

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

**Virtual Meeting @ 7:00 P.M.**

**Tuesday, September 8, 2020**

**CALL TO ORDER**

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

**ROLL CALL**

Present via Zoom were President Housh and Council members Marianne MacQueen, Lisa Kreeger, Laura Curliss and Kevin Stokes. Also present via Zoom were Village Manager Josue Salmeron, Public Works Director Johnnie Burns, Zoning Administrator Denise Swinger, Chief Carlson, Sergeant Naomi Watson and Solicitor Breanne Parcels.

**ANNOUNCEMENTS**

Housh announced the Greene County Comprehensive Plan and Master Trails Plan is gathering feedback in front of Yellow Springs Station from 10-4 this week.

Housh gave a pitch for voting, providing information as to how to do this in the most effective manner. He noted that there is information at the Bryan Center, Tom's Market and the Library. Housh cautioned against using a provisional ballot.

Housh commented on safety concerns regarding lack of many younger people downtown taking the pandemic seriously.

Finally, Housh thanked Colleen Harris for her service to the Village and wished her well in her endeavors.

**CONSENT AGENDA (7:10)**

1. Minutes of August 17, 2020 Regular Session
2. Minutes of August 19, 2020 Special Meeting

MacQueen MOVED and Curliss SECONDED a MOTION TO APPROVE. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**REVIEW OF AGENDA**

There were no changes made.

**PETITIONS/COMMUNICATIONS**

The Clerk will receive and file the following:

Communications Received Late for August 18th Packet:

Luisa Bieri re: Response to Stokes/MacQueen Letter to Protestors  
Dawn Johnson re: Response to Stokes/MacQueen Letter to Protestors  
Linda Rudawski re: Response to Stokes/MacQueen Letter to Protestors  
Bomani Moyende re: Response to Stokes/MacQueen Letter to Protestors  
Shonda Sneed re: Response to Stokes/MacQueen Letter to Protestors  
Ezra/Gus Lydy re: Response to Stokes/MacQueen Letter to Protestors  
Nya Brevik re: Response to Stokes/MacQueen Letter to Protestors  
Yunus Brevik re: Response to Stokes/MacQueen Letter to Protestors  
Libby Flanagan re: Response to Stokes/MacQueen Letter to Protestors  
Karen McKee re: Response to Stokes/MacQueen Letter to Protestors  
Cathy Roma re: Response to Stokes/MacQueen Letter to Protestors  
Jen Boyer re: Response to Stokes/MacQueen Letter to Protestors  
Locksley Orr re: Response to Stokes/MacQueen Letter to Protestors  
Rebecca Kuder re: Response to Stokes/MacQueen Letter to Protestors  
Susanne Fogarty re: Response to Stokes/MacQueen Letter to Protestors  
Kevin Stokes re: Letter to Protestors  
Mitzie Miller re: National Wildlife Habitat Community Objections

Communications Received for September 8th Packet:

Brian Housh re: YS Recipient of Sustainable Community Award  
Bradley Martin re: Renergy Concerns  
Kineta Sanford/Emily Seibel re: Resilient Yellow Springs Coalition  
Laura Curliss re: Helicopters  
Brian Housh re: OML Press Release

MacQueen reviewed the communications received.

## **PUBLIC HEARINGS/LEGISLATION**

**Second Reading and Public Hearing of Ordinance 2020-15** Repealing Section 242.01 “Composition; Classification” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Section 242.01 “Composition; Classification”: (Community Outreach Specialist). MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Salmeron stated that he and the YSPD are excited to bring the recommendation to Council, noting that Randolph has proven invaluable in general, and even more decidedly since the challenge of COVID-19. He noted that the position started as a pilot project with the intention of moving the position to full time it proved successful. Salmeron noted that in her role as COS, Florence has contributed to an improvement of life for many in the Village.

Curliss commented that while she was not pleased with the non-classified status of the position, the importance of making the position full time is the most important aspect of the legislation.

Housh noted that the Village is already discussing the possibility of a part-time position to complement the COS position.

Housh OPENED THE PUBLIC HEARING. There being no comment, 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 2020-16** Decriminalizing Marijuana in the Village of Yellow Springs. Stokes MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

Parcels explained that while, under Home Rule power, the Village has the ability legally to reduce misdemeanor offenses, it cannot affect felony offenses. She noted that the YSPD and Mayor’s Court have effectively been decriminalizing marijuana offenses over the past 3 years through their policies and procedures.

