

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

In Council Chambers @ 6:00 P.M.

Monday, February 3, 2020

CALL TO ORDER

President of Council Brian Housh called the meeting to order at 6:00pm.

ROLL CALL

Present were President Housh, Vice President Marianne MacQueen and Council members Lisa Kreeger, Kevin Stokes and Laura Curliss.

EXECUTIVE SESSION

At 6:00pm, MacQueen MOVED and Kreeger SECONDED a MOTION TO ENTER INTO EXECUTIVE SESSION for the Purpose of the Evaluation of a Village Employee.

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

At 6:58pm, Kreeger MOVED and Stokes SECONDED a MOTION TO EXIT EXECUTIVE SESSION. The MOTION PASSED 5-0 on a voice vote.

ANNOUNCEMENTS

Housh announced the following events: February 7: 10-Minute Play Fest; April 18: Opening Day for Trails.

Salmeron gave a debrief of the recently held Comprehensive Land Use Plan forum.

CONSENT AGENDA

1. Minutes of January 21, 2020 Regular Session

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

REVIEW OF AGENDA

There were no additions or changes made.

Housh noted the fact that Council will be trying to hold meetings to two hours, which will mean more strenuous adherence to time limits for both Council and citizen contributions to discussion.

PETITIONS/COMMUNICATIONS

MacQueen reviewed communications received as follows:

YS Pride Committee re: Thank You
Colin Altman re: MTFR Fast Facts for 2019
Emily Seibel re: Home, Inc. Tap Fee Waiver (2 documents)
Dino Pallotta re: Home, Inc. Tap Fee Waiver
Kat Walter re: Repair Café
Andree Bognar re: Senior Housing
Judy Hempfling re: Request to Council to Pass Resolution Opposing Jail Tax

PUBLIC HEARINGS/LEGISLATION

Emergency Reading of Ordinance 2020-01: Authorizing the Annual Transfer of Funds and Declaring an Emergency. MacQueen MOVED and Stokes SECONDED A MOTION TO APPROVE.

Harris noted that this is a housekeeping ordinance which moves the funds that Council has budgeted into the lines needed for their expenditure.

Housh OPENED THE PUBLIC HEARING.

There being no comment, Housh CLOSED THE PUBLIC HEARING AND CALLED THE VOTE. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

NOTE: at a later point in the meeting, Harris informed the Clerk that Ordinance 2020-01 contained an incorrect amount in the Electric Fund Transfers. She provided a corrected copy. The Clerk asked Council to vote again on the corrected ordinance to assure there would be no issue for the auditor.

The Clerk read the ordinance in by title.

MacQueen MOVED and Kreeger SECONDED A MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING. There being no public comment, Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE, and the MOTION PASSED 5-0.

Reading of Resolution 2020-07: Approving Council Rules and Procedures. MacQueen MOVED and Stokes SECONDED A MOTION TO APPROVE.

The Clerk explained the changes made to the document. One change was to the “Citizen Comment” section, making this the one place during the meeting during which citizen comment would be heard unless an agenda item specifically noted that citizen comment would be sought.

The Clerk eliminated the “no clapping” section of the document, and added the caveat that all speakers indicate their affiliation with the Village. The Clerk also added that if a citizen brings up a complaint regarding a staff member during a meeting that the issue be referred to that employee’s supervisor without further comment.

Council discussed the proposed changes, spending the bulk of the time regarding Citizen Comment changes.

Judith Hempfling expressed disagreement with the change to the Citizen Comments as having a chilling effect on discourse.

Megan Bachman lauded Council for listening to the concerns raised regarding the “no clapping” caveat.

MacQueen MOVED TO REMOVE THE AMENDMENTS TO CITIZEN COMMENTS AND TO KEEP THE OTHER CHANGES AS PROVIDED IN EXHIBIT A. Kreeger SECONDED, and the MOTION TO PASS THE RESOLUTION WITH THE AMENDED EXHIBIT A PASSED 5-0 on a VOICE VOTE.

