

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

In Council Chambers @ 7:00 P.M.

Monday, November 19, 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 and Solicitor Chris Conard.

ANNOUNCEMENTS

Kreeger announced Giving Tuesday and related the website created to facilitate this effort (ysgivingtuesday.org). Kreeger urges citizens to donate to the Utility Round Up.

MacQueen thanked the Village Crew for their hard work during and after the ice storm.

Housh noted the asset of having a locally run electric system and such a responsive crew.

Bates noted that there will be a free brush/limb pickup after December 5th, due to the storm.

Housh reported that the Active Transportation Plan will be unveiled at the December 3rd Council meeting.

Housh noted the annual tree lighting ceremony with local businesses providing refreshments set for November 21.

Housh asked that downtown businesses let the Chamber know if they will be participating in the window decorating contest.

Housh noted the Community Thanksgiving dinner set for the 22nd at the Presbyterian Church.

Housh commented that recent characterization, during a Planning Commission meeting, of the Home, Inc. PUD proposal as “warehousing of our elderly” is not shared by Council. Housh stated that all projects in this vein will be carefully considered by Planning Commission and Council as to whether they are worthy and responsive to a need.

Hempfling announced that this is her last meeting, and thanked the community and the Council seat applicants.

REVIEW OF MINUTES

Housh moved minutes off of the Consent Agenda for corrections.

1. Minutes of October 31, 2018 Special Council Meeting: Budget Work Session. Housh MOVED and Stokes SECONDED a MOTION TO APPROVE as Amended. The MOTION PASSED 5-0 on a voice vote.

2. Minutes of November 5, 2018 Regular Meeting. Kreeger MOVED and Stokes SECONDED a MOTION TO APPROVE as Amended. The MOTION PASSED 5-0 on a voice vote.

REVIEW OF AGENDA

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

MacQueen asked that a nomination to extend Hempfling’s date of resignation to December 30 be added to New Business, stating that she was not comfortable with bringing in a new member of Council to vote on a budget for which they had not participated in the process.

Housh added the topic of Evaluation of Council Direct Reports to New Business.

PETITIONS/COMMUNICATIONS

MacQueen reviewed communications received as follows:

Greene County Combined Health re: HIV Cases
Environmental Commission re: Letter to OEPA
Richard Lapedes re: Support for Home, Inc. PUD

PUBLIC HEARINGS/LEGISLATION

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. MacQueen MOVED and Hempfling SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

Ellis Jacobs thanked Hempfling for her work on the JSTF, and thanked those involved in the creation of the ordinance.

Jacobs noted that Yellow Springs will be the first municipality in Ohio to pass such an ordinance.

Housh noted section 607 (c)(3)(8), which assures several means for making contact with Council.

Dorothee Bouquet received assurance that the ordinance provides for checks and balances in the case of a declared State of Emergency.

Jordan Gray expressed that there are drones which may surveil over Village property, and received information that the ordinance covers only Village government entities.

Housh CLOSED THE PUBLIC HEARING.

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

Second Reading and Public Hearing 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. MacQueen MOVED and Kreeger 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.

Housh OPENED THE PUBLIC HEARING.

There being no comment from those present, Housh CLOSED THE PUBLIC HEARING.

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

First Reading of Ordinance 2018-49 Adding a New Chapter 290 of the Codified Ordinances Thereby Establishing a Justice Commission of Council. Kreeger MOVED and Hempfling SECONDED a MOTION TO APPROVE.

Hempfling thanked the JSTF for their work on the ordinance.

Hempfling made note of changes she had suggested to Exhibit A. This was not provided to Council in general. This was briefly discussed, and changes will be reflected in the revised Exhibit A on December 3rd.

Housh invited public comment.

Sean Tulecke-Paulson stated his objection that the Police Department or Mayor be included in any way on the Commission.

Athena Fannin asked that the YSPD not be represented on the new Commission.

William Tolle stated that he did not want police representation on the new Commission.

Housh responded to the comments, stating that he sees the inclusion of all invested parties as a win for all concerned. He stated that he did not want to alienate any part of the team working to change the justice system. Housh stated that a Citizen Review Board is still under separate consideration.

MacQueen responded to comments made that the most effective way to change a system is to engage all members of that system in creating change. She acknowledged that there is a trust issue that should be engaged.

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

Reading of Resolution 2018-41 Approving the Yellow Springs Arts Council Request for Placement of Permanent Sculpture on Village Property and Establishing Conditions. Kreeger MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Kreeger invited Cheryl Durgans, who has been instrumental in the project, to speak.

Durgans commented that Wheeling Gaunt embodies the spirit of perseverance and strength. She commented upon the need to increase the diversity of the Village, and the need to honor this Village leader.