Parcels noted that the ordinance permits a medical marijuana patient to carry more than 200 grams if they have a medical card.

Chief Carlson added that any operator of a motor vehicle remains responsible for unimpaired operation regardless of this ordinance. He noted that in response to Council request and public sentiment, YSPD citations for marijuana use have plummeted in the last four years from 60 in 2017 to zero in 2020.

MacQueen asked for a response to a “simple scenario”, and as a result learned that there is no simple scenario.

Chief Carlson stressed that his officers are not out to bust people for marijuana use, but “would you sit at the bench downtown with a martini?” He stated that he expects public responsibility.

Dino Pallotta asked what happens if the Greene County Sheriff’s office charges while in the Village.

Parcels stated that the Village can provide outreach and education to other agencies with jurisdiction within the Village, but cannot compel them to comply with local ordinances. They can charge under state statutes and likely will, she responded.

Curliss was assured that the 200 grams is dry weight.

Housh CLOSED THE PUBLIC HEARING AND CALLED THE VOTE. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**First Reading of Ordinance 2020-17** Amending the Zoning Code Map. Stokes MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Swinger explained that Max Crome, representing Iron Table Holdings, had made the request for a building in which his client wishes to have an office as well as three apartments. This is permitted in R-C, but is not permitted in B-1. In reviewing the request, Swinger noted that there are two other structures on that block that could be rezoned to create a more uniform zoning for the entire block.

Planning Commission did recommend the zoning change to Council at their meeting on August 11<sup>th</sup>, Swinger noted.

Megan Bachman, Yellow Springs News, asked whether the property would be used for long- or short-term rentals.

Swinger responded that the property was not requesting a Transient Guest Lodging status, and that the use would be long-term multi-family apartments.

Housh did not call the vote.

**Emergency Reading of Ordinance 2020-18** Amending Section 1060.06 Service Charges of; Chapter 1060-Storage and Collection of Garbage and Other Services; of Title Six-Other Public Services; of Part Ten-Streets, Utilities and Public Services of the Codified Ordinances of the Village of Yellow Springs, Ohio and Declaring an Emergency. Stokes MOVED and Curliss SECONDED a MOTION TO APPROVE.

Salmeron explained the changes to solid waste services as below:

- VYS has extended contract with Rumpke for additional two years
- Service cost increase of 3% on all service tiers for residential and commercial, including stickers and yard waste bags
- Reduced number of tiers for residential from **eight** to **three**
- **No Change to Recycling Program**
- Increased bulk pick up from one item per week to two items per week
- Propose an additional 2% increase (~\$5K in revenue) on rates to fund additional recycling programs for plastics not recycled through Rumpke. Overall increase is 5% for year one and 3% increase for year two

Salmeron proposed a 5% increase rather than a 3% increase, noting that the 3% solid waste rate will not fully cover administrative costs.

Housh expressed discomfort with considering a 5% increase as an emergency, and suggested that this come back if needed.

MacQueen expressed the difficulties Environmental Commission had encountered in trying to improve the Village recycling program, stating that a viable way to increase recycling is “daunting”. She opposed setting aside funds unless there was an identified project.

Salmeron noted that Spring Clean Up rates are “set by Council” and that he is not sure why this cost has not been passed along in years past. He stated that he can bring a proposal for this to a subsequent meeting. He noted that the solid waste fund is being subsidized by other municipal funds at this point.

Housh asked that two ideas be considered: that of an upcharge for recycling and that of a way to account for all costs associated with solid waste.

Housh OPENED THE PUBLIC HEARING. There being no comment, Housh CLOSED THE PUBLIC HEARING.

MacQueen MOVED to ACCEPT EXHIBIT “B” as the CORRECT RATE STRUCTURE. Stokes SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

Housh CALLED THE VOTE on the MOTION TO APPROVE. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

**Reading of Resolution 2020-37** Adopting a Resolution of Services to be Provided for Proposed Annexation of Approximately 33 Acres North of East Hyde Road and West of Spillan Road. Stokes MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Parcels cautioned that Miami Township will have to consider the annexation agreement as well, and recommended that Council table the resolution to avoid having to reconsider the resolution if the agreement is amended by Miami Township Trustees. She alluded to a possibility of their being unable to form a quorum.

Parcels clarified the quorum issue, stating that one Trustee would have to recuse, and another has recently been unable to attend, leaving a lack of quorum.

