

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

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

**Monday, April 5, 2021**

**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, Kevin Stokes, Lisa Kreeger, and Laura Curliss. Also present via Zoom were Village Manager Josue Salmeron, Public Works Director Johnnie Burns, Planning and Zoning Administrator Denise Swinger, Finance Director Matt Dillon, Chief Brian Carlson and Solicitor Breanne Parcels.

**ANNOUNCEMENTS**

Salmeron noted some changes to the meeting structure via Zoom such as requiring permission to become unmuted and disabling the chat function. This is in keeping with long-standing Council meeting protocol, which requires recognition before speaking.

Parcels stated that any Council members or Planning Commission members who have any interest in a Transient Guest Lodging should refrain from any discussion on the matter according to Ohio Conflict of Interest Rules.

Curliss stated that she does not interpret the law in the same manner, and does not see that she would need to recuse from comment or discussion on the matter, and this was added to the Agenda for discussion.

MacQueen announced Earth Day and National Native Plan Month, noting the following activities put together by the Habitat team: Tour of Agraria and Hometown Habitat film to be shown at Agraria, Glen Helen Plant Swap, various fire station events. These will take place April 22-24.

MacQueen announced a three-part Mediation training given virtually by Jay Rothman, Sarah Wallace and John Gudgel. This will occur April 20 & 27 and May 4.

Salmeron gave a thank you to KellyAnn Tracy for a successful egg hunt event.

Salmeron announced Spring Cleanup May 3-6. He noted that Council will see legislation to set the rates for this event at its next meeting.

Housh expressed hope that the Police Department is continuing to proactively pass out masks as business downtown picks up pace.

**CONSENT AGENDA**

1. Minutes of March 15, 2021 Regular Session

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

**REVIEW OF AGENDA**

Housh added the item regarding recusal under New Business. MacQueen added the item regarding Conflict Training under New Business.

## **PETITIONS/COMMUNICATIONS**

The Clerk will receive and file:

State of Ohio COVID Update  
FEMA Advisory re: Funeral Assistance for COVID Related Services  
Greene County Public Health re: Annual Report  
Marianne MacQueen re: Village Mediation Program Training  
Greene County Public Health re: New Website  
Dirk Lackovich-Van Gorp re: Comments Regarding CARES Act Expenditures  
Marianne MacQueen re: Earth Week Announcement  
Breanne Parcels re: Airbnb Article  
RITA re: Tax Filing Extension

MacQueen reviewed the materials received.

## **PUBLIC HEARINGS/LEGISLATION**

**Second Reading and Public Hearing of Ordinance 2021-05** Repealing and Replacing Section 1064.02--Rates, Admissions and Season Hours of Chapter 1064--Municipal Swimming Pool of Part Ten--Streets, Utilities and Public Services of the Codified Ordinances of the Village of Yellow Springs, Ohio. Curliss MOVED and Kreeger SECONDED a MOTION TO APPROVE.

Salmeron thanked Samantha Stewart for her provision of activities for youth during the pandemic.

Salmeron presented a PowerPoint, which he characterized as “managing expectations” around income for the pool. He stated that while the Village is asking for a rate increase, there is no expectation of making money operating the pool, which he views primarily as a community development tool as well as a work force development program for Village youth who are employed there.

Salmeron noted that the pool will host the YS Sea Dogs this summer, following CDC guidance.

Salmeron stated that the pool is scheduled to open on May 29<sup>th</sup> with all CDC guidelines in place.

Salmeron asked that there not be days set aside for Villagers only, stating that these times had been underused in 2020.

Housh OPENED THE PUBLIC HEARING.

Housh was informed that the annual loss is about \$50,000-\$60,000/annually.

Kreeger commended the team for keeping the pool safely open during the 2020 season.

Salmeron responded to a question from Stokes regarding rates for Township residents, stating that there is no tax revenue stream coming from Township residents, which is why they were not provided a discounted rate for pool passes.

Megan Bachman, Yellow Springs News, asked whether the new Governor’s orders will affect the pool operation, and was told that the pool would be operated under strict standards.

Housh CLOSED THE PUBLIC HEARING.

