Cruiser Cams and what had changed from inception to end product of the ordinance.

Bates responded that the policy governing the cruiser cams is in the general orders manual.

Conard noted that nothing of great substance had been changed in the process of crafting the ordinance.

Housh CALLED THE VOTE.

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

First Reading of Ordinance 2018-48 Repealing and Replacing Sections 1042.01(I)(1)(2)(3)&(4) of the Codified Ordinances of the Village of Yellow Springs, Ohio and Thereby Eliminating the Kilowatt-Hour Tax Adjustment Portion of the Compensation for Customers Supplying Energy to the Village from On-Site Solar or Wind Generators. Stokes MOVED and MacQueen SECONDED A MOTION TO APPROVE.

Bates explained that the current ordinance reads that a resident will be credited for each kWh of energy produced in excess of their needs, and that they will be credited \$.11/kWh plus the power cost adjustment plus the kWh tax. However, crediting the resident the kWh tax creates a situation in which the Electric Fund is debited twice for the tax; once to the resident and once when the tax is transferred, by law, to the General Fund.

Investigation of other municipalities who own their own electric grid indicate that most do not credit the resident for the excess energy produced in any way, it is simply supplied back to the grid with no credit to the resident's account.

Staff, along with Village energy consultant, John Courtney of Courtney and Associates, recommend the repeal of the kWh (excise) tax to these residents.

Kreeger received confirmation that the ordinance would not have any chilling effect upon users who may want to engage in installing alternative energy, since the amount is a few dollars a month for a residential user.

Housh CALLED THE VOTE. The MOTION PASSED 5-0 ON A VOICE VOTE.

Reading of Resolution 2018-39 Approving Recommended Housing Goals. MacQueen MOVED and Stokes SECONDED A MOTION TO APPROVE.

MacQueen noted that Council is in the midst of a multi-year housing plan, and that following these goals will be a more substantive recommendation from the Housing Advisory Board.

Housh asked that the word "affordable" be eliminated from the first sentence of the resolution.

Marie Miller asked whether a proposed housing unit for seniors would generate tax income.

MacQueen responded that any such unit would generate tax revenue: the owner of the facility would pay the taxes.

Conard confirmed the latter.

Kreeger asked whether a reevaluation period should be built in.

MacQueen responded that the Housing Plan would cover this issue.

Loren Miller asked whether housing rehab would occur.

MacQueen stated that the number given in the resolution includes rehabbed properties, although those are more difficult to obtain funding for. She noted that the strategy portion of the effort would be addressed in the Housing Plan.

Dan Carrigan asked what type of towns would have similar resolutions.

Hempfling stated that destination towns have greater housing challenges and that would be the type of town needing such a resolution.

MacQueen noted that many other towns have been examined for their policies and housing issues in the process.

Housh noted that goals are reviewed annually, and that the housing goals would be reviewed as a matter of course.

Housh MOVED to APPROVE THE RESOLUTION WITH THE SUGGESTED AMENDMENT. Stokes SECONDED and the MOTION PASSED 5-0 ON A VOICE VOTE.

Reading of Resolution 2018-40 Approving the Annual Distribution of Flour and Sugar to Village Widows and Widowers. Kreeger MOVED and Hempfling SECONDED A MOTION TO APPROVE.

Kreeger asked whether the resolution identifies gender with regard to the nature of the relationship.

The Clerk noted that gender is not identified, but the stipulation of marriage is so specified.

Housh CALLED THE VOTE. The MOTION PASSED 5-0 ON A VOICE VOTE.

CITIZEN CONCERNS

Lori Strober lodged a complaint that a conversion van is parked at the end of North College Street, and that her understanding was that this would be covered in the ordinance limiting RV parking on the street.

Bates explained that the ordinance does not identify vans and that a van is subject only to general parking requirements.

Strober characterized the van as unsanitary and unsafe, stating that she considers it a threat to her safety, an affront to tax-paying citizens, and asked that there be some remedy for regulating such vehicles so that persons are not able to live on the street in those vehicles.

Council asked that the matter be placed on a future agenda.

Loren Miller asked that Council members not predict their vote, as this indicates a lack of openness. Miller commented that the PUD would be causing future problems.

