

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

In Council Chambers @ 6:30 P.M.

Monday, December 2, 2019

CALL TO ORDER

President of Council Brian Housh called the meeting to order at 6:30pm.

ROLL CALL

Present were President Housh, Vice President Marianne MacQueen and Council members Lisa Kreeger and Kevin Stokes. Also present were Village Manager Josue Salmeron, Planning and Zoning Administrator Denise Swinger and Public Works Director Johnnie Burns. Kineta Sanford was absent due to illness.

EXECUTIVE SESSION

At 6:31pm, Kreeger MOVED and MacQueen SECONDED a MOTION TO ENTER INTO EXECUTIVE SESSION for the Purpose of Discussion of the Potential Sale of Village Owned Property.

The MOTION PASSED 4-0 ON A ROLL CALL VOTE. Denise Swinger and Johnnie Burns were present in the session.

At 7:01pm, Kreeger MOVED and Sanford SECONDED a MOTION TO EXIT EXECUTIVE SESSION. The MOTION PASSED 4-0 on a voice vote.

ANNOUNCEMENTS (7:00)

Food Forest Presentation. Zenya Hoff-Miyazaki presented information on Patti Bates's legacy project, the "Food Forest" at Xenia Avenue north of Dollar General.

Council discussed obtaining signage for the area.

Kreeger announced "Giving Tuesday", noting that there will be 32 non-profits vying for donations in Yellow Springs. She urged generosity.

Stokes announced that the YS Brewery will hold another "Thirsty Thursday" on December 12, with a percentage of profits going to the Utility Round Up cause.

Housh made note of the School Forest, which will be open this weekend, and the YS Arts Council's Holiday Art Jumble.

Housh noted that there will be a Heartstrings concert at the Arts Council Gallery following the Community Photograph at 6:30pm on December 14th at the Mills Park Hotel.

CONSENT AGENDA

1. Minutes of November 18, 2019 Regular Session

MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE the MINUTES AS WRITTEN. The MOTION PASSED ON A 4-0 VOICE VOTE.

REVIEW OF AGENDA

Kreeger added an update regarding the Manager's Ad Hoc Advisory Committee to Old Business.

PETITIONS/COMMUNICATIONS

MacQueen reviewed communications received as follows:

- Mayor's Clerk re: Eligible Charges
- Dan Carrigan re: Temporary Transportation Plan
- Todd VanLehn re: Support for Increased Speed Limit on Corry

PUBLIC HEARINGS/LEGISLATION

Second Reading and Public Hearing of Ordinance 2019-35 Approving the 2020 Budget for the Village of Yellow Springs. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Salmeron recapped the presentation he had made on November 18th.

Housh OPENED THE PUBLIC HEARING.

Megan Bachman, Yellow Springs News, asked about the overall health of Village finances.

Harris noted that the Village has saved funds to address these needs, but that the cost of improvements will overtake the savings in two-to-three years. She noted that income has been steady over the last few years.

Salmeron responded that Harris is conservative in her estimate of revenue and liberal in her estimate of expenditures, but that the drive to make long overdue capital improvements may result in the Village going into the red in the next several years.

Laura Curliss commented that it would be useful for Council to explain the size of the Electric Fund. She commented further that the new poles being placed as part of ongoing pole replacement are much taller and are thus potentially creating visual pollution.

Housh noted that the Electric Fund holds funds given the likely need to build a third circuit or invest in a similar major project, thus explaining its relatively greater size.

Burns explained that the poles being changed out are from the 50s and 60s, and that new poles are required to be taller and to carry more lines, hence the increase in height. That said, he noted, the tallest poles are 45 feet in height, an increase of not more than 10 feet, and most are 40 feet high. The additional height is required in some places to achieve clearance.

Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE.

The MOTION PASSED 4-0 on a ROLL CALL VOTE.