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

**First 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”. MacQueen MOVED and Stokes SECONDED a MOTION TO APPROVE.

Salmeron presented a PowerPoint presentation regarding the status and history of Transient Guest Lodging (TGL) establishments in the Village and their regulation through Planning Commission.

Swinger noted that changing TGLs to conditional use served to slow the trend significantly, as has COVID. She suggested perhaps limiting TGLs to one per property.

Parcels noted that under the current code, TGLs, once approved, are approved until the property changes hands. If the approach is changed so that annual registration is required, she stated, keeping tabs on which establishments are in good standing and which are no longer active will become possible. In response to a question from Housh, Parcels stated that the change to the tax code would affect all TGLs, even those currently established.

Stokes asked for an explanation of “affordable housing concerns” and was told that the greater income possible from short-term rentals squeezes out affordable rentals and more affordable homes.

MacQueen asked whether non-owner-occupied TGLs can be disallowed.

Parcels stated that an outright prohibition would likely drive a lawsuit as an unconstitutional taking.

MacQueen asked whether the fee for non-owner occupied TGLs can be significantly increased.

Parcels indicated that this could be done by Council vote.

MacQueen asked that PC “do as much as possible” to discourage non-owner-occupied TGLs, stating that “these are what kill affordable housing.”

Curliss commented that she disagrees with the Solicitor’s opinion that because she has a permit for a TGL she has to recuse from all discussion on the matter. She stressed that the permit is non-functioning at this time. She stated that she has a number of comments regarding the proposed legislation, but does not feel able to speak.

Housh asked for clarification from Parcels.

Parcels stated that any Planning Commission or Council member who has or is contemplating operating a TGL should recuse from any participation in discussion. She stated that she would ask for an Ohio Ethics Commission opinion on the matter if a Council majority directs her to do so.

Curliss argued that she reads the law regarding “direct pecuniary gain” differently, and that she would like an outside opinion. She suggested asking the Auditor as well.

Bachman asked what the Village does to determine which TGLs are operating. She asked whether the Village can impose a moratorium on applications for TGLs.

Parcels stated that there is no pending emergency affecting health, safety or welfare, which makes a moratorium unworkable at present.

Salmeron noted that his staff is soliciting records from TGL owners, and will be sending citations

and/or fines if needed.

Housh stated that Council can again look at having Airbnb collect taxes for the Village, and consider other approaches used by various communities such as having a cap on the number of days a TGL can operate in a given year. He stated that the second reading will take place on the nineteenth of April.

**Reading of Resolution 2021-12** Authorizing the Village Manager to Renew Health Insurance for Village Employees 2021-2022 Plan Year. Stokes MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Salmeron explained the renewal offer, and stated that the plan presented is under the 10% budget allowance, coming in at a 3% increase. He asked that Council approve the plan for the 2021-2022 year.

Curliss asked whether part-time employees are able to participate in health insurance on a pro-rata basis.

Salmeron responded that purchase of health insurance is an option for part time employees, but that pro-rata purchase is not budgeted, and Council would have to authorize this benefit.

Curliss stated her hope that Council would vote to approve health care for elected officials as a purchased optional benefit. This would then be in effect for the next Council, in 2022.

Salmeron noted that the Personnel Policy Manual will be coming to Council for approval in May, and that part-time benefits could be considered with that document.

Curliss asked to amend the resolution to add part-time employees on a pro-rata basis.

Kreeger stated that her understanding of the situation is that such an amendment to the contract would change the bottom line.

Curliss rescinded her motion, stating, "I'm sorry, part-time employees, that you will not have access." She stated that she had asked the Village Manager to look into this matter in December.

Kreeger objected to that characterization of the matter, and asked whether the Village could obtain information regarding the effect on Village insurance rates if PT employees are offered insurance as a buy-in benefit.

Curliss reiterated that her request is for a pro-rata option.

Housh characterized the situation as two issues, and asked that Salmeron determine how rapidly he could get information on cost to add PT employees from Anthem. Housh also recognized that Village administration and Council members collectively seem interested in exploring this policy change.

