Council for the Village of Yellow Springs
Regular Session Minutes

Virtual Meeting 7:00 P.M. **Monday, May 3, 2021**

CALL TO ORDER

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

ROLL CALL

Present via Zoom were President Housh, and Council members Marianne MacQueen, Kevin Stokes, Lisa Kreeger, and Laura Curliss. Also present via Zoom were Village Manager Josue Salmeron and Solicitor Breanne Parcels.

EXECUTIVE SESSION (6:00)

Curliss MOVED TO ENTER EXECUTIVE SESSION for the purpose of discussing pending litigation, pursuant to R.C. 121.22(G)(3) to confer with the Village Solicitor regarding pending litigation before the Ohio Power Siting Board. Such discussion will be CONFIDENTIAL to preserve attorney-client privilege unless waived by a majority of vote of Council. MacQueen SECONDED, and the MOTION PASSED 5-0 ON A ROLL CALL VOTE.

At 6:42pm, Curliss MOVED and Stokes SECONDED a MOTION TO EXIT EXECUTIVE SESSION. The MOTION PASSED 5-0 ON A VOICE VOTE.

ANNOUNCEMENTS

Salmeron announced that the Clerk has received formal notice that the Greene County Board of Commissioners has granted the annexation petition requested by the Oberer Communities development group. He referenced a timeline included in the packet which covers next steps for the proposed development on the area at the south end of the village.

Curliss announced National Mental Health Month.

Housh announced May as National Bike Month.

Stokes noted upcoming Juneteenth celebration, with an in-depth planning meeting to occur Thursday.

Housh praised the Coretta Scott King Center's Legacy Celebration and noted that the event has been recorded for those interested. He noted the theme of "Social Justice and Sisterhood".

Housh noted that YS Pride is set for the last Saturday in June, and invited all Council members to ride in the parade and/or to speak following the parade, which will take place again this year.

Housh thanked those who have been working on the Dog Park for their efforts.

Housh offered assistance to anyone interested in running for Council.

Housh remembered Charlotte Battino, a former Council member who recently passed away, and who was instrumental in forming the Yellow Springs "green belt", and who believed in "speak out and step up".

CONSENT AGENDA

1. Minutes of April 19, 2021 Regular Session

Stokes MOVED and Kreeger SECONDED a MOTION TO APPROVE the minutes as written. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

REVIEW OF AGENDA

Stokes asked to add the Oberer Development to the Manager's Report.

Housh noted that there has been a great deal of input regarding the DORA legislation. He stated that this may need a work session if the legislation remains on the agenda.

Curliss commented that the matter should receive a work session, as there are various perspectives on the matter.

MacQueen stated her likely opposition to the legislation.

Kreeger stated that there is not enough evidence that bar or restaurant owners are invested in the idea, and that a DORA normally relies upon street closures, which is not possible under the current configuration. She stated that she did not see reason to discuss the matter further, based upon the negative input received.

Stokes spoke in favor of a work session to fully vet the proposal.

Stokes stated that the issue is likely to be tabled, and that a work session or Town Hall should probably be scheduled.

Salmeron stated that he has reached out to the Chamber, and he will follow up with Alex Scott regarding a session with area businesses.

PETITIONS/COMMUNICATIONS

The Clerk will receive and file:

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Mark Davenport re: TGL Legislation
April Li re: TGL Legislation
Eric Clark re: Complaints about TGL Legislation Process
Judith Hempfling re: TGL Non-Filing Process Complaint and Suggestion
Lisa Kreeger re: Strong Towns Report and Request
Breanne Parcels re: Annexation Timeline
GCPH re: May is Mental Health Month
State of Ohio COVID 19 Update
Elise Burns re: Corrected Mayor's Court Report
Alex Scott, Chamber Director re: Taxation of Non-Owner Occupied TGLs
Kathryn Van der Heiden re: Opposition to DORA
Marianne MacQueen re: New York Times Article on New Redlining
Laura Curliss re: NYT Article with New Mask Advice
Laura Curliss re: Article on Ohio Ethics "Recusal Related to Property Matters"
Marcia Wallgren re: Objections to DORA
Caroline Qualls re: Objections to DORA
Will Cook re: Objections to DORA
Rebecca Kuder re: Objections to DORA
Chris Wyatt re: Objections to DORA
Pan Reich re: Objections to DORA