SPECIAL REPORTS

Tecumseh Land Trust End of Year Report. Krista Magaw, Executive Director, presented An update on the activities of the Tecumseh Land Trust (TLT), noting that The Jacoby Partnership is a Regional Conservation Partnership Program through the Natural Resource Conservation Service.

Magaw stated that NRCS staff and legislative supporters know that America faces a water quality crisis, and that farm run-off is a contributing cause. The program was designed to incentivize best conservation practices for water quality in agriculture. The idea behind the program is that local partners will become the catalyst to encourage and improve agricultural practices. TLT’s project is in the Mississippi Basin area of concern.

Magaw stressed that outreach and education are TLT’s primary activities at present.

Magaw noted a number of partnerships with regional entities, including the 7th grade McKinney students’ “Stream Team”, working to develop a map of pollution levels in area streams.

Magaw responded to a question from Housh, stating that TLT is not anticipating any purchase of property on behalf of the Village’s goal of preservation of the watershed in 2020.

Housh noted that the High School’s submission of the Midwest Region Sustainability Conference has been accepted for presentation.

School Facilities Report. Terri Holden, Yellow Springs School Superintendent, updated Council regarding the current school facilities plan.

Holden described the report as an extension of the work started by the Facilities Task Force. The TF has been meeting since March, she stated, noting that their charge was to assess all of the information provided to date and to come up with a priorities list.

Holden went through the list, noting priority levels, and noting that the list was created with a value set in mind (affordability; carbon footprint). The list was initially shared on December 19th, and was not inclusive of cost.

Salmeron addressed one of the areas of concern noted, asking whether the TF had reached out to the Village with regard to an item noted for both schools as “The electric power is insufficient for today’s use and is unreliable”.

Holden stated that she did not know whether the issue lies with the building or with the power coming to the building.

Salmeron promised Village assistance in determining this.

Housh noted the importance of the YSDC in collaboration among various Village entities.

CITIZEN CONCERNS

As a member of “Greene County Citizens Against the “Giant Jail Tax”, Judith Hempfling expressed her opposition to the upcoming ballot initiative. She asked Council for a letter or a resolution to that effect. This was placed on the agenda for the February 18th meeting.

OLD BUSINESS

2020 Draft Village Goals. Housh walked Council through the draft goals. He noted the intent to intersect Council’s priorities with Village staff, and tasked Salmeron with assuring that Council’s goals and Village staff capacity were accurately reflected.

Curliss noted that she had submitted a revised draft which was made available at the table.

Kreeger remarked upon the inclusion of economic development in the affordability goal, noting that it is important that that goal be multi-faceted and not focused solely on affordable housing.

Curliss asked that affirmative marketing be used as one strategy to build diversity.

Salmeron noted a drop in income tax revenue, commenting that he will be tracking causes of this decrease.

The housing goal was discussed at some length.

Kreeger commented upon the need for a “Phase Two” of the Utility Round Up which would educate homeowners regarding cost saving strategies so that utility use could be reduced and therefore made more affordable. She noted that this phase had been a key part of the plan at the inception of the Utility Round Up program.

There was agreement that this should be added as a goal.

Patti Bates commented that this could easily be added to the services being provided at the Repair Café, which is now being run by the Environmental Commission.

Housh asked for input from Home, Inc. with regard to the rehab/improvement issue.

Curliss objecting to the specificity of the goal on the grounds that it reads as if Village government are developers. She opined that this is not a typical or appropriate role for government, and suggested that the YSDC is the appropriate body for this task.

Curliss asked that the goal of “resolve zoning issues to promote Community Land Trust” be made specific, stating that she did not believe the goal accurately reflects the intent behind it.

Housh responded that he believes the goals are clear that the Village will not be the developer, but that he will review the draft for clarity.

Environmental goals and infrastructure goals were discussed.

Curliss asked that infiltration goals be set so that overflows are significantly reduced.

Salmeron asserted that he would work to come up with realistic goals around I&I reduction.

Kreeger suggested putting water-related issues under one goal.

Housh stated that he would update the goals as a final version for passage on the 18th.

Harris brought back Ordinance 2020-01 at this point in the meeting, and the ordinance was re-voted-upon as written above in Legislation.