Second Reading and Public Hearing of Ordinance 2019-36 Repealing Section 414.10 “Right Turns on Red Prohibited” of Chapter 414 “Traffic Control Devices” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Section 414.10 “Right Turns on Red Prohibited”. Kreeger MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Salmeron explained that Section 414.10 “Right Turns on Red Prohibited” of Chapter 414.10, requires the placement of a sign that indicates ““Right Turns on Red Prohibited” at the intersection of Dayton Street and Enon Road. This intersection does not require such a restriction because it is not in the designated school zone and does not require enforcement. This ordinance repeals this section of chapter 414.10.

Housh OPENED THE PUBLIC HEARING.

Curliss asked why the sign at Xenia Avenue and Limestone Street states 8am-4pm as restricted right hand turns.

Housh declined to take up the matter at this time.

Housh CLOSED THE PUBLIC HEARING and CALLED THE ROLL. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Swinger explained ordinances 2019-38 and 2019-39 as follows:

Swinger noted that there is an existing conflict between the zoning code (which does not permit junk cars) and the general offenses codes (which permits one) regarding junk cars. Planning Commission is recommending that the junk car issue be removed from the zoning code entirely, thus resolving the conflict. They further recommend that no junk cars be permitted past a seven-day period.

Swinger went on to note the potential for detrimental environmental impact from junk vehicles and the importance of having them safely removed.

Swinger noted that the Police Department is equipped to assist residents who are experiencing hardship.

Swinger asked that a section of the definitions be struck, and that 66.07 A (4) be struck.

Second Reading and Public Hearing of Ordinance 2019-37 Repealing Section 660.07 “Storing Junk Vehicles, Unlicensed Vehicles and Inoperable Vehicles On Private Property with Permission of Owner” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Section 660.07 “Storing Junk Vehicles, Unlicensed Vehicles and Inoperable Vehicles on Private

Property with Permission of Owner”. MacQueen MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Second Reading and Public Hearing of Ordinance 2019-38 Repealing Section 1260.03 “Driveway Standards, Access Easements, Parking and Storage” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Section 1260.03 “Driveway Standards, Access Easements, Parking and Storage”. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

MacQueen asked about Exhibit A, Section (A), wondering if it should be struck.

Stokes agreed that this section should be struck.

MacQueen MOVED to APPROVE Ordinance 2019-37 with the following amendments: In Exhibit A, change (B) to (A), striking (A), and strike the phrase “for a continuous period of thirty days or more” from section (a) (4). Kreeger SECONDED, and the MOTION TO APPROVE PASSED 4-0 ON A ROLL CALL VOTE.

Second Reading and Public Hearing of Ordinance 2019-39 Repealing Section 1272.05 “Enforcement; Penalty” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Section 1272.05 “Enforcement; Penalty”. MacQueen MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

There being no comment, Housh CLOSED THE PUBLIC HEARING and CALLED THE ROLL. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Swinger explained the four ordinances related to the removal of weeds as follows:

All of these ordinances change the manner in which property owners and tenants are notified of a complaint for “Weeds”. The ordinances remove responsibility from the Village to remove weeds from an offending property and leave the property owner responsible for rectifying the situation.

Ordinance 2019-42 changes the assessment of cost for removal of weeds to a citation into Mayor’s Court. Because the issuance of a citation does not necessarily mean that the property owner will comply, staff discussed the issue further with the Mayor and Clerk of Courts. It was decided that by adding language in 674.03 making it a court appearance citation, the Mayor could then reduce the court costs if the owner shows that they have complied. The Planning Commission agreed, hence the ordinance addressing section 674.03 removal of trees, weeds and grasses; notice and enforcement.

Stokes wondered if there was language that could be used in the ordinance so that any updates to the invasive species list would automatically be incorporated.

This was briefly discussed. Housh asked that the matter be referred to the Environmental Commission for discussion.

Second Reading and Public Hearing of Ordinance 2019-40 Repealing Sections 674.01 “Trimming of Trees, Plants and Shrubbery” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Section 674.01 “Trimming of Trees, Plants and Shrubbery”. MacQueen MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

Megan Bachman commented that information on legislation should be presented on a first read, noting that because the zoning code amendments were on the Consent Agenda for the first read, she did not receive the information.