Pat Dewees asked that Council consider a new resolution declaring Yellow Springs a Sanctuary Village by “revisiting the Welcoming Community” resolution. She asked that the phrase “immigration status” be added to the list of protected persons. She asked also that a statement limiting local police action be inserted. Dewees argued that other cities have taken on the challenge despite threats from the Trump administration.

MacQueen asked that a draft resolution be brought for consideration.

Athena Fannin stated that Council should not criminalize homelessness by targeting vehicles that may be used as shelter by those individuals. Fannin then alleged that Sergeant Watson had acted wrongly in a tasing incident. She claimed to have evidence that she has or will post on Facebook. Fannin then alleged that Officer Meister was being unfairly treated in that he was more harshly judged within the department than was Watson.

SPECIAL REPORTS

Enterprise and Special Revenue Fund Presentation and Review of General Fund Suggested Changes. Harris presented, reviewing funds in both Enterprise and Special Revenue, and participating in conversation regarding proposed changes to the General Fund budget.

In response to a question from MacQueen, Bates commented that not increasing rates as scheduled in the Electric Fund in 2020 will result in difficulty down the line.

Kreeger commented that the Finance Sub-committee has contemplated not implementing increases scheduled for the Electric Fund for 2020. She stated that there is a balance between what is in the reserves and what needs to be done with regard to infrastructure. She asked that the amount held in reserve be carefully balanced against investment in projects or infrastructure.

Harris noted a buyout possibility for the solar field possible in year eight of the contract which will require a large amount of capital.

Housh commented that the next five years needs to be directed, but that projecting out too far may tie up funds unnecessarily.

Harris confirmed that she has budgeted at a 4% across the board increase for wages to create a buffer should employees leave and require payout.

Harris commented that all funds are balanced for 2019 as presented.

Housh requested that the Economic Development Fund be separated into three separate areas: Community Development; Revolving Loan and Combined Economic Community Development.

Hempfling asked that proposals be brought forward so that they can be voted upon at the following meeting.

Housh made the proposal that Lodging Tax income go towards community development.

MacQueen requested \$30,000.00 for a consultant for Planning Commission for the Comprehensive Land Use plan.

MacQueen asked for \$30,000.00 go to Home, Inc. in response to their request for a donation to the Pocket Neighborhood Development project.

MacQueen asked that a geotechnical study of the Glass Farm be funded for 2019 in the amount of \$20,000.00.

Housh suggested that the requested \$2,500.00 for Glass Farm Management be taken from the Boards and Commissions budget.

Housh suggested that Council identify an amount for Boards and Commissions, to be reserved until about April, in the amount of \$2,500 per commission, and if no proposals are submitted or funds requested after that point, the pot opens up.

MacQueen demurred on the subject of starting an “Affordable Housing Fund”.

Bates suggested bringing an ordinance to this effect.

Housh asked that a draft be brought, stating that he is not yet prepared to commit funds towards the Home, Inc. ask.

Hempfling asked for more information regarding the Police Department Consultant proposal brought by Kreeger.

Housh stated that if the consultant was able to assist in right-sizing the Police Department (PD) budget, that would be compelling to him.

Kreeger noted that when an area lacks a particular capacity, in some key instances it is beneficial to bring in a professional to assess and give guidance with expertise and neutrality. She argued that many have a passion regarding policing, but that there is a particular kind of expertise needed. She stated that she does not have detail currently because she wanted to get it into the budget immediately for further vetting in the coming months.

Hempfling cautioned that the budget “is in the red” and that “staff are already on overload” in opining that the effort should not be undertaken. She stated that “priorities have to be made. . . . and now is not the time.” Policing is “not only about expertise, it is about values,” Hempfling stated.

MacQueen offered to work with Kreeger to strengthen the request.

Housh asked that half of the expenses for several areas be flagged and set aside, in anticipation that those entities would raise the other needed half.

Bates responded to a question from Kreeger, stating that the staff vehicle has been removed from consideration, and staff will use the decommissioned PD car.

OLD BUSINESS

Draft EPA Letter from Environmental Commission. MacQueen received the go-ahead to have Environmental Commission update the letter and have it sent. Housh asked that the safety issues be moved up to the start of the letter to highlight their importance.

