

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

Council Chambers @ 6:00 P.M.

Monday, November 20, 2023

CALL TO ORDER

President of Council Kevin Stokes called the meeting to order at 6:00pm.

ROLL CALL

Present were President Stokes, Vice President Gavin DeVore Leonard (via Zoom) and Council members Brian Housh and Marianne MacQueen. Interim Village Manager Johnnie Burns, Finance Director Amy Kemper, and Solicitor Amy Blankenship were also present. Carmen Brown joined the meeting at 6:05.

EXECUTIVE SESSION (6:00)

At 6:02, MacQueen MOVED and Housh SECONDED a MOTION TO ENTER EXECUTIVE SESSION for the Purpose of Discussion of Employment of a Public Employee. The MOTION PASSED 4-0 ON A ROLL CALL VOTE.

Present in the session were Council, Burns, Kemper and Blankenship.

At 6:58, MacQueen MOVED and Housh SECONDED a MOTION TO EXIT EXECUTIVE SESSION. The MOTION PASSED 5-0 ON A VOICE VOTE.

RESUME REGULAR SESSION (7:08)

Stokes Called for a MOTION TO RESUME REGULAR SESSION. MacQueen MOVED and Housh SECONDED, and the MOTION PASSED 5-0 ON A VOICE VOTE.

Stokes noted that the purpose of the session had been to discuss the employment of an employee, which led to a determination that changes to Personnel Policy Manual may be in order. He commented that legislation to this effect will follow.

ANNOUNCEMENTS

Kim McCarthy Greene County Board of Elections Chair re: Council Election Issues. McCarthy spoke to issues encountered in the Council election process, acknowledging several errors on the part of the Board of Elections, but stating that, based upon corrective actions taken by the Board and the margins between candidates, Villagers could be assured that the election results are accurate and responsive.

Antonia Dosik re: Livable, Equitable YS Progress Report. Dosik provided highlights from the group's Findings Preliminary Findings and Actions report. She concluded by championing the concept of low-to-moderate income housing on the CBE.

Housh expressed thanks to all who ran for Council. He noted an upcoming grant opportunity through MVRPC regarding CO reduction projects which is due in April.

Both Housh and Brown noted the Community Thanksgiving at the Presbyterian church set for Thursday.

CONSENT AGENDA

1. Minutes of November 6, 2023 Regular Session
2. October Credit Card Statement

MacQueen MOVED and Brown SECONDED a MOTION TO APPROVE THE MINUTES of November 6, 2023. The MOTION PASSED 5-0 ON A VOICE VOTE.

Brown MOVED and MacQueen SECONDED a MOTION TO APPROVE THE CREDIT CARD STATEMENT FOR OCTOBER. The MOTION PASSED 5-0 ON A VOICE VOTE.

REVIEW OF AGENDA

Housh requested discussion of the Clerk’s review process be added to New Business.

MacQueen requested approval of a letter of support for a Chamber application for a “Zero Waste” grant be added to New Business.

PETITIONS/COMMUNICATIONS

The Clerk will receive and file:

- Marianne MacQueen re: Draft OML Letter on Housing
- Mayor’s Court Clerk re: Monthly Report (2)
- St. Mary Development re: Creating Affordable Housing
- Dino Pallotta re: Opposition to Housing on the CBE
- Equitable, Livable YS re: Preliminary Action Report

MacQueen reviewed the letters received.

PUBLIC HEARINGS/LEGISLATION

Stokes called for a MOTION TO WAIVE SECOND and EMERGENCY READINGS-IN-FULL of ORDINANCES. Housh MOVED and MacQueen SECONDED, and the MOTION PASSED 5-0 ON A VOICE VOTE.

Second Emergency Reading of Ordinance 2023-36 Approving the 2024 Budget for the Village of Yellow Springs and Declaring an Emergency. MacQueen MOVED and Housh SECONDED a MOTION TO APPROVE.

Kemper noted a small reduction in the budget due to earlier error, with no changes otherwise.

Stokes OPENED THE PUBLIC HEARING.

MacQueen commented on the smoothness of the process, lauding Kemper for communicating clearly.

Stokes CLOSED THE PUBLIC HEARING AND CALLED THE VOTE.

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

Second Reading and Public Hearing of Ordinance 2023-40 Village of Yellow Springs, Ohio 2023 WASG Power Pool Participant Schedule to American Municipal Power, Inc. and Village of Yellow Springs, Ohio Master Services Agreement. Brown MOVED and Housh SECONDED a MOTION TO APPROVE.

Burns explained that the ordinance updates an existing contract.

Stikes OPENED THE PUBLIC HEARING.

There being no comment, Stokes CLOSED THE PUBLIC HEARING AND CALLED THE VOTE.