Housh stated that the information precedes the information in the packet, but that it could be highlighted.

Laura Curliss suggested that the “tool” of assessing to the property owner remain.

Housh commented that the Village is unable to find interested contractors and that Mayor’s Court does allow for this option.

Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Second Reading and Public Hearing of Ordinance 2019-41 Repealing Sections 674.02 “Removal of Plants and Weeds by Owner” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Section 674.02 “Removal of Plants and Weeds by Owner”. Kreeger MOVED and Stokes SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

There being no comment, Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Second Reading and Public Hearing of Ordinance 2019-42 Repealing Sections 674.03 “Removal of Trees, Weeds and Grasses by Village; Notice” of the Codified Ordinances of the Village of Yellow Springs, Ohio and Enacting New Section 674.03 “Removal of Trees, Weeds and Grasses; Notice and Enforcement”. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Laura Curliss commented that acts are being criminalized, and that other means of gaining compliance are not being explored. This situation is obvious for a civil remedy, she commented.

Salmeron responded that these matters are routinely dealt with by means of a phone call and, in the rare instances in which that is not sufficient, a follow-up letter. Citation is a last resort, he stated, and is a rare occurrence.

Curliss argued for having the mowing assessed to the property.

Salmeron reiterated the prohibitive difficulty of finding a willing contractor.

Curliss commented that other cities deal with this by sending their own crews out to mow and assessing the property owner.

MacQueen commented that people have ample opportunity to comply, and that Mayor’s Court is a fair option for those who fail to that point to comply. She noted the large amount of time spent by Swinger in dealing with these matters in advocating for simplifying the process.

Housh OPENED THE PUBLIC HEARING.

Housh commented that Sanford had wanted to express a concern regarding impact upon those of lesser means. He noted that there will be time in the coming months to work to assure that “we have the kind of justice system we seek.”

Emily Seibel wondered if there were a way to move non-criminal matters “out of the purview of the Police Department” and into another area “maybe someone designated by Denise” so that “people don’t get confused when the police deliver misdemeanor citations and think the matter is criminal.” She commented that in other municipalities, she thinks it is the zoning office and not the police who deliver citations.

Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Second Reading and Public Hearing of Ordinance 2019-43 Repealing Sections 674.04 “Assessment of Costs by the Village” of the Codified Ordinances of the Village of Yellow Springs, Ohio. Stokes MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Housh OPENED THE PUBLIC HEARING.

Housh CLOSED THE PUBLIC HEARING and CALLED THE VOTE. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Emergency Reading of Ordinance 2019-44 Authorizing and Directing the Submission to a Vote of the Electors of the Village of Yellow Springs, Ohio a Proposal to Amend Certain Provisions of the Charter of the Village of Yellow Springs, Ohio to be Voted Upon at the Next Regular Municipal Election on March 17, 2020 and Declaring an Emergency. MacQueen MOVED and Kreeger SECONDED a MOTION TO APPROVE.

The Clerk explained the issue at hand as follows: Electors of the Village and Council desired that the proposed Charter changes, which were bundled for the election in November, be un-bundled and placed back on the ballot for March. To this end, Council discussed the matter on November 18th, concluding that they would like to see the “Vote 16” issue broken into two separate ballot measures.

This is problematic in that the vote is to change Section 6 of the Charter. Properly, Council cannot direct the electors to an either/or option.

In this instance, Council should determine what the language for the proposed Charter amendments should be, and that language should be as clear and revealing as possible.

One option is that Village residents who are age 16 and older and who are US citizens shall become electors.

One option is that all residents of the Village, including non-US citizens, who are age 16 and older shall become electors.

These are presented as Exhibits A and A-2 of the draft Ordinance 2019-44.

The third option has been deemed by the Village Solicitor to be too potentially confusing to voters and potentially conflicting should both options pass, but has been included so that Council can discuss and potentially craft a non-conflicting third option.

This is presented as Exhibits A and B of the draft Ordinance 2019-44.