Leslie Lippert re: Objections to DORA
Joe Cook re: Objections to DORA
Jon Hudson re: Objections to DORA
Ellen Hoover re: Objections to DORA
Bette Kelley re: Objections to DORA
Rick Donahoe re: Objections to DORA
Donna Caslin re: Objections to DORA
Matt Raska re: TGLs and Zoning Issues
Ellis Jacobs re: TGL Legislation
Jessica Thomas re: TGL Tax
Liz Porter re: Opposition to DORA
Carol Cottom re: Opposition to DORA

MacQueen reviewed the materials received.

PUBLIC HEARINGS/LEGISLATION

Third Reading of Ordinance 2021-06 Repealing Chapter 882 "Lodging Excise Tax" of the Codified Ordinances of Yellow Springs, Ohio and Enacting New Chapter 882 "Lodging Excise Tax". Stokes MOVED to UNTABLE THE LEGISLATION. Kreeger SECONDED.

Housh commented that this legislation focuses on keeping potentially affordable single family homes from becoming TGLs. It does not, he said, have anything to do with persons seeking to earn additional income by renting out a room or rooms in their homes.

Swinger noted the changes recommended by Planning Commission.

Stokes asked whether it would be permissible to give current owners of non-operator occupied TGLs a break on the fees.

Parcels opined that the revision could be made, but asserted that it will only potentially affect eight establishments. She opined that this might well be considered a substantial change.

Swinger stated that this might affect three owners of TGLs.

Stokes asked that this be considered at a later point.

Curliss stated that the legislation is penalizing for all TGL owners, she stated that the fee should not be annual, and she opposed the Housing Mitigation Fee. Curliss opined that background checks might be prohibitive.

Kreeger stated her preference for background checks, though not annually. She expressed support for the fees as a reasonable way to limit TGL expansion.

Housh clarified that the legislation asks for background checks every three years, and that these can be done in town with relative ease.

MacQueen argued that these measures will not solve the affordable housing problem.

Kate Hamilton received clarification that a cap would be legally difficult to defend, and she argued that even if the Village is sued for implementing a cap, it would be the right thing to do to protect the character of the village.

Housh explained the interaction between this legislation and Ordinance 2021-08 as effectively capping non-operator occupied TGLs.

Keith Grizelek spoke against annual fees.

Thea Tremain spoke against the legislation, stating that eliminating TGLs would not resolve the local housing problem, and that the fees might force them to turn commercial.

April Li spoke as a non-operator occupied TGL owner. She gave reasons why she and her partner cannot now move to the village, but plan to move when they can, and the TGLs enable them to do this. She stated that the TGL taxes and property taxes will be prohibitive. She proposed that the taxes not be levied on those persons who currently own TGLs, who should be grandfathered in. She commented that it might constitute unfair competition.

Eric Clark stated his opposition to the legislation, relating tales of his recent guests and their need for housing. He argued that taxing the TGLs will not improve the housing crunch.

Jessica Thomas countered, stating that TGLs do in fact affect affordable housing, citing a recent Forbes article. She related that she knows people who have been evicted because their rentals have been turned into TGLs. She asked that the effect of burgeoning TGLs on schools be studied.

Reilly Dixon noted that there are four new TGL requests in the next Planning Commission meeting. He stated that there are 52 available TGLs (sic), which 'should be more than enough'. Dixon countered the argument made by those TGL owners stating that renting rooms makes living in Yellow Springs more affordable for them—but what about those of us who cannot afford to own homes here, he asked.

Housh noted that explanatory materials are available in the packet, and that Council is continuing to listen to citizen concerns.

Housh commented that a $100 fee annually is not significant, and noted that the important distinction for non-operator occupied TGLs is that a house is removed from the housing market. He commented that this is not going to resolve the housing crunch, but is a step in the right direction.

Housh CALLED THE MOTION. Stokes MOVED TO APPROVE ORDINANCE 2021-06. Kreeger SECONDED, and the MOTION PASSED 4-1 ON A ROLL CALL VOTE, with Curliss voting against.