Parcels commented that if changes were made to the annexation agreement, that Council would then have to approve those changes.

Salmeron noted that the Trustees have seen the annexation agreement. He stated his confidence in the agreement, and stressed that the resolution would not need to come back, but that the agreement would. He stressed that the “Exhibit C” is not binding, so it’s being late should not pose a problem, given that it is non-binding.

Salmeron stressed that “Council can make its intentions clear to the Township Trustees by moving this forward,” and cannot control other factors such as the quorum. He advised moving forward with the resolution.

Curliss objected to the development agreement, particularly page one in which the Village “agrees to rezone the property”.

Parcels responded that the development agreement is non-binding, and must go before Planning Commission, but that the developer is stating its intent to provide duplex housing on a portion of the property. She commented that anything that is annexed comes in as R-A.

Curliss objected again to the language, which seems to make a promise to rezone.

Stokes asked Burns if capacity exists on the part of the Village to provide services.

Burns responded that both water and sewer are readily available and provided to this area without any strain on infrastructure. Regarding power, he stated that “this could be accommodated”. Regarding road services, “it will not add demand soon, and can be managed.”

Megan Bachman, Yellow Springs News, commented that “this is really fast” and asked how it fits with Village goals and with the as-yet unapproved Comprehensive Land Use Plan update.

Salmeron noted that this is the first in a series of steps that will need to occur. The first step is the commitment to provide services and, Salmeron stated, the Village is compelled by court order to provide water and sewer to the area.

The annexation, Salmeron stated, will come back to Council for an annexation decision, and from there, if the annexation is approved, it will have to go to Planning Commission (PC) for rezoning, and after that is decided PC, has to review the site plan. There are many opportunities for the public to be involved at each of these steps, Salmeron stressed.

Regarding how long the conversation has been going on regarding the possible annexation, Salmeron responded that it has been about 30 days.

The developer, George Oberer, commented that the Village will supply utility services to the site regardless of whether the site is annexed or not, but that annexation will allow for smaller, lower cost homes to be built on the village lots. He noted that the township land is already zoned appropriately for their purposes, and will contain larger homes on larger lots.

Kreeger received confirmation that annexation does not contain a contingency that the development is assured.

MacQueen clarified that there are two parcels; one which can be brought into the Village and the other in the Township. She advocated for the project, citing the benefit of housing diversity.

Housh commented on the benefit to Village utilities and possibilities for innovative approaches.

Housh commented his concern regarding the development agreement.

Salmeron responded again that the development agreement is not a final product.

Curliss commented that she recalled that the court case was only about water taps.

Curliss advocated for tabling the resolution.

Parcels stated that it makes sense to table the matter if the Village has more questions regarding the annexation agreement.

Parcels clarified that Council is not voting upon the development agreement.

Curliss asked that it be removed from the resolution.

Kreeger MOVED to TABLE THE RESOLUTION UNTIL THE TOWNSHIP ATTENDS TO ITS DETAILS. Curliss SECONDED.

Parcels commented that if the Township makes changes to the agreement, Council will have to meet again and amend their agreement as well.

Housh expressed discomfort with the vague nature of the motion to table, preferring something not dependent upon action of the Trustees.

Stokes asked for a clearer motion.

MacQueen expressed dismay at the potentially poor optics that the Village is “anti-development”.

The Clerk called the vote on the motion, and the MOTION TO TABLE PASSED 3-2, with Housh and MacQueen voting against.

The resolution will return to the September 21 meeting.

Housh requested that the matter be more clearly laid out and explained at that meeting, and also noted that this vote is not an indication that the Village is anti-development.

**Reading of Resolution 2020-38** Accepting Amounts and Rates as Determined by the Budget Commission and Authorizing the Necessary Tax Levies and Certifying them to the County Auditor. Curliss MOVED and MacQueen SECONDED a MOTION TO APPROVE.

The Clerk noted that this is a housekeeping measure approving the preliminary 2021 budget to approve that the tax rates are appropriate to the expenditures.

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

**Reading of Resolution 2020-39** Authorizing the Village Manager to Submit a FEMA Grant Application. Kreeger MOVED and Stokes SECONDED a MOTION TO APPROVE.

Burns stated that the Village is pursuing a grant to increase electric capacity within the Village so that load can be transferred to another circuit if one of the circuits goes down. This is approximately a two million dollar undertaking to complete the electrical loop.