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

First Reading of Ordinance 2023-41 Accepting Planning Commission Recommendation and Approving the Final Plat for the Spring Meadows Subdivision Phase One. MacQueen MOVED and Housh SECONDED a MOTION TO APPROVE.

Leatherman outlined the process of review for the final plat, then focused on some of the specifics for phase one as follows:

The applicant previously submitted a Final Plat application for the entirety of the subdivision which was heard and approved by Planning Commission October 11, 2022. That application was subsequently withdrawn by the applicant so they could revise the plat to build it out in two separate phases. The subdivision has now been separated into two phases with the same total number of single-family home lots and open space areas between the two phases. The plan calls for two entrances, one off Kenneth Hamilton Way and the other off North Wright Street.

Leatherman stated that Section 1226.07 of the zoning code requires Park Land Dedication for subdivisions over 5 acres in size. In Phase 1, the applicant has agreed to dedicate 0.46 acres to the Village as a park and to purchase and install playground equipment, valued at \$75,000 or more, as part of an in-lieu fee. This is represented on Lot #57 of the Phase 1 Final Plat. The entirety of Lot #57 will be dedicated to the Village as a public park and on-going maintenance and upkeep will be the responsibility of the Village.

In addition to the required Park Land Dedication, the applicant has provided two other open space areas. One is a buffer area in the southwest corner, consisting of 0.088 acres depicted on the Phase 1 Final Plat as Lot #59. This lot will be maintained by the Homeowner's Association. A second area comprised of 2.76 acres is depicted as open space on the Phase 1 Final Plat as Lot #58. This area will contain a retention pond and a natural path. This lot, including the path, will be maintained by the Homeowner's Association. In total, for Phase 1, 3.30 acres of land will be designated as open space area.

The applicant has requested a variation to the plans under Village Code Section 1226.10 to allow for a side yard setback of 5 feet minimum/total of 10 feet. Without this variation, buildings will have to eliminate the side overhangs, which would give the homes a less appealing look (see photo below). In addition, the reduced setback allows for a wider variety of floor plans to fit on the lots, which will create more options for homebuyers. The Public Works Director indicated that this proposed variation should not be a concern because all electric will be underground and water/sewer will be accessed from the front of each lot. Staff supports this request with the added verbiage that the setback reduction is only for extension of the eave.

Leatherman stated that while much of the infrastructure has been built out, bonds have been secured for the remaining improvements.

Leatherman reviewed the conditions specified by Planning Commission as follows:

- Variation to allow a side yard setback of 5-feet minimum/10-feet total, for eave encroachment only;
- Lot 57 will be dedicated to the Village of Yellow Springs;
- Lot 58 will include a meandering natural path that will connect to Kenneth Hamilton Way, run in between Lots 8 & 9 to Snowdrop Drive, and connect to Lot 57, Lot 58 and the natural path will be maintained by the Homeowners Association;
- Lot 59 will be maintained by the Homeowner's Association.

Housh asked specifically about the parkland dedication, wondering whether the playground equipment was an offset to the .38 acres needed to complete the acreage requirement.

Leatherman responded that open space will also be dedicated in Phase II. She stated that she would respond fully after the meeting, but that Phase I is fully compliant with the Park Land dedication requirement.

MacQueen asked whether there would be safety features provided around the retention pond and whether native plants would be provided around the pond.

Clayton Sears, DDC Management, responded, stating that the landscaping plan has been provided to the Village as a part of the construction plans, and it contains details regarding type and location of vegetation.

Sears stated that there is no safety ledge in the retention pond.

Matt Hoying, P.E. of Choice One Engineering, described a safety ledge.

Sears noted that the vegetation plan has already been approved.

Housh asked about how Council accepts the public improvements, and Blankenship responded that this would come as separate legislation.

Stokes declined to call a vote on the first reading.

First Reading of Ordinance 2023-42 Approving the Form and Authorizing the Execution of the 2024-2028 Landfill Energy Schedule with American Municipal Power, Inc. and Taking Other Actions in Connection Therewith Regarding Landfill Generated Energy Purchases. MacQueen MOVED and Housh SECONDED a MOTION TO APPROVE.

Burns explained the ordinance as extending a currently held contract with AMP for landfill gas for an additional four years (2024-2028).

Burns noted that landfill gas is considered a renewable resource and provides power at the lower end of the cost spectrum, and that it is recommended by John Courtney, the Village's power purchase advisor.

Stokes declined to call a vote on the first reading.

Reading of Resolution 2023-77 Authorizing the Removal of Defunct and Uncollectible Utility Account Balances from the Utility Billing System of the Village of Yellow Springs from the Years 2018 through 2023 for the Fourth Quarter of 2023. Brown MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Kemper noted that this is "housekeeping cleanup". She responded to a query from Stokes, noting that this is a far smaller amount than the prior cleanup, and that these should be able to occur bi-annually moving forward.