Salmeron stated that he could not speak to a timeline without speaking with an Anthem representative. He apologized for not following up on his December conversation with Curliss regarding pro-rata insurance benefits for PT employees, but noted that he did not have a directive from Council as a body to go in that direction.

Housh noted that exploration of benefits for PT employees can be done separately from this resolution.

MacQueen commented that “one Council member coming to the Village Manager with a request” does not constitute a directive, noting that this discussion should have come to Council table several months prior, which would have allowed for collecting the necessary information to make a decision, rather than being brought up at the last minute.

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

### **CITIZEN CONCERNS**

Tim Barhorst noted his work with the Citizen’s Climate Lobby. He stated that the Carbon Dividend Act is now back in Congress, and asked to bring information regarding a resolution of support to Council on April 19<sup>th</sup>. Housh asked that this happen, noting Council interest in this action.

### **SPECIAL REPORTS**

**Reciprocal Taxation Model Presentation.** Angela Veazey, RITA Account Manager, presented a PowerPoint on reciprocal taxation.

Henry Myers spoke at length on the need to enact a reciprocal tax model, asserting that not to do so hurts low income people who will pay more in taxes than people who work out of town. He stated that people who live in the Village should pay Village taxes for the services they use.

MacQueen asked that Council consider not giving the 100% credit.

Curliss asked what would happen to taxation when people have an out-of-town employer but are now working from home.

Veazey noted that this is under discussion legislatively at present.

Housh stated that the discussion will be continued, highlighting that there are a variety of considerations, including the overall tax burden to Village residents.

**Community Broadband Update.** Salmeron presented a PowerPoint on the topic. He stressed the critical nature of reliable Internet for economic development and promoting equity. He described the project in phases, the first two of which have now been completed.

Phase III is the pilot project, which Salmeron stated will enable the Village to beta test the system prior to the Phase IV buy-in, when broadband would become a Village utility. Salmeron stated that once Phase III is implemented, over the summer, he will put together a business plan to bring to Council for approval.

Salmeron noted that a revenue bond is a funding option for fulfilling Phase IV, and presented a market opportunity model, which showed the project as revenue positive after 23 months.

Housh noted that this has been a seven year effort, and appreciated the work that has taken place over the years.

Tim Barhorst offered to pass on contacts in several communities who have successfully implemented municipal broadband.

Curliss stated that she does not remember Council actually voting on adding a broadband utility.

Housh stated that the project has not yet reached that point.

Curliss commented that Spectrum might become more competitive in this process.

Housh responded that while they had made motions of responding, Spectrum had never followed through, despite at one point meeting with himself and the former Village Manager, Patti Bates.

Curliss commented that the one thing a municipal broadband would provide that cannot be obtained elsewhere is net neutrality.

In response to a question from MacQueen, Salmeron stated that he is seeking funding for the project, and that once he is able to obtain this, he will come to Council for permission to open a fund line, and this is likely to occur in July of 2021.

Thor Sage commented that municipal broadband is a hot issue currently, and many municipalities are seeking to go in that direction.

## **OLD BUSINESS**

**Juneteenth Holiday.** Salmeron presented the results of his survey of all employees, noting strong support for Juneteenth as a paid holiday, and little support for exchanging an existing holiday for Juneteenth.

Curliss asked what the value of a day's worth of services would be.

Salmeron responded that while this could be calculated, what he has calculated is the out-of-pocket cost to pay the police personnel who cannot take holidays, but are paid for the time served.

Curliss stated that there is a cost to citizens who are not able to access Village services on that day, pointing out that there are more than the out-of-pocket costs incurred.

Curliss expressed her preference that a personal day or existing holiday be exchanged for Juneteenth, and that employees decide which this should be.

Stokes responded that he was not hearing employee support for that approach.

Curliss commented that this was not a surprise to her.

Housh commented that the additional paid holiday is being discussed at the state level, with legislation passed by the Senate, and that many communities have deemed Juneteenth important enough to be recognized as an additional paid holiday for municipal team members. He asked that the holiday be constructed to fall on the Monday following a weekend date.