Housh noted that the area could become a trailhead and so build on the asset. Housh also mentioned the associated mural project, the creation of which could actively engage community members.

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

CITIZEN CONCERNS

Patrick Lake spoke to the earlier noted comment regarding trust of the police, and asked that it be required that officers reside in the Village.

Housh noted that this cannot be legally required, but noted that Council is aware of the concern, and is looking at ways to incentivize residency.

Kevin MacGruder, Home, Inc, Treasurer, iterated a request that Council fund their Glen Cottages housing effort.

Corey White read a statement from the “Yellow Springs Police Advisory Council” asking that they adopt a provided resolution related to New Year’s Eve.

Athena Fannin thanked Council for clarifying their ordinance regarding Recreational Vehicles.

Shawn Tulecke-Paulson asked Council to respond to the request to add the resolution regarding New Year’s Eve, then requested that Judith Hempfling apologize to him. The situation devolved, with Tulecke-Paulson refusing to relinquish the mic.

Council called a recess.

After a break, Tulecke-Paulson was convinced to take a seat, and the meeting resumed.

SPECIAL REPORTS

Review of General Fund with Suggested Changes for Council Final Approval. Housh asked that Council target their concerns, and that the session center on those proposed additions to the budget.

Harris explained the difference between “funds” and “appropriated funds” to all present.

MacQueen stated her four requests, justifying each of these, one of which was removed as falling into a Boards and Commissions budget line. Those were: \$30,000.00 for a Comprehensive Land Use Plan Consultant resulting in an online document; \$30,000.00 to Home, Inc. for both 2019 and 2020 for their Glen Cottages project support request, and \$20,000.00 for a Glass Farm pre-development study.

Bates responded to a comment made by MacQueen, stating that the funding for a “detailed study” of the Glass Farm, including geotechnical assessment, could come out of a professional services line, and so would not have to derive from an affordable housing fund, should one be created.

Housh commented that the requested \$30,000.00 for a Comprehensive Plan consultant should come out of the Economic Development fund.

Kreeger reviewed her proposal for \$30,000.00 for a Police Department consultant. She stated that this is presented as a placeholder for an outside professional to be able to come in and assess the efficacy of the YSPD on all fronts, from size and community perception to relationships and policies.

She stated that she wants the funds available in the event that Council deems such an assessment necessary.

Housh clarified that legal fees will be budgeted in the amount of the retainer, which is \$57,000, with an additional \$30,000.00 for situations not covered by the retainer, the spending of which would be approved by Council except in emergency circumstances for which the President could make the decision.

Harris noted that a total of \$15,000.00 for a prosecutor (Mayor's Court), \$60,000 for a legal services retainer (Village Manager) and \$30,000.00 for outside-retainer costs (Council) was budgeted.

Housh noted Public Entities Pool as a legal option for the Village and stressed the need keep legal costs in line.

Conard stated that a project management approach, with careful agenda planning, should result in a manageable legal budget.

Housh commented that Council should invest taxpayer dollars on projects that benefit them rather than keep them in reserve, and asked that any amount over and above the four-month reserve be placed into Capital Improvements (CI).

Harris stated that she had kept just over four months of operating funds in each Enterprise Fund, but had moved the remainder into a CI fund for each specific fund.

Bates stated that she wants to check with Burns before the budget is finalized, and noted that funds cannot be moved back from a CI fund into the General Fund.

Housh stressed that funds should be spent on current projects that benefit current taxpayers.

Housh stated that Council has identified several capital improvements to buildings that house Village organizations. He noted that Council has asked that these entities provide some of the funds needed to stay operational, noting the repair and improvements needed to the Pottery Shop and the request that John Bryan Community Pottery come up with half of the amount needed to enact the repairs.

Housh noted the ball fields as another need, in the amount of about \$12,000.00 annually.

Housh stated that the Village should be "expecting to see some revenue and support" from these organizations, and would reassess next year.

Housh MOVED that Council support his recommendations regarding the Electric (sic) Fund, the pottery shop and ballfields and legal services. Hempfling SECONDED and the MOTION PASSED 5-0 on a voice vote.

Kreeger clarified that Bates will discuss the Electric and other enterprise funds with Burns and this will be reflected in the final budget.

Housh asked that Council move forward with an Affordable Housing budget line. Kreeger SECONDED. This passed informally, with all but MacQueen voting in favor.

Council asked that \$20,000.00 be placed in the Manager's Professional Services line for the Glass Farm geotechnical work.

MacQueen MOVED to reserve \$30,000.00 in the 2019 budget for the Home, Inc. request for their Glen Cottages project, and to commit to another \$30,000.00 for the same project for 2020. Stokes SECONDED.