Second Reading and Public Hearing of Ordinance 2021-07 Dedicating a Revenue Source from Affordable Housing Mitigation Fees for the Fund Established for the Furtherance of Affordable Housing in the Village of Yellow Springs. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Salmeron noted that this legislation provides a mechanism to fund an Affordable Housing Fund, which can include incentivizing grants, acquisition, waivers, etc. He noted other communities with similar funds. Salmeron noted that the fees are based upon actual administrative costs.

Housh noted that if Ordinance 2021-08 passes, it effectively caps TGLs, so that this fee is not in fact being seen as revenue generation, as Curliss had earlier alleged.

Housh OPENED A PUBLIC HEARING.

Salmeron clarified that only non-operator occupied TGLs would be subject to a Housing Mitigation Fee.

Curliss opined that the Village is moving closer to having a "Department of Affordable Housing". She stated that she wants to see a project-by-project ask for funds.

Kreeger stated a different perspective, saying that she sees nothing in the ordinance that eliminates a project-by-project ask, and sees no effort in fact to generate funds.

Housh added to Kreeger's position, noting that the Green Space Fund, which is quite similar, is not solely for the use of Tecumseh Land Trust, but for any "green space" endeavor approved by Council.

Housh Closed the PUBLIC HEARING AND CALLED THE VOTE. The MOTION PASSED 4-1 ON A ROLL CALL VOTE, with Curliss voting against.

Second Reading and Public Hearing of Ordinance 2021-08 Amending Section 1262.08 of the Codified Ordinances of the Village of Yellow Springs, Ohio with Respect to Transient Guest Lodging Special Requirements for Conditional Use Permits. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Swinger noted the additions requested by Council at their prior meeting. She explained that the one TGL per owner will limit TGL permits.

Housh explained that those operators with multiple TGLs currently will be grandfathered in, and that section "M", allows Council and Planning Commission the latitude to regularly review the situation and propose changes to the legislation as called for, in line with affordable housing policies and other data.

Megan Bachman received clarification as to the meaning of the legislation, which limits TGLs to one per owner or one per property.

Curliss opined that for non-operator occupied permits, the Zoning Administrator should also send a copy to the Greene County Auditor, stating that once it is non-operator occupied it should be differently taxed.

Curliss objected to use of the phrases "affordable housing" and "village values" as overly vague.

Curliss opined that language in section E. be added to require on off-street parking space "per two adult guests".

Reilly Dixon received information regarding the phrase "affordable housing concerns".

Parcels referenced this as a tool available to Planning Commission in their consideration of TGL requests. She noted otherwise available definitions of affordable housing.

Housh noted that the metrics used by PC are inexact.

MacQueen commented that not all persons renting space would want anyone living with them long-term. She opined that it will be more difficult to create more available rental stock than to pass TGL legislation.

Curliss asked whether the zoning code could simply be changed so that TGLs are no permitted in residential areas.

Parcels stated that this could be added to a list of considerations for PC.

Matthew Kirk asked whether the degree of affordability is being considered when a TGL request is being made.

Swinger stated that this has in fact been a consideration in the past.

Housh CLOSED THE PUBLIC HEARING after conclusion of comments.

Curliss MOVED TO AMEND SECTION A to add the words "the Zoning Administrator should also provide a copy of a non-owner occupied permit to the Greene County Auditor." Housh SECONDED, and the MOTION PASSED 4-1 ON A ROLL CALL VOTE, with MacQueen voting against.

Curliss MOVED TO AMEND SECTION E regarding parking requirements to add the words "per two adults permitted in the TGL" after the words "a minimum of one off-street parking space." Kreeger SECONDED, and the MOTION PASSED 4-1 ON A ROLL CALL VOTE, with MacQueen voting against.

Kreeger MOVED TO APPROVE THE ORDINANCE AS AMENDED. Stokes SECONDED, and the MOTION PASSED 5-1 ON A ROLL CALL VOTE.

First Reading of Ordinance 2021-09 Creating a Designated Outdoor Refreshment Area in the Village. Stokes MOVED. There was NO SECOND.