Housh MOVED TO SUPPORT THE RECOMMENDATION OF THE VILLAGE MANAGER IN APPROVING THE ADDITION OF JUNETEENTH AS A PAID HOLIDAY for the VILLAGE OF YELLOW SPRINGS. Stokes SECONDED, and the MOTION PASSED 4-1 with Curliss voting against.

**Update on Meaningful Action re: Anti-Racism and Justice and Update on Decriminalizing Minor Misdemeanors Pilot Project.** Salmeron noted several initiatives underway which are meant to improve operations.

Salmeron described efforts towards the "Eight Can't Wait" standards, noting that the YSPD is compliant with these standards.

As of May 1, officers will no longer carry required equipment on their vests, and the suggestion, made by Villager Kate Hamilton, to implement a “Designated Crisis Officer Program” is now being tested, using a model specific to the needs of the community. The YSPD has created a training advisory board to research and provide the Department with current, responsive training recommendations; the YSPD Suspended Drivers Assistance Program provides information and assistance to persons unable to obtain a driver’s license. Finally, Salmeron said, the YSPD has been working with the JSCC in an effort to minimize stops in the Village.

As of January, 2021, Salmeron said, officers have not and will no longer stop drivers for minor traffic infractions. He noted that the YSPD has not been citing people for these infractions since 2018. The data model is now in place to track the program.

Chief Carlson commented that the YSPD is ahead of state requirements with regard to the “Eight Can’t Wait” standards.

MacQueen objected to the inclusion of noise infractions on the list of those that don’t trigger a stop, noting that loud music is a choice, as opposed to a broken taillight.

Curliss stated her preference that a meeting of the JSCC be called to approve the project as a body. She commented that the current initiative is “just step one” and that the “Eight Can’t Wait” has not yet been scrutinized by the JSCC.

Housh responded that he would need to have a clear topic to call a meeting of the JSCC, referencing that JSCC members are currently able to comment via subcommittees and when proposals are shared for feedback.

Stokes commented that the YSPD has been “going in a positive direction for some time,” in noting that the YSPD has not cited these minor misdemeanors since 2018.

## **NEW BUSINESS**

**Downtown Sidewalk Seating and COVID Restrictions.** Salmeron commented that businesses are starting to put tables out on the sidewalks now that the weather is warmer, which does not allow for six-foot distancing for persons passing on the sidewalks. This is in conflict with local ordinance, he stated, and business owners will be asked to remove the tables until the orders are either lifted or the distance is reduced to three feet.

Curliss asked whether the Village was still considering providing a tent and tables for outdoor gathering purposes.

Salmeron stated that this could be further explored.

**Conflict Management Training.** MacQueen announced that the current Mediation Coordinator, John Gudgel, will be retiring in mid-April. She announced that volunteer professional mediators Jay Rothman and Sarah Wallace will be providing a free opportunity for training as announced earlier. MacQueen requested that the information be widely disseminated and urged the Village Team, Council and commission members to participate in the training.

Kreeger expressed disappointment that the training falls during a very busy time of the month.

MacQueen stated that she would look into the possibility of amending the schedule.

**Recusal Question.** Curliss explained that she does not read the ethics decisions as conservatively as does Parcels, and does not believe that she should need to recuse from discussion of the Transient Guest Lodging policies.

Curliss then stated her belief that the public official themselves must recuse, and that another entity cannot do it for them.

Parcels stated that this is why it is her duty to ask the public official about potential conflicts of interest.

Housh asked for Council opinion on the matter of asking for an Ethics Commission opinion.

Stokes stated that any appearance of conflict should be avoided, and he supports whatever action may be needed to clarify the matter for all involved.

Kreeger stated that a decision should never be made based only on one person's circumstances, making an Ethics opinion useful moving forward.

MacQueen stated that taking out a permit for a TGL indicates a clear potential for conflict of interest, and there is no need to question the Solicitor's opinion.

Housh concluded that because three Council members are clearly in favor of obtaining an opinion, he will ask that an opinion be obtained. He cautioned, however, that Curliss's frequent questioning of the Solicitor's legal position has to be addressed, because it is creating distraction and lost time. He iterated his trust in Parcels's legal opinions and that he also wanted to put this to rest.