Curliss asked about the size of the electrical poles, and rendered objection to the increase in pole height.

Burns stated that this is a necessity to maintain safe clearances between lines. He noted that these lines are “the backbone of the Village”, and that the FEMA grant will not cover undergrounding, which is often impossible in the Village due to proximity of limestone.

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

## **CITIZEN CONCERNS**

Ursa Northstar read in a portion of a letter to Council, and stated that she will continue the letter at the following meeting.

## **SPECIAL REPORTS**

There were no Special Reports.

## **OLD BUSINESS**

**Update on Meaningful Action re: Anti-Racism and Justice.** Housh updated Council as to current actions and noted creation of a SharePoint site for documents. Housh stressed that other groups and “champions” are needed to help action ideas coming out of the JSCC.

Salmeron shared that the Village is working to provide data modeling regarding policing contacts. He noted implicit bias training for all Village team members, including Council, which is being set up currently.

Kreeger commented that there is a need to interpret the available data and to receive neutral follow up. She stated that she will work on this aspect of the work.

Housh commented that “we are still figuring out what it means to address racism as a public health crisis”. We need a process to move these ideas forward, Housh stated, and that is what the JSCC is all about.

**Update Regarding Village Charter Amendment Ballot Issue.** Parcels informed those present that the Greene County Board of Elections would not make a decision until September 15<sup>th</sup>. Council

heard from outside counsel and got an idea of the strength of a lawsuit and a cost range at their Special Meeting on August 19th.

Housh stated that a decision on this will be made in the future, and that tax payer dollars will not be spent.

**Finance Committee Recommendations re: CARES Act Funds Discussion.** Salmeron presented a summary of funds received and plans made based upon the distributions, as below.

- Funds received from Cares Act Funds = \$195,326.33
    - Initial award was \$130,217.54
    - Received an additional award of \$65,108.79
  - VYS was awarded \$12k from the Ohio Office of Criminal Justice Services for COVID-19 related services.
  - To date, COVID-19 Non Personnel Expenses = \$53,634.71
  - To date, COVID-19 Personnel Expenses = \$103,375.00
    - Personnel Expenses that cannot be covered elsewhere = \$21,299.85
- Use funds to cover the additional personnel from Pool Operations COVID-19 related.

Projects moving forward:

- Focus on high and long-term impact for all stakeholders.
- Recommendations:
  - Upgrade HVAC systems for John Bryan Center, Train Station and Library - +\$16,000.00
  - Wireless Mesh Total project estimate cost \$65-\$70K
    - VYS to contribute +\$30,000.00
    - High impact, helps build business, community and infrastructure resiliency.
  - School Support at JBC - \$10,000.00 (added \$5,000.00 since last report)
    - High impact, urgent need to provide safe space for school children.
    - 20 students Capacity
  - Ongoing support (hand sanitizer, signs, etc.) - \$20,000.00

**Manager's Update on Village Wastewater Treatment Services.** Salmeron stated that Renergy is no longer providing processing of bio-solids for the Village, as of June, 2020.

He noted that Renergy had lost a zoning challenge, and can no longer provide this service. Salmeron noted that this will impact the Village financially, as other methods of processing this waste are explored.

Salmeron noted two options: onsite sludge press with removal services to a landfill or local application to farm land is one, and outsourcing of the removal entirely is another.

Salmeron noted cost and monetary considerations for each of the options, finally recommending the option of leasing an on-site sludge press to deliver that waste to the Brown County landfill where it will be converted to energy. This option represents a cost increase to the Village of \$8-10 thousand dollars per year.

Council members asked questions regarding the options, finally agreeing with the Manager's recommendation.

## **NEW BUSINESS**

**Council Goals and Legislative Priorities/Processes Check-In.** Housh introduced the topic, noting the need for another Council retreat. He asked the Clerk to coordinate this.

Housh noted the "Stop-Start-Continue" model as a format he would like to use to address a renewed look at Village Goals. He commented that there has been some duplicative work, which should be looked at for improving efficiency.

Housh stated that the work session should include an appreciation for the difficulties faced by Village Team members during this pandemic and a positive and responsive model for moving forward "for the long haul".

This will be a half-day session.

Stokes asked that another look be taken at Boards and Commissions and at Curliss's proposal regarding a committee structure.

Kreeger stressed the need to incorporate budget work into the renewed look at goals.