In any case, Council must determine what will be placed on the ballot as either Exhibit A or Exhibit A and B to Ordinance 2019-44, and you must pass that ordinance with the selected Exhibits no later than December 16th.

The issue of the Mayoral term was never in conflict, and so will go on the ballot as originally written, but presented as a separate charter change option.

MacQueen suggested putting only one of the two voting issues on the ballot per election so that Vote 16 is on the ballot in March, and the non-citizen issue is on the ballot in November.

Stokes agreed with this suggestion.

Kreeger stated that she has been compelled by residents who are non-citizens and who cannot now vote that this is paramount.

Housh commented that there could be a “subsection” to Section 6 if the two need to be segregated.

Council discussed the matter, concluding that they would prefer to have three distinct issues to put before the electorate.

Housh suggested layering on a “sub-point A”. He asked the Clerk to work on this with the Solicitor.

Council agreed generally that this be brought back with variables to the December 16th meeting.

Laura Curliss suggested that the vote wait until the general election for greater participation.

SPECIAL REPORTS

There were no Special Reports.

CITIZEN CONCERNS

There were no Citizen Concerns.

OLD BUSINESS

Council Retreat. The Clerk noted that Council’s Retreat is set for January 15th from 9am-3pm at Antioch University Midwest.

Council discussed the use of the six-hour time frame, noting the need to discuss Boards and Commissions – Council Liaisons, which boards and commissions to phase out – as well as Village Goals, discussing priorities of Village team members and Council.

Housh asked that a proposed agenda be brought to the meeting on December 16th.

Manager’s Ad Hoc Advisory Committee. Kreeger noted that the work of this committee is nearly complete, and that a final report will be made available once it is complete. She noted that at the December 16th meeting, she will share that document and will also make public the participants in the committee process.

Kreeger noted that she will also be bringing a SWOT analysis of the committee’s process to the next meeting.

NEW BUSINESS

Home, Inc./St. Mary's Request for One-Year Extension for 54 Unit Senior Housing PUD Preliminary Plan. Swinger explained the request, providing background information as follows:

She noted that Home, Inc. had failed to obtain funding for the project in its initial bid, and had made modifications to the PUD plan based upon feedback from the Ohio Housing Finance Agency.

Staff is then required to determine whether these changes are minor or major. If the determination is that the changes are minor, a one-year extension may be granted. Swinger chose to have Planning Commission vet the request for extension although she believed the changes to be minor.

YS Home, Inc. made an application to the Planning Commission for a PUD preliminary plan review to construct a 54-unit affordable senior housing development on its land located between Marshall and Herman Streets off Xenia Avenue. More specifically, Home, Inc. requested a design amendment for an approved PUD.

In section 1254.07 Changes to PUD (b) Minor Change Determination – Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified modifications imposed as part of the original approval.

Because the Yellow Springs Planned Unit Development (PUD) zoning code has proven difficult to interpret, staff took a conservative approach when making decisions on its interpretation due to the community's concerns over this project. At Planning Commission's meeting on November 12, 2019, staff requested the members make a determination on whether the design changes are minor or major.

Swinger noted an increase in footprint of 425 feet, an increase in the number of parking spaces, a reduction in height of one story and an encroachment into the front yard setback of six feet. She explained each one in justifying her interpretation of the changes as fitting the "minor" determination.

Swinger noted that Planning Commission had determined the changes to be minor in its review of the matter, and that PC has recommended to Council that it grant the one-year extension.

Wes Young, St. Mary's Development, reiterated that the changes were minor.

Kreeger received clarification that the extension has nothing to do with a change in either the number of parking spots or available units.

Kreeger MOVED to APPROVE Planning Commission's decision to extend the Preliminary PUD Plan for one year. MacQueen SECONDED, and the MOTION PASSED 4-0 ON A VOICE VOTE.

Clerk and Village Manager Evaluation Processes. Housh explained that annual evaluations for the Clerk and Village Manager are on track, and that Council will discuss these at their Executive Session on December 16th.

Council will determine at that meeting which two Council members will work with the VM and Clerk to go over their evaluations.