Council Board and Commission Assignments. Housh introduced the topic, asking whether Council members were in agreement with the assignments as suggested.

There was agreement on the part of Council to all suggested assignments.

NEW BUSINESS

Yellow Springs Home, Inc. Tap Fee Waiver Request. Salmeron laid out the financial implications of the request as follows:

The request for a Tap Fee Waiver from Home Inc., Salmeron stated, is a step in a different direction from what Village administration had expected from this project. Contrary to the initial proposal made in 2018 in which Home Inc., during their presentation to Council, stated that \$56,000 had been set aside for investment into local infrastructure, an economic benefit to the Village, Home Inc. is now requesting a financial contribution. This contribution would derive from what are currently financially stressed municipal enterprises, and would total at least \$40,500.

Salmeron stated his position, based on his fiduciary duty as Village Manager to the municipal enterprises, that the enterprises cannot sustain forgoing Tap Fee revenue while also incurring the expense (actual cost of meters, equipment, materials and labor) of providing access to those services.

On an operating basis, for 2019, the Sewer Enterprise was profitable with a net income of \$99,383.17. The Water Enterprise ran at a loss totaling \$9,999.63.

Operations for Sewer, Salmeron stated, must be considered in the context of Capital Expenses, which are expenses that the enterprise cannot afford from operations which must then be covered from Reserves.

In 2019, the Sewer Enterprise booked \$258,437.12 in Capital Expense, which are expenses covered from the Reserves and which far outpaced the profitability of the Enterprise.

The Water Enterprise booked \$111,201.08 in Capital Expense, also an expense that has to be covered from Reserves.

Salmeron then provided a breakdown of Tap Fees as requested by Home, Inc.:

1. Electric: meters, \$13,750
 2. Water:
 - a. 6-inch fire tap, \$13,000
 - b. 3-inch water tap with meter, \$13,000
 3. Sewer tap fee - \$750
- Subtotal: \$40,500.00

Aid to Construction: Transformer and wire for 600AMP service line, \$20,000. The latter expense is not part of Tap Fees and it is not subject to waiver. The total ask is \$60,500.

Emily Seibel, Executive Director of Home, Inc. introduced Kevin McGruder, Treasurer for the Home, Inc. board.

McGruder asserted that the development would bring 10.5 million dollars in economic development, and 50 million dollars in real estate taxes annually. McGruder stated that while preference cannot be given to Yellow Springs residents, “it is expected that the majority of the applicants would be Yellow Springs residents.” He stated that this would open up housing in the Village as those seniors moved out of their homes and into the apartments.

McGruder cited a long history of governmental assistance for development of low and moderate income housing, stating that Home, Inc. is the only CDC in the Village able to produce these developments.

John Haws stated that St. Marys is also a non-profit entity. He asked for clarification regarding the total figure of \$60,500. He stated that the cost of the electrical hook up was something that “in other communities is normally absorbed by the city as an aid to construction or that the utility company absorbs”.

Haws argued that the project “will eliminate runoff” stating that the project is required to construct detention basins capable of holding rainwater for one hour.

Haws referenced Village goals of housing provision and commented that the Village would gain 50 electric customers.

Johnnie Burns explained “aid to construction”.

Salmeron commented that Home, Inc. had combined tap fees and aid to construction in one document, which is why he had calculated both into his total number of \$60,500.

Burns clarified that currently all storm water flows from the site down a ditch to the Antioch golf course.

Burns responded to a question from Stokes, stating that he has “disagreed from day one” that a 600 amp 3-phase will be sufficient to power the building. He commented that if the sizing has to be increased, the cost for the tap ins increases.

Burns commented that if the aid to construction increases above \$56,000, his understanding from a Home, Inc. document is that the developer will contribute 15% more and that after that point the Village is considered responsible.

Salmeron read the statement regarding the 15% limit in increase from the document provided by Home, Inc.

Salmeron emphasized that his position opposing the waivers is based in his fiduciary responsibility to the Village as a whole, and is not a statement on the viability of the presented project.