**Environmental Commission Recommendations: Apartment Recycling and Naturalized Landscaping as Defined in General Offenses Code.** MacQueen explained the two proposals, stating that mandating apartment recycling is the first, and the second is to suggest that definitions regarding “Managed Natural Landscape” be sent to either Council or the Environmental Commission.

Housh asked that Council weigh in on both proposals.

Council members agreed generally that the recycling ordinance be brought to Council.

Council agreed to send the recommendation regarding Naturalized Landscaping on to Council, and MacQueen stated that she will work with EC to send this recommendation to Swinger.

**MANAGER’S REPORT**

Salmeron reported on the following:

A meeting with US EPA was held on August 19, 2020 regarding the Vernay cleanup. The Village is still waiting for a proposal from TRC on soil removal based on the recent soil testing, and the updated 3D particle-tracking model is lacking information that has been requested. Efforts regarding the Vernay cleanup are ongoing.

Administration continues its communication strategy to inform residents of the latest COVID-19 developments and impact in our region. Strategy includes 1) Virtual Townhalls, 2) Weekly Leaders Call, 3) Improved Social Media.

Add new hand sanitizer stations through the Village area, bringing the total to 30 stations. New sites include the Gaunt Park baseball fields.

Continue marketing campaign for masks, hand sanitizer and physical distancing. New banner over Xenia Ave., markings on sidewalks for mask wearing, physical distancing and hand sanitizer stations.

- Swimming Pool closed August 30, 2020. A very successful season considering the circumstances.
- Tree Trimming - Arbor Care - starts Sept 21<sup>st</sup>

Salmeron noted that Florence Randolph and the PD packed all of the meals for delivery in the month of August, taking over for the school system for that month.

Salmeron noted ongoing work on identifying grant opportunities to improve infrastructure.

Salmeron stated that design engineering work is to begin this fall for the SRTS work.

Installation of the Rectangular Rapid Flashing Beacons (RRFBs) is complete. Additional road markings are planned to provide notice to motorists of the crosswalk. The Active Transportation Plan, as approved, recommended a curb extension and raised crosswalk to enhance pedestrian right of way, pedestrian safety and slow drivers. RRFBs are a cost effective to accomplish the safety improvement.

In response to a question from Housh, Salmeron stated that the Village is looking at tents where persons can gather in a safe manner for meetings and the like. This was discussed at some length.

**FUTURE AGENDA ITEMS\***

- Sept. 21:**       **Second Reading and Public Hearing of Ordinance 2020-17** Amending the Zoning Code Map
- First Reading of Ordinance 2020-19** Terminating a Conservation Easement for the Purpose of Allowing Tecumseh Land Trust to Engage in a Conservation Easement with the Property Owner
- Emergency Reading of Ordinance 2020-20** 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
- Resolution 2020-36** Authorizing the Village Solicitor to Take Legal Action Defending Village Charter Section 6 Voter Qualifications

**Resolution 2020-37** Adopting a Resolution of Services to be Provided for Proposed Annexation of Approximately 33 Acres North of East Hyde Road and West of Spillan Road

**Resolution 2020-40** Authorizing the Village Manager to Submit an EPA Grant Application

**Resolution 2020-41** Authorizing the Village Manager to Submit an OPWC Grant Application

Comprehensive Land Use Presentation: Aaron Sorrel

Update on Meaningful Action re: Anti-Racism and Justice

CARES Act Funds Update

Arts and Culture Commission Report on Mural Project

**Oct. 5:** **Second Reading and Public Hearing of Ordinance 2020-19** Terminating a Conservation Easement for the Purpose of Allowing Tecumseh Land Trust to Engage in a Conservation Easement with the Property Owner

**Ordinance 2020-XX NINE ORDINANCES** Approving Subdivision Regulations for the Village Zoning Code Regarding Stormwater Management

**Ordinance 2020-XX** Approving Proposed Text Amendments to the Village Zoning Code

**First Reading of Ordinance 2020-XX** Adoption of 2020 Comprehensive Land Use Plan

**Oct. 19:** **Second Reading and Public Hearing of Ordinance 2020-XX** Adoption of 2020 Comprehensive Land Use Plan

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

**ADJOURNMENT**

At 10:12pm, MacQueen MOVED and Stokes SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 on a voice vote.

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Brian Housh, Council President

Passed:

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Attest: Judy Kintner, Clerk of Council