Stokes stated that "if it were me, I would recuse," clarifying that he is not questioning Parcels's legal opinion.

Parcels stated that she would request an opinion from the Ohio Ethics Commission immediately, but cautioned that a wait of a month or more is typical for a response.

**Review Council Roles and Responsibilities and Commission Assignments.** Housh noted that due to the late hour, the topic would not be able to be fully covered, and indicated that the topic will be brought back.

Housh explained that the goal of the discussion is to address differences of opinion and style on Council, which have led to conflict on a level that Housh had not experienced on Council previously.

Housh stated that Council members hold a degree of accountability for their ideas and actions, and must be vigilant in separating their personal ideas and opinions from those expressed by Council as a body. Housh added that these communication issues extend to the manner in which Council interacts with staff.

Housh asked that the community understand that no one Council member can or is empowered to speak for the body as a whole.

Housh addressed the matter of Executive Session confidentiality, stating that there are differing opinions on this, which need to be addressed so that Council members agree on the requirements of Executive Session.

Housh stated that the role of the Council Liaison needs to be clarified, because while the title implies the function, this function is less clear with regard to the Planning Commission Liaison, and this needs to be clarified.

Housh noted that public interaction between Council and the Village Solicitor needs to be addressed, and an understanding developed among Council members as to whether they want a Solicitor who is more proactive or more reactive. He noted that a proactive approach was something sought out by Council at the time of the search for a new Solicitor.

Housh indicated that these topics will be explored over the next few meetings.

MacQueen stated that Council as a body are the bosses of the Clerk, the Village Manager and the Village Solicitor, but individual Council members are not. Council members need some direction as to when they may individually go to one of those persons, she said, and increased clarity regarding requests to staff would be helpful.

Curliss stated that each Council person needs to reflect on their own interactions with staff. She expressed dissatisfaction with her requests being characterized as demands, when, she said, they are simply requests like any other elected official's requests. Reaction to her requests are met with more resistance and scrutiny, she said. As an example, she said she did not remember Council expressing that either Transient Guest Lodging or Reciprocal Tax be discussed, yet they are on the agenda, and required staff time and energy.

Stokes stated that he holds no confusion regarding process or procedure regarding staff interaction, and stated that Salmeron has made the process clear, and is the point of contact.

Kreeger referenced her work with the ACC, stating that she does not go to staff until she has run the idea past Salmeron, who aids her in directing projects and requests appropriately.

Housh commented on his role as Council President, referencing the TGL topic raised by Curliss. Housh said that in his role as President, he believes that when he hears all Council members expressing a concern and a desire for action, as he did in the case of TGLs, he has the ability to go to Salmeron and Parcels and start the process moving. This, he stated, is part of his role, and is not his own agenda.

Housh brought up the letter from Susan Stiles resigning from Planning Commission, in which she references being told that the decision not to appoint her to a full position was "political". Housh drew a distinction between use of the word as defining local government and a more negative connotation of the word. Housh stated that he has not in his seven years on Council seen a decision about a board or commission member be "political" in the negative sense. He stressed that finding volunteers is always a challenge, and that nearly all applicants are appointed to a commission.

## **MANAGER'S REPORT**

There was no verbal Manager's Report.

## **FUTURE AGENDA ITEMS**

**April 19:** Strong Towns Presentation  
Proposal for a DORA  
Decision on Renewable Energy Credits Proposal  
Memorial Naming of Ellis Bike Spur Proposal  
Cemetery Street Village Owned Property Use Discussion  
Resolution Setting Rates for Spring Clean Up

**Second Reading and Public Hearing 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”

**Ordinance Amending Chapter 1262 Regarding TGLs**

Update from Inclusive and Resilient Yellow Springs and Livable/Equitable/Age  
Friendly Partnership

Health Insurance Access for Part Time Employees

Health Insurance Access for Council Members

**May 3: First Reading of Weeds Ordinance Text Amendment**

Parking Minimums Discussion

Proposal for Sale of RECs

Reciprocal Income Tax Proposal

**ADJOURNMENT**

At 10:01pm, MacQueen MOVED, and Kreeger 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