Kreeger received clarification that Council cannot set aside funds for 2020. These would have to be re-appropriated for 2020 in the next budget cycle.

Bates cautioned Council against making a two-year commitment, given the tightness of the budget and the fact that it would be tighter in 2020.

Hempfling stated that the project would bring funds to the Village eventually and should be taken advantage of.

Kreeger stated that she does not see another project in the near future that will bring housing. She noted the need to address infrastructure as well.

Housh commented that the partnership needs to be formalized with Home, Inc, and tied to his decision, he said, is that formalization of a partnership relationship.

The allocation was agreed upon by an informal 5-0 vote.

Kreeger MOVED to allocate \$30,000.00 for professional services for an assessment of the Police Department.

MacQueen stated that the issue of trust is paramount, and that an outside group might be best able to examine what actions could improve police-citizen relations.

Hempfling cautioned against rushing the process, given that changes are still taking place.

Kreeger voiced that there is an immediate need to address trust issues.

The MOTION PASSED 5-0 on an informal vote.

Housh MOVED that the \$30,000.00 requested for a Comprehensive Plan consultant be taken out of the Economic Development Fund. This motion passed 5-0 on an informal vote.

Emily Seibel Executive Director of Home, Inc. stated that the organization has made a commitment to obtaining funding to assist in the engineering studies for the Glass Farm.

OLD BUSINESS

Update on Yellow Springs Designated Community Improvement Corporation. Kreeger summarized the reasons for forming a DCIC for the Village, reviewing the proposed makeup of the Board as follows:

- Two representatives of the Village of Yellow Springs, appointed by the Village (2 elected Council members);
- One Miami Township Trustee, appointed by the MTT;
- One Yellow Springs Exempted School District Board Member, appointed by the YSESD Board;
- One representative from the Chamber of Commerce;
- One representative from Antioch College;
- One representative from the Yellow Springs Community Foundation;
- Four 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.

Kreeger then noted the potential functions of the DCIC, as follows:

1. Administer the Revolving Loan Fund, grant programs, and other assets
2. Market the CBE and promote Yellow Springs as a business location
3. Invest and/or fund new infrastructure projects
4. Provide assistance to advance the economic, community, and civic development of Yellow Springs
5. Fund residential and commercial development
6. Function as a land bank

Kreeger stated that the hope is to convene the proposed group in December. She iterated the need for a collaborative effort and joint strategic planning among these currently disparate entities to create more opportunity and assessment of impact. She stated that filing of the 501(C)(3) paperwork should happen as soon as possible so that the group can begin to operate.

Housh stated that while Council has initiated the DCIC, the momentum from this point forward is intended to be fully collaborative.

Draft Village Manager Search Timeline. Housh noted that the response to the RFQs had been somewhat limited, and stated that, after speaking with Bates and the Clerk, the process could be conducted internally. Housh noted that there are several areas in which the search would need outside support, including background and social media checks as well as graphic design for the position/community profile.

Housh stated his belief that the more control Council has over the process, the more likely it is that a diverse pool will be fully considered.

Council discussed the proposed process, and agreed that they would participate as they had indicated in a prior meeting. Housh agreed to re-send those assignments, and to initiate the process by refining the advertising document and contacting a local design provider.

Housh expressed confidence in the position statement.

The Clerk asked that MacQueen's suggestion that Hempfling remain on Council for an additional month be moved up to occur prior to the Open Seat Presentations.

Council discussed the suggestion briefly, and reached the conclusion that any viable candidate would be aware of their limitations and aware of how they need to be informed, and that there was no need to retain Hempfling past her stated date of resignation.

Open Council Seat Presentations from Candidates. Housh prefaced the presentations by clarifying an earlier statement which was mis-quoted in the YS News. Housh said categorically that he had not stated that he would preference a young candidate, but rather had stated that this was an opportunity to appoint someone to assure that the perspectives and interests of younger citizens are considered.

Each candidate presented, in the following order: Dan Reyes; Gerry Simms; Dino Pallotta; Kineta Sanford; Leo Brandon; Andrea Carr.

NEW BUSINESS

Brief Introduction of Resolution Establishing a Welcoming Community. MacQueen asked that this resolution be brought to the following meeting. She asked how the resolution should be titled and how to address some of the language contained in the draft. MacQueen advised against naming the Village a sanctuary village, and noted that she will continue work on the matter.

Bates pointed out that immigration status would not be brought up by the YS Police Department during a traffic stop.

Housh asked for information from the Solicitor regarding any potential legal exposure.

Council Evaluation of Direct Reports. Housh received agreement from Stokes that he will work with Housh on the direct report evaluations.

Revolving Loan Fund Proposal. Housh noted that the Village has received several requests for loans through the RLF, and asked whether, prior to the DCIC being established as the reviewing body, Council could temporarily act in that capacity.