Justice Commission Discussion. Hempfling read the ordinance language and presented the case for continuing the commission on a permanent.

Housh stressed the need for capacity, noting Kreeger’s earlier budget request and stating that he sees the need for a body to process the information provided.

Stokes pointed up changes in the commission proposal which invite ex officio participation on the part of the Manager, Police Chief and Mayor in the commission, commenting that he is “less in support” if those pieces are not in place.

Stokes questioned whether the current expertise would carry over into a new commission, given the prevailing feeling on the part of many current members that they are not interested in continuing their membership.

Bates noted that when the Task Force was formed, the Chief and Manager were not invited to participate, and stated that they would be interested in participation.

Housh commented that Beth Crandall may wish to continue, and that her son, Vaughn Crandall holds a high level of expertise in justice issues and may be interested in serving. He noted the need for a diversity of membership and a “targeted look at what is needed for that commission.”

Stokes asked why it would not be expected that the Chief and Manager participate.

Housh responded that while the Chief and Village Manager would be expected to participate, the Mayor cannot be mandated by Council to participate.

David Turner commented that it is clear that there should be a group charged with assisting in implementing recommendations. He stated that there should be a period of reflection and assessment prior to consideration of a permanent commission. Turner stated that there is confusion among the members of the current Task Force about what should or will happen, and that assessment is needed to avoid a “piecemeal response.” There needs to be some resolution of the tension between the police force and the community before some of these things can be dealt with, Turner said.

Turner asked that Council identify priorities and goals for the group before moving forward.

Housh commented that the document presented at the prior meeting did address Turner’s issues.

Stokes questioned whether another two year appointment is appropriate or whether a permanent commission is needed.

Hempfling MOVED that Council create a Justice System Commission. Housh SECONDED. Housh CALLED THE VOTE, and the MOTION PASSED 4-0, with Stokes abstaining.

Open Council Seat Process Discussion. Housh queried Council regarding the proposed process, with the result of the discussion that Council would like candidates to have three minutes to speak, that there be no Q&A session and no direction given regarding the statement.

NEW BUSINESS

Transient Guest Lodging. Stokes asked that the matter come before Council at a future meeting. Conard offered to address the topic at that time.

MANAGER’S REPORT

Bates noted that she has provided a draft transition plan.

Stokes noted that he will work further on the transition plan.

Housh stated that he is comfortable budgeting for a four week overlap of managers.

Housh offered to provide a draft timeline for the search/hiring process for the next meeting.

SOLICITOR’S REPORT

There was no Solicitor’s report.

CLERK’S REPORT

There was no Clerk Report.

FUTURE AGENDA ITEMS

- Nov. 19:
- Ordinance 2018-49** Establishing a Yellow Springs Community Improvement Corporation

Second Reading and Public Hearing of Ordinance 2018-47 Mandating that the Use of Any Form of Surveillance Technology by Village of Yellow Springs Entities be Approved by Village Council

Second Reading and Public Hearing of Ordinance 2018-48 Revising Sections 1042.01(I)(1)(2)(3)&(4) of the Codified Ordinances of the Village of Yellow Springs, Ohio and Thereby Eliminating the Kilowatt-Hour Tax Adjustment Portion of the Compensation for Customers Supplying Energy to the Village from On-Site Solar or Wind Generators

Reading of Resolution 2018- Approving the Yellow Springs Arts Council Request for Placement of Permanent Sculpture on Village Property and Establishing Conditions

Candidate Personal Statements with Council in Open Session
Executive Session re: Council Open Seat Candidate Discussion
Budget Workshop with Revisions
DCIC Update
Sanctuary City Discussion
Taser Incident Update

Dec. 3: **Second Reading and Public Hearing of Ordinance 2018-49** Establishing a Yellow Springs Community Improvement Corporation
Emergency Reading of Ordinance 2018-50 Approving the 2019 Budget for the Village of Yellow Springs and Declaring an Emergency
Active Transportation Plan

EXECUTIVE SESSION

There was no Executive Session.

ADJOURNMENT

At 10:31pm, Hempfling 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: Judy Kintner, Clerk of Council