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

Reading of Resolution 2023-78 Celebrating a Season of Giving in the Village. Housh MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Santa spoke to those present, lauding the legacy of Wheeling Gaunt and the spirit of giving during the holiday season. He invited all to join the Tree Lighting ceremony on December 2nd.

Stokes CALLED THE VOTE, and the MOTION PASSED 5-0 on a VOICE VOTE.

Reading of Resolution 2023-79 Authorizing Payment of Invoices with Then and Now Certificate for the Fourth Quarter Of 2023. Brown MOVED and MacQueen SECONDED a MOTION TO APPROVE.

Kemper explained that the resolution is needed to cover the IRS penalty for the total amount of the fine in the even that the Village’s appeal of one portion of the fine is denied.

Stokes CALLED THE VOTE, and the MOTION PASSED 5-0 on a VOICE VOTE.

CITIZEN CONCERNS

Ellen Hoover spoke as a member of a neighborhood group regarding noise and traffic issues in the downtown adjacent area. She requested institutional changes to zoning and requested notice of zoning hearings. Hoover characterized police response as ineffective and/or unresponsive and asked for policy changes.

Steve Deal, also a member of the neighborhood group, reinforced Hoover’s words and stressed his dissatisfaction with noise emanating from the Gulch “expansion area” asking for strengthened noise enforcement. Like Hoover, he requested policy action from Council.

Wayne Gulden updated Council on his ongoing saga with RITA. Kemper again offered her assistance in the matter.

SPECIAL REPORTS

There were no Special Reports.

MANAGER’S REPORT

Burns noted ongoing sewer relining completion.

Burns reported on two EPA letters, one a sewer report and the other a water report. The water report is excellent, and the sewer report is decent “but not excellent”. Burns stated that sewer relining needs to continue and a longer-term view to increasing sewer capacity in the Village should be undertaken.

In response to several questions from Council members, Burns stated that he is not concerned, but see this as a opportunity to prepare for increased capacity needs moving forward.

Housh asked for a special report in the near future to update Council on ongoing I and I reduction efforts.

Burns stated that MVECA has brought in a new contractor to hook up customers. Burns stated that MVECA has now provided a response to the 28 questions asked of them by Village staff.

Burns described a repair completed in-house at a savings of about \$25,000.

Burns reported that Rose Pelzl and Ben Sparks have located a number of points of “lost electric” and have gotten the missing 18% down to 11%, with a goal of 3% by the end of next year.

OLD BUSINESS

CBE Follow Up. Stokes introduced the topic, explaining that upon request, staff have researched the process needed to work towards the possibility of housing on the CBE. He noted that 75% of the land owners would have to agree to waive any covenant, and to reach that 75% all three owners would have to agree to such a measure.

Stokes stated that staff have approached both Cresco and Antioch University Midwest (AUM) regarding the possibility of housing on the CBE, and have not yet received any official response from either entity. Stokes made clear that both had been approached in a neutral fashion.

Stokes commented that Solicitor and Staff are both doing what has been asked, but cannot move forward without further information from other entities.

MacQueen advocated for the proposed housing project, but stated that she needs to know whether the PUD can be “fast-tracked”. She contended that the housing proposed is not what has been characterized as located in an industrial area, citing differences between “industrial” and “light industrial”.

MacQueen stated that “this may be the only chance to build low income rental housing” given the scoring and subsequent available tax credits.

MacQueen asked for a motion to “direct staff to give us all the information Council needs to move this project forward” by December 4th.

Stokes stated that staff have already been directed.

Brown pointed out that staff have already been extended and the solicitor has had to work outside of retainer to provide information. She pointed out that responses have been sought from AUM and Cresco, and that failure to push those entities into a faster decision should not be used to characterize members of Council as uncaring regarding affordable housing.

Housh commented that a formal commitment to affordable housing was not made by all of Council, but stated that Council needs knowledge as to whether the process can be completed in time for Home, Inc. to apply for funding.

Brown asked why Council should engage in preliminary work prior to any response from AUM or Cresco.

Blankenship commented that both parties could be followed up with and asked whether they could speed up their decision timeline. She confirmed that indeed, all three entities are required to achieve the 75% land ownership required to change the covenants. She cautioned that pressing for a hastened decision could have the effect of obtaining a “no” decision, based upon the needs of those businesses.

Blankenship noted that a preliminary PUD plan is expensive. She suggested that the Village could become the applicant and undertake the expense and work, potentially. Blankenship then described a fast-tracked process that could possibly be concluded prior to the February deadline, but that any decision would be conditioned upon Cresco and AUM agreeing to change the covenants.

The Clerk cautioned that a rushed PUD process that doesn’t fully respond to community concerns tends not to go well.