Reading of Resolution 2021-16 Authorizing the Village Manager to Enter into the Sale of Renewable Energy Credits. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Salmeron provided a power point on the topic, reviewing the source of the RECs and the current market for those if sold. Salmeron noted that in 2020, Council voted to sell green RECs and purchase cheaper RECs. He recommended selling the RECs and not purchasing cheaper RECs so that the funds can be used to fund the Glen Helen power plant clean-up project as well as to fund Climate Actions.

MacQueen supported sale of the RECs to use the proceeds for increasing climate action and sustainability plans and not purchasing cheaper RECs for the appearance of "green".

Curliss stated her approval for the Glen Helen project which will follow, saying that this is good reason for selling the RECs and not purchasing cheaper RECs.

Housh CALLED THE VOTE on the RESOLUTION.

Stokes asked whether the Village Manager should be given the option for REC buy-back.

Salmeron explained that the only way to garner the amount needed for the power plant clean up and for climate action would be to sell the RECs without any buy-back option.

Housh clarified that the vote is on sale of RECs with no buy-back. THE MOTION PASSED 5-0 ON A ROLL CALL VOTE. Kreeger MOVED and Curliss SECONDED a MOTION TO APPROVE.

Reading of Resolution 2021-17 Approving $125,000 to the Glen Helen Association for a Clean Ohio Grant Request Match. Kreeger MOVED and Curliss SECONDED a MOTION TO APPROVE.

Nick Boutis, Glen Helen Director, spoke to the value of the site restoration project, noting that the Glen is attempting to secure a $500,000.00 grant from Clean Ohio, to which the Village contribution would provide the match.

Megan Bachman asked why Green Space Funds could not be used for this purpose.

Housh responded that $200,000.00 has been promised to Tecumseh Land Trust through 2022, and there is currently $210,000.00 in that fund. He added that the REC sale should cover the Glen Helen request as well as being able to contribute to climate action projects.

Matthew Kirk commented that the revenue from the RECs should be passed on to consumers either by lowering utility rates or providing a refund to customers, who have essentially funded the green RECs through their higher energy costs.

Salmeron shared the cost of Village electricity, which, at 11 cents per KWH is competitive.

Housh pointed out that the power plant poses risks for the Village water supply if not removed, pointing out that this is a direct benefit to all villagers.

Bethany Grey, Glen Helen Association President, thanked Council, and noted ongoing efforts to monitor and improve the site.

Housh CALLED THE VOTE, and the MOTION PASSED 5-1 ON A ROLL CALL VOTE.

Reading of Resolution 2021-18 Renaming the Ellis Bike Spur the "Dressler Connector". MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Housh noted that Greene County Parks and Trails will provide the signage.

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

CITIZEN CONCERNS

Village Resident Angie Hsu asked that Council consider legislation condemning Asian-American and Pacific Islander Hate in support of AAPI Awareness month.

Housh asked that the resolution come to the next agenda.

Megan Bachman commented that because villagers are paying the higher cost for green energy, the revenue from RECs should go back to customers "rather than to other projects." She commented further, thanking the Village team for putting benches back in Beatty Hughes Park. Finally, she asked for a timeline for when meetings will resume in person, and suggested using the gym.

SPECIAL REPORTS

OLD BUSINESS

Climate and Sustainability Actions Plans Discussion. MacQueen emphasized the crisis at hand related to climate change, and asserted that the Village would benefit from a coordinator who can pull together some of the pieces of action already in place in town. She stressed that the position needs to be paid, and this person would work with the Environmental Commission in creating goals.

Council discussed the nature of the position, with MacQueen asserting that the position would need to be at least a half-time position.

Curliss expressed some hesitation regarding a paid position.

Kreeger suggested co-funding from each of the entities.

MacQueen responded that the momentum needs to get started somehow, and noted that the person could look at efficiencies within Village government, using inflow and infiltration as an example.

Stokes suggested a Miller Fellow.

MacQueen responded that a Miller Fellow might be a good support person.

MacQueen will bring the idea back as a formal proposal.