Kreeger suggested that there be a means for employees to evaluate Council members. This was met with interest by all members of Council.

Kreeger spoke to the importance of the culture of civility that Council has worked to create, and noted that the evaluative process was in keeping with that approach.

MANAGER'S REPORT

Salmeron reported on the Temporary Transportation Project survey data.

Housh commented that SurveyMonkey did allow multiple submissions from the same IP address, which could have somewhat skewed the results. However, he highlighted that the results were informative and represented a wide range of perspectives and attitudes.

Salmeron responded that he is able to research IP addresses and written comments to be able to determine duplicates as opposed to multiple users of the same IP address, and this is in process now.

Salmeron stated that he is most interested in responses by stakeholder group—that is, whether parents of students respond differently than business owners, for example. He stated that he will provide an updated report at the next meeting.

Salmeron asked for Council approval of the third quarter financials, which were presented at the November 18th meeting.

Kreeger MOVED and MacQueen SECONDED a MOTION TO APPROVE THIRD QUARTER FINANCIALS. The MOTION PASSED 4-0 ON A VOICE VOTE.

Salmeron noted the following projects:

- Storm Drain at Dayton St. and King St.: work is underway to add a new storm drain and rebuild the curb and ADA ramp.
- New Ramp installation to connect Little Miami Scenic Trail to YS Skate Park and John Bryan basketball courts is complete.
- Sidewalk (scheduled) grinding work for 2019 has been completed.
- Additional Sidewalk and curb repairs are on-going.
- Miller Pipeline in nearing completion for gas project.
- Sewer Services lines installation for MTRF new Fire Station are underway.
- Flour and Sugar distribution, honoring the bequest of Wheeling Gaunt, is on-going, and the Village is working with the Arts Council on deliveries to highlight bronze sculpture project.
- Midwest Power is replacing 5 poles this week.

Salmeron noted that people have written on and walked in fresh cement, and urged people to behave respectfully, as this is expensive work.

Johnnie Burns reported that the YS Arts Council is assisting in delivering the flour and sugar this year in an effort to raise awareness regarding the Wheeling Gaunt sculpture.

Salmeron noted the Village's meeting held in response to the EPA meetings regarding the Vernay cleanup, noting good participation and good questions asked and addressed. He thanked MacQueen and members of the EC for making this happen.

Burns has incorporated the plume and proximity to wellheads into the Village's GIS mapping, Salmeron stated.

Salmeron noted a 23% participation in the URUP program. He noted a fund balance of over \$7,000.00 currently.

Housh noted the new signage and new sidewalk in front of the Village building and suggested having the Greene County Career Center design a bike rack for the front of the building.

Burns offered to follow up, and stated that bike racks and a bench are planned for the area.

Burns stated that meter readers Travis Hotaling and Rose Pelzl created the sign and built it.

Salmeron recognized the Village Team for the tree lighting event.

CLERK'S REPORT

There was no Clerk Report.

FUTURE AGENDA ITEMS

- Dec. 16: **Emergency Reading of Ordinance 2019-44** Authorizing and Directing the Submission to a Vote of the Electors of the Village of Yellow Springs, Ohio a Proposal to Amend Certain Provisions of the Charter of the Village of Yellow Springs, Ohio to be Voted Upon at the Next Regular Municipal Election on March 17, 2020 and Declaring an Emergency
Resolution 2018-43 Adjusting Village Employee Wage Scales
Discussion of Potential Sale of Village Renewable Energy Credits
Parameters of Automated Ticketing
Renergy Waste Digester
2019 Year in Review
Executive Session: Evaluations
Retreat
Swearing-In
Treasurer's Report
Manager's Advisory Committee Debrief
- Jan. 6: Board and Commission End of Year Reports
Arts and Culture Commission Presentation "Lights of Change"
Manager's Annual Report
- Jan. 15: Council Retreat
- Jan. 20:

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

ADJOURNMENT

At 9:19pm, Kreeger MOVED and Stokes SECONDED a MOTION TO ADJOURN. The MOTION PASSED 4-0 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