Blankenship detailed some of the potential slow-downs which are common to the process such as traffic studies, storm water studies, etc.

Tim Beede of St. Mary’s Development acknowledged that the undertaking is ambitious and will always come with a time crunch. Beede argued with Stokes’ characterization of staff outreach as “neutral” stating that “you can’t be neutral”. He stated that he was “somewhat shocked” that staff had not “fully embraced” the possibility. He commented that “I have to question how serious this community is about affordable housing.”

Brown asked Beede how many times in his career he has encountered a situation in which two other entities needed to come to the table to move the project forward.

Beede responded that he had not encountered this situation previously, but that “all the entities have usually already talked and agreed to their support.” He added that St. Marys would not be inclined to put money into the project unless the covenant against housing was going to be waived.

Stokes committed to contacting both AUM and Cresco to attempt to obtain a response “no later than Friday”.

MacQueen commented that it may not make sense to try for this year and commented that “there are people in this room who are very opposed to this project, and we need the commitment of the community.”

Brown commented that she is a person living at the poverty level and is personally highly invested in affordable housing. She expressed strongly her dissatisfaction in the characterization by St. Marys of the Village as not committed to affordable housing. She stressed that this is about two other entities who need to make their own decisions regarding the covenants.

Stokes backed up Brown’s disagreement with “anti-housing” comments, noting that the comments made in Council’s previous meeting were “pro business, not anti housing.”

Housing Committee Update. Leatherman described the process the Housing Committee proposes to engage in, and noted the proposed agenda items for upcoming meeting. Leatherman noted that the housing priority list will be refined in this process. She discussed the membership, stating that the group plans to flesh this out in February’s meeting.

DeVore Leonard commented that setting goals and guidelines needs to occur for the work to be efficient and directed.

Utility Round Up Opt Out Process Discussion. Stokes commented that need is increasing and donations are decreasing, creating the need for an opt-out approach.

Stokes asked that legislation be brought to the next meeting of Council.

Council informally agreed to the legislation.

Housing on the CBE. Emily Seibel commented that there were a number of people present who had planned to speak on the matter of housing.

Stokes received agreement from Council to hear those present on this topic.

Brittany Keller read a statement from an anonymous renter who strongly advocated for the proposed housing on the CBE, alleging that they have lived in sub-standard rentals for years.

Truth Garrett, member of the Board of Home, Inc, spoke in favor of the housing proposal, characterizing the Village as a welcoming and generous place with a high need for housing. He stressed that low income does not mean low class.

Dino Pallotta stated that the delay in informing AUM was a detriment. He stated that this piece of land is the last available for the kind of development that can lower the cost of living for Villagers. Pallotta said that the CBE has not been marketed to the extent it could and should have been. He suggested that other areas be

considered for housing. Pallotta ended by stressing that the covenants are a huge barrier. He asked that Council determine whether or they are willing to waive the housing restriction, rather than demanding that Cresco and AUM do so first.

Emily Seibel, Executive Director of Home, Inc. stated that they are not requesting a land donation, and that they would not “tie up” the land for more than 6 months. She suggested a middle path with business use and housing that could accommodate both. Seibel acknowledged that next year might work better, but stated that such opportunities have to be brought forward.

NEW BUSINESS

Letter of Support for Chamber Grant Application. MacQueen asked for Council support for herself and Housh to write a letter of support for the Chamber’s zero-waste grant application. All Council members agreed to this suggestion.

Clerk Evaluation Process. Housh outlined the process to be used and asked for an Executive Session on December 18th for Council to meet with the Clerk.

FUTURE AGENDA ITEMS

Housh raised the idea that Council had been asked by a member of Planning Commission to review Inclusionary Zoning. It was determined that this needs to be raised with PC prior to coming to Council.

- Dec. 4:** **Second Reading and Public Hearing of Ordinance 2023-41** Accepting Planning Commission Recommendation to Approve Spring Meadows Final Plat
 Second Reading and Public Hearing of Ordinance 2023-42 Approving the Form and Authorizing the Execution of the 2024-2028 Landfill Energy Schedule with American Municipal Power, Inc. and Taking Other Actions in Connection Therewith Regarding Landfill Generated Energy Purchases
 Ordinance for Opt Out
 Compost Proposal from Agraria
 Streets Supervisor Tanner Bussey: Tips to Prepare for Snow Season
 Executive Session re: Evaluation of Public Employee: Clerk
- Dec. 18:** Meter Reader Rose Pelzl: Tantalus Meter Update and Helpful Tips

ADJOURNMENT

At 9:56pm, Stokes MOVED TO ADJOURN. Housh SECONDED, and the MOTION PASSED 5-0 ON A VOICE VOTE.

Kevin Stokes, Council President

Attest: Judy Kintner, Clerk of Council