NEW BUSINESS

Actions in Support of Inclusive Yellow Springs. Stokes referenced a letter to Council from the Inclusive and Resilient Yellow Springs Project with three action suggestions, as follows:

- ***Send a letter*** to the Greene County Commissioners asking that they join Montgomery County in providing funds for rental and utility assistance for those impacted economically by COVID-19

- ***Set aside funds*** from the recently enacted Covid Relief Act to extend financial support to struggling renters in Yellow Springs, extending the excellent program administered by Florence Randolph and funded by the YS Community Foundation and Miami Township initially

- ***Set aside*** funds from the recently exacted Covid Relief Act, if feasible, for the newly established Fund for the Furtherance of Affordable Housing in the Village of Yellow Springs as a step towards removing long-term local affordability barriers

Stokes presented the three "asks" for Council consideration.

Housh stated that the letter could be written for the next packet, and asked Stokes to provide a draft for the next meeting.

MacQueen spoke for a time regarding zoning as a means of exclusivity, opining that the zoning code be amended to eliminate Residence A, among other changes.

MANAGER'S REPORT

Salmeron presented information as follows:

- Bike Share program:
  The Village has been approached by a citizen for a joint development of a community bike share program. Proposal is to jointly build a VYS network of shared bikes. Initial proposal is for 20 bikes, 35 docking stations and all coordinated through a platform, similar to Dayton's bike share program.

- Working on a grant proposal of Ohio OPWC to replace outdated galvanized pipes in select areas of town. Will bring Resolution to Council for a vote at 2nd meeting of May.

- New Job Postings: Recruiting for Mayor's Court Clerk, PT Utility Clerk and Various Pool positions (lifeguards, gate attendants and managers). Job offers will be made for the pool positions this week. On track to open the Pool May 29th.

- The Village has secured a grant for digitization of Council meeting minutes and legislation records. Project includes a user-friendly web interface for access by the public. Administration budgeted an expense for record digitization, this grant will help defer equipment purchase cost and staff wages. Matching dollars from grant are $1,687.

- The Workgroup has decided to breakup project designs, as both would like have different business models and funding mechanisms. Projects are 2MW solar at Sutton Farm and .2-3MW at JBC Solar Canopy/Pavilion.

- Salmeron noted that a new bridge is now in place at Ellis Pond. He noted a fish kill over the weekend, and stated that he will be having aerators installed to help mediate the problem.

Housh noted that the hand sanitizer stations seem to be empty frequently. Salmeron and Burns responded that the stations are targets for vandalization, but that they are being frequently checked and refilled.

Burns announced the ground breaking for the new dog park for May 18th at 2pm.

Salmeron noted a bid for IT services which will be put out in June.

Burns noted an upcoming Tree Trimming bid as well as a farm lease.

Salmeron noted a lease for the farmer's market upcoming.

The Village is moving toward a lease with a local farmer to plant cover crops, and the plantings will follow Village guidelines regarding limitations of the use of pesticides.

Salmeron noted that the annexation petition has been delivered to the Village, starting the clock on the 60 day waiting period.

Stokes asked whether Oberer could consider moving the entrance to the development off of US 68. This would mean a purchase of property owned by Xylem.

FUTURE AGENDA ITEMS

May 17: **Second Reading and Public Hearing of Ordinance 2021-09** Creating a Designated Outdoor Refreshment Area in the Village
First Reading of Ordinance 2021-10 Approving the Amended Personnel Policy Manual and Declaring an Emergency
First Reading of Ordinance 2021-11 Establishing Chapter 212 of the Codified Ordinances: Ethics
Resolution Supporting Climate and Sustainability Actions
Resolution Condemning AAPI hate
Consideration of Amendments to Masking Ordinances
Health Insurance for Elected Officials

June 7: Parking Minimums Discussion
Reciprocal Income Tax Discussion
TLT Annual Report
First Reading of Weeds Ordinance Text Amendment

June 21: **Resolution in Celebration of Pride Week in the Village of Yellow Springs**

ADJOURNMENT

At 9:57pm, Stokes MOVED, and MacQueen SECONDED a MOTION TO ADJOURN. The MOTION PASSED 5-0 on a voice vote.

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Brian Housh, Council President

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Attest: Judy Kintner, Clerk of Council