Kreeger stated that she is committed to the RLF being used to engage members of the DCIC, and stated that it is important that enough money be retained to serve this purpose. She suggested either a cap on the total loans, or setting aside the funding amount for the DCIC.

Housh agreed to this caveat.

MacQueen suggested setting aside \$10,000.00, and this was generally agreed-upon.

MANAGER'S REPORT

Bates noted that she had been asked to explain a concern expressed at a previous meeting that inaccurate information had been presented regarding a taser incident on October 13, 2018.

Bates explained that there were, in fact, three activations of the taser. Two of these were attempts to subdue the suspect. The third was an arc test of the taser to make sure it was operating properly, as it seemingly had no effect in helping to subdue the person. This arc test also shows as a "trigger," or activation, on the Taser Company report. Further, a later examination of the person's back indicated no marks or abrasions, which would have been evident, had contact been made through the clothing.

Kreeger questioned the incident as a whole.

Bates responded that she had not been asked to review the incident as a whole but only to address the taser use, which, she stated, falls within the taser use guidelines mandated by Council.

Housh asked for a report on the scenario-based training scheduled for the Police Department.

Bates noted that she will be letting the leases for Village farmland again, and noted that minimal and organic pesticides when available be used will be stated in the lease agreements.

SOLICITOR'S REPORT

There was no Solicitor's report.

CLERK'S REPORT

There was no verbal Clerk Report.

BOARD AND COMMISSION REPORTS

Stokes NOMINATED Mark Ewald to the Energy Board. Hempfling SECONDED, and the MOTION PASSED 5-0 on a voice vote.

Hempfling reported that she had communicated Council’s request regarding commissions adding capacity rather than adding to staff workload to Energy Board, and they are considering this request.

MacQueen noted that the Housing Advisory Board will be ready to present a year-end report and goals to Council at their next meeting.

MacQueen asked that Council expedite increasing the makeup of PC members, since they are one person short presently.

Kreeger reported that the ESC is working on a SWOT analysis for the CBE land.

ACC notes included near completion of the Jungle Mural, with a ribbon cutting at the Emporium and VIDA award presentation set for December 12 at 5pm. Kreeger noted upcoming banners featuring notable women in Yellow Springs history, which is a High School PBL project.

FUTURE AGENDA ITEMS

- 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

Resolution re: Welcoming Community Active Transportation Plan

Draft Village Manager Search Brochure

Council Direct Report Evaluation Process
- Dec. 17:

Second Reading and Public Hearing of Ordinance 2018-50 Approving the 2019 Budget for the Village of Yellow Springs and Declaring an Emergency

Second Reading and Public Hearing of Ordinance 2018-51 Approving Creation of a Fund for the Furtherance of Affordable Housing in the Village of Yellow Springs

Emergency Reading of Ordinance 2018-52 Approving a Supplemental Appropriation for the Third Quarter of 2018

Reading of Resolution 2018-42 Adjusting Village Employee Wage Scales

Consideration of Planning Commission Recommendation re: PUD Proposal

Council End-of Year Review

Council’s 2019 Draft Goals

Housing Advisory Board End-of-Year Review
- Jan. 7:

First Reading of Ordinance 2019-01 Authorizing the Sale During Calendar Year 2018 of Municipally Owned Personal Property which Is Not Needed for Public Use, or Which is Obsolete or Unfit for the Use for which it was Acquired, by Internet Auction, Pursuant to Ohio Revised Code Section 721.15(D)

Transient Guest Lodging Discussion

Report on Scenario-Based Training

ESC Annual Report

ACC Annual report

EXECUTIVE SESSION

At 10:25pm, Kreeger MOVED to ENTER EXECUTIVE SESSION for the purpose of the evaluation of the qualifications of Council Candidates. Stokes SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

At 10:49pm Kreeger MOVED and MacQueen SECONDED a MOTION TO EXIT EXECUTIVE SESSION. The MOTION PASSED 5-0 ON A VOICE VOTE.

REGULAR SESSION, RESUMED

Housh thanked all candidates for their participation in the process.

Housh nominated Kineta Sanford for the Council Seat. Hempfling SECONDED, and the MOTION PASSED 5-0 on a ROLL CALL VOTE.

Housh noted Sanford’s commitment to engagement as a key factor in Council’s decision.

ADJOURNMENT

At 10:53pm, Kreeger MOVED and Housh SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 ON A VOICE VOTE.

Please note: These notes are not verbatim. A DVD copy of the meeting is available for viewing in the Clerk of Council’s office between 9am and 3pm Monday through Friday or any time via youtube link from the Village website:

Brian Housh, Council President

Attest: Judy Kintner, Clerk of Council