MacQueen asked that the waivers be worked out by some means. She lauded the project and stated that it has “risen to the top”. She characterized not funding the project as indicating to seniors that they do not matter.

Stokes suggested that Home, Inc. not be responsible for the \$27,000 to reline the sewer so that they have that amount to put towards the tap fees.

Patti Bates stated her agreement for affordable senior housing, but argued that the Village cannot afford to give away what are items which represent real cost. This amount in tap fees represents two blocks of sewer relining, Bates stated. Finally, Bates stated, private utilities give aid to construction, while municipal utilities do not.

Seibel responded to a query from Housh, stating that the application is due February 15th.

Housh asked for a hard number of the target amount.

Haws stated that OFA is requiring 8% of the “hard cost” which is about \$680,000. Haws then stated that “our company alone, which is part of Neighbor Works America, is putting in over \$400,000.”

Haws then stated that the ask is 8% of 7.5 million.

Housh commented that the assumption that the Village would have to pay anything over 15% above \$56,000 is unclear and he is “not buying it.”

If we can get to the amount, he stated, I want to get there tonight.

Seibel stated that the \$40,500 has to address direct costs.

Stokes stated that Council should anticipate having to contribute to housing if it is a goal.

Kreeger stated that the decision is a difficult one for her, having voted in favor of the project. She objected to the characterization of her as uncaring if she votes against the waivers. Her passion is for careful and planned financial management, she commented, and hours were spent in the budget process and then on a budgeting retreat. Had Council known about the ask at that point, it could have been budgeted for. It is important for Home, Inc, she commented, but I do not think we can afford this.

Curliss objected to the size of the project, stating that she has objected to the project from the start. The source of funding is telling you how big the project has to be, she commented. She indicated that funding agencies make clear the amount of contribution they want to see to provide funding, implying that this information should have been made available to Council much sooner.

Finally, Curliss commented, “I’m not sure we should be approving a popcorn stand” until the significant I&I issues are resolved. The sewer can’t handle it.

Curliss stated that she is displeased with the last minute nature of the request, noting that “Council has already fully funded Home, Inc. for a two-year period.”

Housh stated that Council’s number one goal is affordability, and just below that is housing. He stated that he has to balance opportunity against the problematic timing of the request.

Housh suggested the use of Lodging Tax income to fund the request.

Communities all over the nation are going out of their way to help solve housing issues, he stated, and we should be able to cover this.

Kreeger stated that there are community members concerned with this coming out of the General Fund, and asked for more information regarding how Lodging Tax income could be used.

Harris stated her concern that Lodging Tax is now located in the General Fund, and expressed that the General Fund “is not supposed to be used to support the Enterprise funds.” You would have to loan the money from the General Fund to the Enterprise Fund and then pay it back.

Haws commented that the contribution “has to come from a municipality, a state agency or a federal agency. It has to come from you into the project.”

Salmeron stated that the funds would be coming from the municipality.

Haws responded that the money they receive now, as an example, “has to come from Neighbor Works”.

Haws stated that the money has to go directly into the project, “and the project is a taxable entity.”

Salmeron clarified, stating, “so this is a for-profit entity.” He asked whether local government is able to give money to a for-profit entity.

Seibel suggested that the Village could make funding contingent upon the project receiving the tax credit financing. She opined that funding from the municipality must be permissible, given that local government contribution was one of the funding priorities.

Housh MOVED TO COMMIT \$40,500, invested in the (Yellow Springs Senior Apartments) project, from the Lodging Tax monies. If those monies cannot be used we find some other way to finance the project. This commitment is contingent upon the project receiving funding to proceed. MacQueen SECONDED, and the MOTION PASSED 3-2, with Kreeger and Curliss voting against.

The Clerk suggested that a resolution detailing the conditions for release of funds to the project be brought to Council’s next meeting. This was agreed upon.

MANAGER’S REPORT

Salmeron provided the following information:

- The VYS Electric Dept. will be changing out poles along Dayton Street this month.
- AT&T is raising maintenance holes along RT 68 and Dayton Street.
- Streets and Parks team are clearing the area behind the Skate Park.
- New “WayFinding” Site has now been installed at JBC.
- Ellis Pond Project: Bridge assessment and clearing of site began on January 21.
- o Pedestrian bridge has been installed at Ellis Pond.
- o Working on-going on Equipment Bridge
- Storm Sewer at Dayton St and N Walnut: the laid up limestone storm sewer has collapsed, creating a sinkhole in the area behind the laundry mat, and will require rerouting of the line as commercial properties have been allowed to build directly above this outdated storm sewer line.
- o Initial estimate of rerouting the sewer is estimated at \$336K, this expense has not been budgeted.

Vernay and TRC were on site on January 29th and 30th for boring sampling around the existing utilities to test for contaminants. This is done at the request of the Village administration with added support from the US EPA. The EPA will be on-site on February 4th and 5th to monitor work done on the Vernay Site.

VYS and EPA held a meeting on January 29th to make progress tasks regarding remediation of the Vernay property. To date there is no final conclusion on the memos regarding contamination at the unnamed creek and gas intrusion. EPA is still evaluating the memos submitted by TRC/Vernay.

Village administration will meet with the EPA Project Manager on February 5th and February 27th.

- On January 22, Salmeron led a community conversation, sponsored by the McKee Association on key village infrastructure projects, to discuss remediation plans for the former Vernay

Laboratories property, and review of the Yellow Springs Comprehensive Land Use Plan. The event was well attended, he reported, and significant discussion was held regarding Village operations and plans for 2020.

- The Village is in receipt of a \$15K Grant from the Greene County Municipal Grant program.
- On Jan 25th at approximately 1810hrs a motorist crashed into a power pole on Corry Street. Significant Village power was lost for approximately 2 hours with power fully restored at 0445am. The driver was cited for multiple violations including no OL and driving while intoxicated. The Village is pursuing recovery of over \$28K in damages.
- Two new policing policies have been released, bringing the total to date to 76 updated policies.
- Held Domestic Violence Update, Self Defense Training at MCSO Jan 27th-28th (all sworn officers).

The Village held an Open House for the Comprehensive Land Use Plan on January 23rd, at Mills Lawn Auditorium. The event was well attended by over 150 participants.

The Village has released new documents based on the feedback received from residents. Since the public kick-off meeting on September 25th there have been efforts to engage the community through focus group interviews, public surveys, on-line mapping tools and feedback from village boards and staff. These are the general needs and priorities gleaned from the input received so far, from over 300 stakeholders:

Future Land Use Concepts – In thinking about the future of Yellow Springs, it is important to reflect on the existing built environment and its constraints. This section features draft maps and vision concepts for residents to consider as we think about future development opportunities and limitations.

Area Vision Concepts - Area vision concepts are design exercises used to explore and vet ideas about specific development sites, and the areas around them. Various concept sketches are developed with the goal of exploring site constraints, solving current issues, and creating thoughtful connections to adjacent property and neighborhoods.

Salmeron then asked that citizens continue to visit the website to provide feedback.

CLERK’S REPORT

There was no Clerk Report.

FUTURE AGENDA ITEMS*

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| Feb. 18: | End of Year Reports: Public Works; Library Commission and HRC
End of Year Reports: Planning Commission
Discussion Regarding Proposed Jail Tax
Discussion Regarding Sale of Village Owned Renewable Energy Credits |
| March 2: | End of Year Reports: ACC, Library Commission and ESC
Police Department and Public Works End of Year Report
Staff Recommendation Regarding a Storm Water Fee Line
Proposed Amendments to Noise Ordinances in General Offenses Code |
| March 16: | End of Year Reports: EC; HRC
Treasurer’s Report
Home, Inc. 2019 Year in Review
Executive Session 6pm |
| April 6: | Executive Session 5-7pm For the Purpose of Conducting Interviews for the
Position of Village Solicitor |
| April 20: | Finance Department Quarterly Report
Supplemental Ordinance
Resolution Approving a Contract with XXX for Services as Village Solicitor |

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

ADJOURNMENT

At 9:30pm, MacQueen MOVED and Curliss 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